### **AGENDA**



### BERKELEY CITY COUNCIL MEETING

### Tuesday, May 14, 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 7 – RIGEL ROBINSON
DISTRICT 4 – KATE HARRISON
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, 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.

1. Sue Hone, Former Berkeley Councilmember

**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.

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. Cannabis Ordinance Revisions; Amending the Berkeley Municipal Code From: City Manager

**Recommendation:** Adopt second reading of Ordinance Nos. 7,645-N.S. and 7,647-N.S. amending the Berkeley Municipal Code (BMC) which would:

- 1. Clarify cannabis business operational standards and development standards, such as quotas and buffers, for all cannabis business types;
- 2. Revise ordinance language to reflect State regulations;
- 3. Create a path to allow a new business type (Retail Nursery Microbusinesses); and
- 4. Protect youth by restricting cannabis advertising within the city.

The ordinances would adopt BMC Chapter 12.21, amend Chapters 12.22 and 23C.25, and repeal Chapters 12.23, 12.25 and 12.27.

First Reading Vote: All Ayes.
Financial Implications: See report

Contact: Timothy Burroughs, Planning and Development, 981-7400

2. Adopt an Ordinance Adding Chapter 13.104 to the Berkeley Municipal Code Establishing a Prohibition on Contracting with Vendors Acting as U.S. Immigration and Customs Enforcement (ICE) Data Brokers, or Those Providing Extreme Vetting Services to ICE (Reviewed by the Agenda and Rules Committee) From: Councilmembers Harrison, Davila, and Bartlett

**Recommendation:** Adopt second reading of Ordinance No. 7,650-N.S., the Sanctuary Contracting Ordinance, adding Chapter 13.104 to the Berkeley Municipal Code. This ordinance prohibits the award of city contracts to vendors acting as U.S. Immigration and Customs Enforcement data brokers, or those providing extreme vetting services.

First Reading Vote: All Ayes. Financial Implications: See report

Contact: Kate Harrison, Councilmember, District 4, 981-7140

3. FlixBus Franchise Agreement for Long-Distance Bus Service

From: City Manager

**Recommendation:** Adopt second reading of Ordinance 7,651-N.S. granting a franchise agreement between FlixBus, Inc. and the City of Berkeley to provide long distance bus service to the public.

First Reading Vote: All Ayes.
Financial Implications: See report

Contact: Phillip Harrington, Public Works, 981-6300

4. Amendment: FY 2019 Annual Appropriations Ordinance

From: City Manager

**Recommendation:** Adopt first reading of an Ordinance amending the FY 2019 Annual Appropriations Ordinance No. 7,634–N.S. for fiscal year 2019 based upon other adjustments in the amount of \$22,245,702 (gross) and \$19,746,430 (net).

Financial Implications: See report

Contact: Teresa Berkeley-Simmons, Budget Manager, 981-7000

5. Contract: Keenan Financial Services to Establish, Maintain and Invest for an IRS Section 115 Trust Fund

From: City Manager

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract with Keenan Financial Services to establish a pension Section 115 trust that includes Keenan Financial Services providing trust administration, trustee/custodian, and investment advisory services for the Trust; and authorizing the City's Plan Administrator to execute the legal and administrative documents on behalf of the City and to take whatever additional actions are necessary to establish a Section 115 trust fund, establish the authority for the management of the Section 115 investments, develop investment policies for the Section 115 trust fund, and Select an initial model investment portfolio, from the choices provided.

Financial Implications: See report

Contact: Henry Oyekanmi, Finance, 981-7300

# 6. Contract: Falck for Mental Health Ambulance Transport Services From: City Manager

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Falck Northern California Corp (Contractor) to provide mental health related ambulance transportation (from July 1, 2019 to June 30, 2021, in an amount up to \$5,670,000, with an option to extend for two additional years, for a total contract amount not to exceed \$11,340,000.

Financial Implications: See report

Contact: David Brannigan, Fire, 981-3473

### 7. Revenue Grant Agreements: Funding Support from Alameda County to Conduct Public Health Services

From: City Manager

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

- 1. Public Health Infrastructure Program in the projected amount of \$32,080 for FY 2020.
- 2. Foster Care Program in the projected amount of \$93,187 for FY 2020.
- 3. Berkeley High School and Berkeley Technology Academy Health Center Programs in the projected amount of \$178,778 for FY 2020.
- 4. School Linked Health Services Program (Measure A Funding) in the projected amount of \$193,175 for FY 2020.
- 5. Tobacco Prevention Program in the projected amount of \$76,290 for FY 2020. **Financial Implications:** See report

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

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

From: City Manager

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

- 1. Child Health and Disability Prevention (CHDP) Program, which includes Early Periodic Screening, Diagnosis and Treatment (EPSDT) and Health Care Program for Children in Foster Care (HCPCFC), in the projected amount of \$442,073 for FY 2020.
- 2. Maternal, Child and Adolescent Health (MCAH) Program, in the projected amount of \$336,000 for FY 2020.
- 3. Tuberculosis Control Program in the projected amount of \$14,000 for FY 2020.
- 4. Women, Infants and Children (WIC) in the projected amount of \$525,547 each year for Federal Fiscal Years 2020 through 2022 for a total of \$1,576,641.
- 5. Nutrition Education & Obesity Prevention (NEOP) Program, in the projected amount of \$161,207 for Federal Fiscal Years 2020 through 2022 for a total amount of \$483,621.
- 6. HIV/AIDS Surveillance in the projected amount of \$29,088 for Fiscal Years 2020 through 2022 for a total of \$87,264.
- 7. Sexually Transmitted Diseases (STD) Prevention and Control in the projected amount of \$6,230 each year for FY 2020 through 2022 for a total of \$18,692.

Financial Implications: See report

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

# 9. Revenue Grant Agreements: Funding Support from Essential Access Health to Conduct Public Health Services

From: City Manager

**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to submit a grant application to Essential Access Health, to accept the grant, execute any resultant revenue agreement and amendment, and implement the projects and appropriation of funding for related expenses to conduct public health promotion, protection, and prevention services for the Essential Access Health revenue agreement in the projected amount of \$139,260 for April 1, 2019 to March 30, 2020.

Financial Implications: See report

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

10. Purchase Order with Carahsoft Technology Corporation: Using General Services Administration (GSA) Schedule for hardware, software, and services related to the Data Center Infrastructure Upgrade and Disaster Recovery Implementation (Reviewed by Budget and Finance Committee)

From: City Manager

**Recommendation:** Adopt a Resolution authorizing the City Manager to increase spending authority 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.

Financial Implications: Various Funds - \$1,678,953

Contact: Savita Chaudhary, Information Technology, 981-6500

# 11. Contract No. 10934 Amendment: CBF Electric & Data for Wi-Fi Installation in City Facilities

From: City Manager

**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 10934 with CBF Electric & Data (CBF) for Wi-Fi installation in City facilities, increasing the contract amount by \$50,015 for a total not-to-exceed amount of \$75,014 from July 2, 2018 to June 30, 2021.

**Financial Implications:** IT Cost Allocation Fund - \$50,015 Contact: Savita Chaudhary, Information Technology, 981-6500

# 12. Contract No. 9263B Amendment: SSP Data Products Inc. for Barracuda Backup Solution with Hosted Cloud Storage

From: City Manager

**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 9263B with SSP Data Products Inc. for the City's Barracuda Backup Solution with hosted cloud storage, increasing the amount by \$54,520, for a total contract amount not to exceed \$300,692 for the term May 15, 2013 through June 30, 2020.

**Financial Implications:** Cost Allocation Fund - \$54,520 Contact: Savita Chaudhary, Information Technology, 981-6500

# 13. Contract No. 11012 Amendment: Granicus, Inc. for Video Streaming Services From: City Manager

**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 11012 with Granicus, Inc., to continue providing live video streaming, on-demand archival video, podcasting, and web page subscription services, increasing the contract amount by \$156,966 for a total not-to-exceed amount of \$207,646 from July 1, 2017 to June 30, 2022.

Financial Implications: Various Funds - \$156,966

Contact: Savita Chaudhary, Information Technology, 981-6500

# 14. Contract No. 10734 Amendment: Towerstream, Inc. for Secondary Internet for Redundancy and Load Balancing

From: City Manager

**Recommendation:** Adopt a Resolution authorizing the City Manager to amend the contract with Towerstream, Inc. for redundant secondary internet services, increasing the contract amount by \$133,128 for a total not-to-exceed amount of \$172,000 from October 3, 2017 to June 30, 2022.

**Financial Implications:** Cost Allocation Fund - \$133,128 Contact: Savita Chaudhary, Information Technology, 981-6500

# 15. Contract: Revolution Foods for Summer Food Service Program From: City Manager

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a one (1) year contract and any amendments with Revolution Foods to provide lunches and afternoon snacks to Berkeley youth for the City's Summer Food Service Program for a total amount not to exceed \$90,000, for the period of June 1, 2019 through May 31, 2020, with options to execute up to four (4) additional one-year extensions not to exceed \$90,000 each year, contingent upon the availability of State funding, for a total contract amount not to exceed \$450,000.

Financial Implications: See report

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

### 16. Contract: Suarez & Munoz Construction, Inc. for Harrison Park – Gabe Catalfo Fields Renovation

From: City Manager

**Recommendation:** Adopt a Resolution: 1. Approving the plans and specifications for the Harrison Park – Gabe Catalfo Fields Renovation Project, Specification No. 19-11285-C; and 2. Accepting the bid of the lowest responsive and responsible bidder, Suarez & Munoz Construction, Inc.; and 3. Authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project in accordance with the approved plans and specifications, with Suarez & Munoz Construction, Inc., for the Harrison Park – Gabe Catalfo Fields Renovation project at 1100 Fourth Street, Berkeley, CA 94710, in an amount not to exceed \$531,300, which includes a contract amount of \$483,000 and a 10% contingency in the amount of \$48,300.

Financial Implications: Various Funds - \$531,300

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

### 17. Waiver of Annual Marina Berth Fees for Non-Profits

From: City Manager

**Recommendation:** Adopt a Resolution: 1. Affirming the determination by City staff and the Parks and Waterfront Commission that three non-profit organizations at the Berkeley Marina (Berkeley Racing Canoe Club, Cal Sailing Club, and The Pegasus Project) are in full compliance with all aspects of Resolution No. 66,544-N.S.; and 2. Approving the annual waiver of berth fees for the three groups for 2019.

Financial Implications: See report

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

# 18. Contract: Cratus, Inc. for FY2018 Measure M Low Impact Development (LID) Woolsey Street Project

From: City Manager

**Recommendation:** Adopt a Resolution approving plans and specifications for FY2018 Measure M Low Impact Development (LID) Woolsey Street Project, Specification No. 18-11183-C (Re-Issued); accepting the bid of Cratus, Inc. as the lowest responsive and responsible bidder; and authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project in accordance with the approved plans and specifications in an amount not to exceed \$2,908,377.

**Financial Implications:** Measure M Streets & Watershed GO Bond Fund - \$2,908,377

Contact: Phillip Harrington, Public Works, 981-6300

# 19. Purchase Order: Municipal Maintenance Equipment, Inc. for Fifteen GO-4 Parking Enforcement Vehicles

From: City Manager

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a purchase order with Municipal Maintenance Equipment, Inc. in an amount not to exceed \$715,000 for fifteen GO-4 parking enforcement vehicles.

Financial Implications: Equipment Replacement Fund - \$715,000

Contact: Phillip Harrington, Public Works, 981-6300

### 20. Declaration of Intent - FY 2020 Street Lighting Assessments From: City Manager

**Recommendation:** Adopt two Resolutions granting the City Manager the authority to approve the Engineer's Reports; set a public hearing to be held before the Council of the City of Berkeley at its June 11, 2019 meeting; and authorize the City Clerk to publish Notice of the Public Hearing for FY 2020 Levy of Assessments for Berkeley Street Lighting Assessment District No. 1982-1 and Street Lighting Assessment District 2018.

Financial Implications: See report

Contact: Phillip Harrington, Public Works, 981-6300

21. Contracts: On-Call Construction and Project Management Services: Ghirardelli Associates, Inc., Park Engineering, Inc., and Quincy Engineering, Inc.

From: City Manager

**Recommendation:** Adopt three Resolutions authorizing the City Manager to execute contracts and any amendments with the following firms for on-call construction and project management services for capital improvement projects, each for a period of July 1, 2019 through June 30, 2022:

- 1. Ghirardelli Associates, Inc. for an amount not to exceed \$1,000,000.
- 2. Park Engineering, Inc. for an amount not to exceed \$1,000,000.
- 3. Quincy Engineering, Inc. for an amount not to exceed \$1,000,000.

Financial Implications: See report

Contact: Phillip Harrington, Public Works, 981-6300

# 22. Amendment to Grant Funding Agreement for Gilman Railroad Pedestrian Crossing Safety Project, Specification No. 18-11244-C

From: City Manager

**Recommendation:** Adopt a Resolution accepting an amendment to the grant funding agreement between the City and the California Department of Transportation, Service Contract No. 75LX291, for the Gilman Railroad Pedestrian Crossing Safety Project to increase the amount from \$310,500 to \$473,000 and revise the expiration date from December 19, 2019 to December 31, 2020 and authorizing the City Manager to execute said amendment and any other associated necessary agreement.

Financial Implications: See report

Contact: Phillip Harrington, Public Works, 981-6300

### 23. Contract: Gilman Railroad Pedestrian Crossing Safety Project, Specification No. 18-11244-C

From: City Manager

**Recommendation:** Adopt a Resolution: 1. Approving the plans and specifications for the Gilman Railroad Pedestrian Crossing Safety Project ("Project"), Specification No. 18-11244-C; 2. Accepting the bid of the lowest responsible bidder, ERA Construction Inc.; and 3. Authorizing the City Manager to execute a contract and any amendments, extensions, or change orders with ERA Construction Inc. until completion of the Project in accordance with the approved plans and specifications, in an amount not to exceed \$377,764.

**Financial Implications:** Various Funds - \$377,764 Contact: Phillip Harrington, Public Works, 981-6300

# 24. Purchase Order: National Auto Fleet Group for Eleven Ford Police Interceptor Utility

From: City Manager

**Recommendation:** Adopt a Resolution satisfying requirements of City Charter Article XI Section 67.2 allowing the City to participate in Sourcewell contract bid procedures, and authorizing the City Manager to execute a purchase order for eleven model year 2020 Ford Police Interceptor Utility with National Auto Fleet Group in an amount not to exceed \$770,000.

Financial Implications: Equipment Replacement Fund - \$770,000

Contact: Phillip Harrington, Public Works, 981-6300

### 25. Board of Library Trustees Reappointment: Diane Davenport

From: Board of Library Trustees

**Recommendation:** Adopt a Resolution Approving the Reappointment of Diane Davenport to the Board of Library Trustees ("BOLT") for a second term of four years commencing May 16, 2019.

Financial Implications: None

Contact: Elliot Warren, Commission Secretary, 981-6100

### 26. Declaring every 3rd Sunday in May to be Postpartum Justice Day in the City of Berkeley

From: Community Health Commission

**Recommendation:** Adopt a resolution declaring every third Sunday in May to be Postpartum Justice Day in the City of Berkeley to support and encourage the needed work to achieve equity and justice in maternal health.

Financial Implications: None

Contact: Roberto Terrones, Commission Secretary, 981-5400

# 27. Recommendation to Install an Outdoor Public Warning System (Sirens) and Incorporate It Into a Holistic Emergency Alerting Plan

From: Disaster and Fire Safety Commission

**Recommendation:** We recommend that City of Berkeley immediately begin the process to purchase, install, and maintain an outdoor public warning system (sirens) as a supplement to other alert and warning technologies within our boundaries and coordinated with abutting jurisdictions and Alameda County.

This installation should be accompanied by the following: - ongoing outreach and education so that the public will understand the meaning of the sirens and what to do when they hear a siren; - development of a holistic alert protocol, incorporating sirens as an additional option among the available suite of alerting methods; - staff training and drills on alerting procedures; - development of a testing and maintenance plan that will ensure the system is fully operational while avoiding unnecessary or excessive noise pollution in the City; - outreach to deaf and hard of hearing residents to encourage them to opt-in for alerting that meets their communication needs. This may include distributing weather radios or other in-home devices with accessibility options for people with disabilities.

This recommendation does not specify the number, type, or location of sirens; City staff should determine the most cost-effective system that achieves the goals described in this recommendation. This may include either mobile or fixed-location sirens.

Financial Implications: See report

Contact: Keith May, Commission Secretary, 981-3473

# 28. 911 Dispatchers: Understaffing Leads to Excessive Overtime and Low Morale From: Auditor

**Recommendation:** We recommend City Council request that the City Manager report back by November 19, 2019, and every six months thereafter, regarding the status of our audit recommendations until reported fully implemented by the Police Department.

**Financial Implications:** See report Contact: Jenny Wong, Auditor, 981-6750

### **Council Consent Items**

### 29. Support AB 539 – the Fair Access to Credit Act

From: Mayor Arreguin, and Councilmembers Hahn and Bartlett Recommendation: Adopt a Resolution in support of AB 539, the Fair Access to Credit Act, authored by Monique Limón. Send a copy of the Resolution to Governor Gavin Newsom, State Senator Nancy Skinner, and Assemblymembers Buffy Wicks and Monique Limón.

Financial Implications: None

Contact: Jesse Arreguin, Mayor, 981-7100

### **Council Consent Items**

30. Engage Professional Support to Assist City Council in Establishing a Process and Performing an Evaluation of the City Manager's Performance

From: Mayor Arreguin and Councilmember Harrison

**Recommendation:** Direct the City Manager to issue a Request for Proposal to contract with an experienced firm that will engage the City Manager and City Council in a performance evaluation of the City Manager's performance. The process should begin in July 2019 following the scheduled approval of the Biennial Budget, and result in a process for ongoing updates and establish an annual evaluation schedule.

Financial Implications: See report

Contact: Jesse Arreguin, Mayor, 981-7100

31. BOSS Rising Stars Gala Event: 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 \$100 from Councilmember Cheryl Davila, to support the Rising Stars Youth Leadership Gala Event (BOSS) May 31, 2019, 6-8PM, 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 - \$100

Contact: Cheryl Davila, Councilmember, District 2, 981-7120

32. Opposition to Revision of Title IX Sexual Harassment and Assault Regulations Proposed by U.S. Department of Education, Secretary Betsy DeVos

From: Councilmembers Davila, Harrison, Hahn, and Wengraf

**Recommendation:** Adopt a resolution opposing the proposed revisions of Title IX regulations on gender and sex-based discrimination as proposed by Secretary DeVos of the United States Department of Education.

Financial Implications: None

Contact: Cheryl Davila, Councilmember, District 2, 981-7120

33. Resolution in Support of Charter Reform Assembly Bills

From: Councilmembers Harrison and Bartlett

**Recommendation:** Adopt a resolution in support of Assembly Bills 1505, 1506, and 1507, which regulate charter schools and give public school boards more authority to resist privatization of schools. Send letters of support to Assemblymember Wicks, Senator Skinner, and Governor Newsom.

Financial Implications: None

Contact: Kate Harrison, Councilmember, District 4, 981-7140

### **Council Consent Items**

### 34. Rebuilding Together Budget Referral

From: Councilmembers Harrison and Wengraf, and Mayor Arreguin

**Recommendation:** Refer to the budget process a two-year allocation to fund Rebuilding Together East Bay-North from the General Fund according to the Housing Advisory Commission recommendations, with an evaluation after the first 18 months to determine whether the organization's fiscal reporting would be in compliance with CDBG reporting requirements were the organization to apply again.

Financial Implications: See report

Contact: Kate Harrison, Councilmember, District 4, 981-7140

### 35. Acton and University Traffic Light Budget Referral

From: Councilmember Harrison

**Recommendation:** Refer to the budget process a one-time allocation for an

overhanging street light at Acton and University

Financial Implications: See report

Contact: Kate Harrison, Councilmember, District 4, 981-7140

### 36. Sponsoring the 2019 Himalayan Fair

From: Councilmembers Hahn, Harrison, and Davila

**Recommendation:** Adopt a resolution approving the co-sponsorship by the City of Berkeley of the 2019 Himalayan Fair to be held at Live Oak Park on Saturday, May 18th and Sunday, May 19th, and approving the expenditure of an amount not to exceed \$300 per councilmember, including \$300 from Councilmember Hahn, to The Himalayan Fair for administrative fees, event production and advertising, 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: See report

Contact: Sophie Hahn, Councilmember, District 5, 981-7150

# 37. Supporting the Timely Implementation of the Buy Clean California Act and Reaffirming the City of Berkeley's Commitment to Reducing Embodied Energy in Building Materials

From: Councilmembers Hahn, Harrison, and Davila

**Recommendation:** Adopt a resolution supporting the timely implementation of the Buy Clean California Act (AB 262), and reaffirming the City of Berkeley's commitment to reducing embodied energy in building materials. Send copies of the resolution to Assemblymember Buffy Wicks, State Senator Nancy Skinner, Governor Gavin Newsom, and senior leadership at the California Department of General Services.

Financial Implications: See report

Contact: Sophie Hahn, Councilmember, District 5, 981-7150

### **Council Consent Items**

### 38. Letter in Support of AB 38

From: Councilmember Wengraf

**Recommendation:** Send a letter of support for AB 38 Fire Safety: State Wildfire Preparedness Board: Fire Hardened Homes Revolving Loan Fund (Wood) to Assemblymember Wood, with copies to Senator Skinner, Assemblywoman Wicks and Governor Newsom.

Financial Implications: None

Contact: Susan Wengraf, Councilmember, District 6, 981-7160

### 39. Referral to the Budget Process: Increased Funding for Neighborhood Traffic Calming

From: Councilmembers Wengraf, Harrison, and Droste

**Recommendation:** Refer to the Fiscal Year 2020/2021 Budget Process an increase in allocation for neighborhood traffic calming from the current 50 thousand dollars to 150 thousand dollars.

Financial Implications: \$100,000

Contact: Susan Wengraf, Councilmember, District 6, 981-7160

# 40. Pronouncement of May 15th, 2019 as a Day of Bloody Thursday Remembrance and Commemoration of People's Park

From: Councilmembers Robinson, Harrison, and Davila

**Recommendation:** Adopt a Resolution pronouncing May 15th, 2019, as a Day of Bloody Thursday Remembrance, on which the People of Berkeley and the world may reflect upon the continuing history of the People's Park and its significance for our present society.

Financial Implications: None

Contact: Rigel Robinson, Councilmember, District 6, 981-7170

### 41. Budget Referral: Missing Middle Housing Report

From: Councilmembers Droste, Bartlett, Kesarwani, and Robinson

**Recommendation:** Refer to the budget process \$125,000 for consultant costs to complete the Missing Middle Housing Report, which was passed by City Council on April 23, 2019.

Financial Implications: \$125,000

Contact: Lori Droste, Councilmember, District 6, 981-7180

### **Action Calendar**

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

The Presiding Officer will request that persons wishing to speak 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.

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### **Action Calendar**

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

### **Action Calendar – Public Hearings**

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

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

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

### 42. Published Charges: Mental Health Clinical Services

From: City Manager

**Recommendation:** Conduct a public hearing and, upon conclusion, adopt a Resolution establishing Published Charges for Mental Health Clinical Services for FY

2019. Published Charges are effective July 1, 2018.

Financial Implications: See report

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

### 43. Fees: Public Health Clinic Services

From: City Manager

**Recommendation:** Conduct a public hearing and upon conclusion, adopt a Resolution establishing a new fee schedule for Public Health Clinic services effective, July 1, 2019, and rescinding Resolution No. 68,449-N.S.

Financial Implications: See report

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

### 44. Ambulance User Fee Adjustment

From: City Manager

**Recommendation:** Conduct a public hearing and upon conclusion, adopt a Resolution adjusting the Ambulance User Fee to match Alameda County's approved ambulance user fee schedule made effective September 1, 2018, for the Cities of Alameda, Albany, Berkeley, and Piedmont. The increase would be included as an updated addendum to the Ambulance Provider Agreement, rescinding Resolution 67.979–N.S.

Financial Implications: See report

Contact: David Brannigan, Fire, 981-3473

### **Action Calendar – Public Hearings**

### 45. Selected Camp Program Fee Increases

From: City Manager

**Recommendation:** Conduct a public hearing and upon conclusion, adopt a Resolution approving new fees and increasing current fees for select camp programs

and rescinding Resolution No. 68,450-N.S. and all amendatory resolutions.

Financial Implications: See report

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

#### 46. Selected Marina Fee Increases

From: City Manager

**Recommendation:** Conduct a public hearing and upon conclusion, adopt a Resolution approving new fees and increasing current fees for select Marina fees; and rescinding Resolution No. 68,451-N.S. and all amendatory resolutions.

Financial Implications: See report

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

### 47. Land Use Planning Permit Fee Amendments

From: City Manager

**Recommendation:** Conduct a public hearing and upon conclusion, adopt a Resolution amending Resolution No. 67,985-N.S. to amend the fee schedule for Land Use Planning Fees to establish a new fee for land use applications that request streamlined approval, pursuant to Senate Bill 35 (approved by Governor in 2017).

Financial Implications: See report

Contact: Timothy Burroughs, Planning and Development, 981-7400

### 48. Fiscal Year 2020 and Fiscal Year 2021 Proposed Budget Public Hearing #1

From: City Manager

**Recommendation:** Conduct a public hearing on the FY 2020 and FY 2021 Proposed Biennial Budget.

**Financial Implications:** See FY 2020 and FY 2021 Proposed Biennial Budget Contact: Teresa Berkeley-Simmons, Budget Manager, 981-7000

### 49. One-Way Car Share – Transition from Pilot to Baseline Program From: City Manager

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

- 1. Adopt a Resolution approving an ongoing One-Way Car Share program for the City of Berkeley, with an increase to administration fees that are commensurate with City administrative cost increases, and
- 2. Adopt the first reading of an Ordinance pursuant to Berkeley Municipal Code Chapter 14.62, deleting language that refers to the program as a limited-term "pilot" and amending language on the number of vehicle parking permits for which a one-way car share organization may apply.

**Financial Implications:** The program pricing structure results in cost-neutrality. Contact: Phillip Harrington, Public Works, 981-6300

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### **Action Calendar – Public Hearings**

# 50. Residential Preferential Parking (RPP) Program Reform & Expansion Phase II: Recommendations for Increased Staffing, Enhanced Football Game Day Enforcement, and Expansion

From: City Manager

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

- 1. Adopt first reading of an Ordinance amending Berkeley Municipal Code Chapter 14.72 to allow Residential Preferential Parking (RPP) in areas zoned Mixed Use-Light Industrial;
- 2. Adopt a Resolution to expand and enhance the RPP Program, raising permit fees for cost neutrality while increasing parking enforcement staff and equipment to augment RPP enforcement, improving UC Berkeley home football game parking enforcement, allowing more residents to opt-in, and rescinding Resolution 68,344-N.S.:
- 3. Adopt a Resolution modifying 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 in portions of RPP Zones B, D, F, G, and I; and install new RPP signs in zones B, D, F, G, and I to clearly indicate UC Berkeley home football game day parking prohibitions; and
- 4. Adopt a Resolution establishing a new Parking Fine Schedule, including parking fines of \$225 per violation of BMC 14.40.090 in new Enhanced Fine Areas on posted UC football game days, and rescinding Resolution No. 68,466-N.S.

Financial Implications: See report

Contact: Phillip Harrington, Public Works, 981-6300

# 51. ZAB Appeal: 1444 Fifth Street, Administrative Use Permit #ZP2018-0172 From: City Manager

**Recommendation:** Conduct a public hearing, and, upon conclusion, adopt a Resolution affirming the Zoning Adjustments Board (ZAB) decision to approve Administrative Use Permit #ZP2018-0172 to construct four detached, three-story, approximately 1,900 square-foot, single-family dwellings, each with an average height of 33 feet, on a 5,744 square-foot vacant lot in the MU-R District, and dismiss the appeal.

Financial Implications: None

Contact: Timothy Burroughs, Planning and Development, 981-7400

#### **Action Calendar – New Business**

### 52a. Recommendations for a Fossil Fuel Free Berkeley

From: Energy Commission

**Recommendation:** The Berkeley Energy Commission recommends the City Council refer to the City Manager to implement the recommendations listed below as well as additional measures outlined in the attached report to aggressively reduce greenhouse gas (GHG) emissions in the city and the region.

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Financial Implications: Unknown

Contact: Billi Romain, Commission Secretary, 981-7400

### **Action Calendar - New Business**

### 52b. Companion Report: Recommendations for a Fossil Fuel Free Berkeley From: City Manager

**Recommendation:** Refer to the City Manager to continue to implement existing policies and programs that are consistent with the recommendations in the Berkeley Energy Commission's Fossil Fuel Free Berkeley Report, such as the Building Energy Saving Ordinance and development of new building codes that promote building electrification, and also to complete new evaluations and analyses of current and potential future greenhouse gas reduction programs and policies in order to inform next steps for accelerating progress to a Fossil Fuel Free Berkeley.

Financial Implications: See report

Contact: Timothy Burroughs, Planning and Development, 981-7400

# 53a. Grant Allocation: Approve Funding Recommendation for Programs to Reduce Consumption of Sugar-Sweetened Beverages (SSBs)

From: Sugar Sweetened Beverage Product Panel of Experts

**Recommendation:** Approve the SSBPPE Commission's recommendations and adopt thirteen (13) Resolutions authorizing the City Manager or her designee to enter into contracts with the Berkeley Unified School District and the Community Based Organizations (CBOs) listed below to distribute a total of \$3,800,000 for FY 2020 and FY 2021 according to the schedule below and to also provide \$950,000 to the City of Berkeley Public Health Division (BPHD) during the same period to support administering and enhancing this program as approved by the Berkeley City Council as follows:

- 1. \$1,900,000 total grant to Berkeley Unified School District to implement the Gardening and Cooking Program for FY 2020 and FY 2021 to be disbursed as follows--\$950.000 for FY 2020 and \$950.000 for FY 2021.
- 2. \$285,000 total grant to the Ecology Center to implement For Thirst, Water First! program for FY 2020 and FY 2021 to be disbursed as follows--\$142,500 in FY 2020 and \$142,500 in FY 2021.
- 3. \$590,000 grant to Healthy Black Families to implement Thirsty for Change! (T4C) program for FY 2020 and FY 2021 to be disbursed as follows--\$295,000 in FY 2020 and \$295,000 in FY 2021.
- 4. \$30,000 grant to the Multicultural Institute to implement the Life Skills/Day Laborer Program: Health Activity program for FY 2020 and FY 2021 to be disbursed as follows: \$15,000 in FY 2020 and \$15,000 in FY 2021.
- 5. \$140,000 grant to the YMCA of the East Bay to implement the YMCA Diabetes Prevention (YDPP) program for FY 2020 and FY 2021 to be disbursed as follows: \$70,000 in FY 2020 and \$70,000 in FY 2021.
- 6. \$170,000 grant to the YMCA of the East Bay to implement the YMCA Healthy Me! program for FY 2020 and FY 2021 to be disbursed as follows: \$85,000 in FY 2020 and \$85,000 in FY 2021.
- 7. \$270,000 grant to Lifelong Medical Care to implement the Chronic Disease and Oral Health Prevention Project for FY 2020 and FY 2021 to be disbursed as follows: \$135,000 in FY 2020, and \$135,000 in FY 2021.
- 8. \$80,000 grant to Spiral Garden to implement the Spiral Gardens Community Food Security Project for FY 2020 and FY 2021 to be disbursed as follows: \$40,000 in FY

### **Action Calendar - New Business**

2020, and \$40,000 in FY 2021.

- 9. \$32,792 grant to Fresh Approach to implement the Veggie Rx Program for Healthy Foods and Beverages program for FY 2020 and FY 2021 to be disbursed as follows: \$16,396 in FY 2020, and \$16,396 in FY 2021.
- 10. \$135,880 grant to Bay Area Community Resources to implement the Healthy Options at Point of Sale program for FY 2020 and FY 2021 to be disbursed as follows: \$67,940 in FY 2020, and \$67,940 in FY 2021.
- 11. \$69,328 grant to Community Health Education Institute to implement the Artists Against Soda program for FY 2020 and FY 2021 to be disbursed as follows: \$34,664 in FY 2020, and \$34,664 in FY 2021.
- 12. \$97,000 grant to Berkeley Youth Alternatives to implement the Urban Agriculture and Team Nutrition Program for FY 2020 and FY 2021 to be disbursed as follows: \$48,500 in FY 2020 and \$48,500 in FY2021.
- 13. \$950,000 to the City of Berkeley Public Health Division (BPHD) to support the SSBPPE Commission and assist with outside evaluations to be disbursed as follows: \$475,000 in FY 2020 and \$475,000 in FY 2021 with 10% of those funds in both years designated for a media campaign.
- 14. The Commission recommends that indirect or administrative expenses not exceed 15% of the program budget and that these funds not be used to supplant any other source of funding.
- 15. The Commission recommends that City Council authorize the City Manager to authorize advances for BUSD and the selected community agencies receiving funds in FY 2020 and FY2021. The advances are to be equivalent to 25% of the agency's allocation.

Financial Implications: See report

Contact: Dechen Tsering, Commission Secretary, 981-5300

# 53b. Companion Report: Grant Allocation: Approve Funding Recommendation for Programs to Reduce Consumption of Sugar-Sweetened Beverages (SSBs) From: City Manager

Recommendation: Adopt the Sugar Sweetened Beverage Product Panel of Experts' (SSBPPE) funding recommendations and twelve (12) resolutions authorizing the City Manager to enter in contracts with the Berkeley Unified School District and the Community Based Organizations for FY2020 and FY2021 with the following caveats:

1) remove the City of Berkeley as a grantee and remove the resolution that is included as Resolution #12 in the SSBPPE Commission's Council report relating to the Public Health division, 2) adopt Resolution #13 in the SSBPPE Commission's Council report and amend the amount to be distributed as \$4.474 million, as was passed by Council on January 22, 2019, and 3) reduce all grantees' and the Public Health division allocations equally to reach the adopted figure (about 5%).

Financial Implications: See report

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

### **Council Action Items**

# 54. Authorizing Additional Inclement Weather Shelter at Old City Hall from April 15, 2019-June 30, 2019

From: Councilmembers Davila, Harrison, and Hahn Recommendation:

- 1. Authorize the City Manager to maintain open an as-needed inclement weather shelter from April 15, 2019 June 30, 2019, to provide safe, indoor locations for our unhoused community during inclement weather, including changing the cold temperature to below 45 degrees, rain, and add extreme heat and atmospheric pollution such as smoke.
- 2. Approving the allocation of \$60,000 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 June 30, 2019, and possible program expansion in order to increase number of unhoused people served.

Financial Implications: See report

Contact: Cheryl Davila, Councilmember, District 2, 981-7120

### 55. Budget Referral: Remediation of Lawn Bowling, North Green and Santa Fe Right-of-Way, FY2020-2021

From: Councilmember Davila

**Recommendation:** 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.

Refer to the Homeless Services Panel of Experts to consider Measure P funds for remediation purposes for these properties.

Financial Implications: See report

Contact: Cheryl Davila, Councilmember, District 2, 981-7120

### **Action Calendar – Old Business**

### 56. Contract: Berkeley Marina Area Specific Plan (BMASP) - Hargreaves

Associates (Continued from April 30, 2019)

From: City Manager

**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to execute a contract and any amendments with Hargreaves Associates to produce the Berkeley Marina Area Specific Plan (BMASP) in an amount not to exceed \$1,101,000.

Financial Implications: Marina Fund - \$1,101,000

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

### **Action Calendar – Old Business**

57. Resolution: No U.S. intervention in Venezuela (Continued from April 30, 2019)
From: Peace and Justice Commission

**Recommendation:** Adopt a resolution that affirms the sovereign right of the Venezuelan people to negotiate their political differences free from foreign intervention, and urges that the U.S. government withdraw its illegal, unilateral financial sanctions and refrain from military, economic, or diplomatic intervention in the internal affairs of the sovereign state of Venezuela.

Financial Implications: None

Contact: Bre Slimick, Commission Secretary, 981-7000

### **Information Reports**

58. Referral Response: Issue a Request for Information to Explore Grant Writing Services from Specialized Municipal Grant-Writing Firms, and Report Back to Council

From: City Manager

Contact: Henry Oyekanmi, Finance, 981-7300

59. Results of RFP for Availability Study for Affirmative Action in City Contracting (Berkeley Inclusion in Opportunity Index)

From: City Manager

Contact: Henry Oyekanmi, Finance, 981-7300

60. Public Works Department Reaccreditation by the American Public Works Association

From: City Manager

Contact: Phillip Harrington, Public Works, 981-6300

61. Residential Preferential Parking (RPP) Program: Spring 2019 Update

From: City Manager

Contact: Phillip Harrington, Public Works, 981-6300

### **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.

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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 <a href="http://www.cityofberkeley.info/citycouncil">http://www.cityofberkeley.info/citycouncil</a> and may be read at reference desks at the following locations:

City Clerk Department Libraries:

2180 Milvia Street Main - 2090 Kittredge Street

Tel: 510-981-6900 Claremont Branch – 2940 Benvenue TDD: 510-981-6903 West Branch – 1125 University Fax: 510-981-6901 North Branch – 1170 The Alameda Email: clerk@cityofberkeley.info 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 981-6418 (V) or 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.

I hereby certify that the agenda for this meeting of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on May 2, 2019.

Mark Numainville, City Clerk

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### **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.

### Item #1: Cannabis Ordinance Revisions; Amending the Berkeley Municipal Code

- 1. Debby Goldsberry
- 2. Julia Varshavsky

### Item #34: Rebuilding Together Budget Referral

- 3. Janice Greenberg
- 4. Nick
- 5. Susan Payne
- 6. Linda Novick
- 7. Ann Moghaddas

### Item #51: ZAB Appeal: 1444 Fifth Street, Administrative Use Permit #ZP2018-0172

- 8. Jennifer Hernandez & Genna Yarkin, Holland & Knight Attorneys
- 9. Greenfire Law, on behalf of the Oceanview Neighborhood Council's Appeal

### **Encampments**

- 10. Parisa Jorjani
- 11. Richard at Coastodian.org (4)
- 12. Diana Bohn (2)
- 13. Marcia Poole
- 14. Margy Wilkinson

#### 2245 Fifth Street & 2231 Fourth Street

15. Matt Taecker, Taecker Planning & Design

#### Small Businesses in West Berkeley

16. Matt Taecker, Taecker Planning & Design

#### **Public Employees Union, Local One**

17. Nicole Marti, on behalf of Local One

### **Dirty Needles at Point Reyes National Seashore**

18. Richard at Coastodian.org

#### **SB 50**

19. Avram Gur Arye

### Climate Change

20. Jane Kelly

#### **Disruptive Council Meetings**

21. Margy Wilkinson

#### **Potholes**

22. Dan

### **Bay Area Police Oversight Forum**

23. Katherine Lee, Police Review Commission Officer

#### **RV Dwellers**

24. Richard Hartnell

25. Eric Friedman

### **Auto/Pedestrian Safety**

26. David Lerman

### **LED Ceramic Street Lights**

27. Sansi Tech

### **First Responders Training**

28. Bob Flasher

### People's Park Poem

29. Hali Hammer

### **West Campus Pool**

30. Linda Worthman

31. Donna Micklesson

### **East Bay Community Energy Innovation Grant**

32. East Bay Community Energy

#### **Rent Board Commissioners**

33. Jack Kurzweil

#### **Bus Line Failure**

34. Avram Gury Arye

### **Age-Friendly Action Plan**

35. Linda Kincaid

36. Mary Behm-Steinberg

#### Measure O

37. Pam Speich

38. Geoffrey Lomax

39. Nick

#### 1155-1173 Hearst Avenue

40. Wayne Cory

41. Yashu Jiang

#### **Codornices Creek - Fire Foam**

42. Susan Schwartz, on behalf of Friends of Five Creeks

### Fire Safe Fiscal Sponsor

43. Bob Flasher

### **PY2019 Annual Action Plan Allocation of Federal Funds**

44. Kaameelah Wesley

### **Sanctuary Contracting Ordinance**

45. Eli Conley

### **Shortage of Affordable Quality Office Space**

46. David Lerman

### **Evicting Undocumented Immigrants from Subsidized Housing**

47. Gary Hicks

### Dangerous Crosswalk at Camilia and 6th Street

48. Cecelia Mautner

### Crime, Real Estate, Politics and Media

49. Terry Akins

### **Upcoming Meeting with HTT Steering Committee**

50. Darinxoso Oyamasela

### **Berkeley Way Project Concerns**

51. Parisa Jorjani

#### Bayside Unit 535-301

52. Pil Orbison

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

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

### • Supplemental Communications and Reports 1 Available by 5:00 p.m. five days prior to the meeting.

• Supplemental Communications and Reports 2
Available by 5:00 p.m. the day before the meeting.

### • Supplemental Communications and Reports 3

Available by 5:00 p.m. two days following the meeting.

#### ORDINANCE NO. 7,645-N.S.

AMENDING BERKELEY MUNICIPAL CODE TITLE 12 TO ESTABLISH GENERAL REGULATIONS AND SPECIFIC OPERATING STANDARDS FOR CANNABIS BUSINESSES; ADDING CHAPTER 12.21, AMENDING CHAPTER 12.22, AND REPEALING CHAPTERS 12.23, 12.25, AND 12.27

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

Section 1. That Berkeley Municipal Code Chapter 12.21 is added to read as follows:

# Chapter 12.21 CANNABIS BUSINESSES: GENERAL REGULATIONS

Sections:	
12.21.010	Purpose and Applicability
12.21.020	Definitions
12.21.030	Information Requirements
12.21.040	Operating Standards
12.21.050	Records
12.21.060	<b>Operating Procedure and Criteria</b>
12.21.070	Confidentiality of Information
12.21.080	Authority of City Manager
12.21.090	Abatement of Violations
12.21.100	Fees
12.21.110	Severability

### 12.21.010 Purpose and Applicability

The purpose of this Chapter is to collect in one location in this Code all of the definitions and general operating standards applicable to Cannabis Businesses and to implement the provisions contained in the Medicinal and Adult-Use of Cannabis Regulation and Safety Act, codified in Division 10 of the Business and Professions Code, Section 1602 and 1617 of the Fish and Game Code, Sections 37104, 54036, and 81010 of the Food and Agriculture Code, Division 10 of the Health and Safety Code, Division 2 of the Revenue and Taxation Code, Sections 23222 and 2429.7 of the Vehicle Code, and Sections 1831, 1847, and 13276 of the Water Code ("MAUCRSA"), as amended from time to time.

#### **12.21.020 Definitions**

A. "Active Ingredients" means, in the case of dried cannabis flowers, extractions or infusions, delta-9- tetrahydrocannabinolic acid, delta-9-tetrahydrocannabinol,

cannabidiolic acid, cannabidiol, and any cannabinoid or propyl cannabinoid derivative when present in amounts greater that .5% by dry weight, and any mono- or sesquiterpenoid present in an amount exceeding .3% of a product's dry weight.

- B. "Adult Use Cannabis" means Cannabis and Cannabis Products intended for consumption by adults 21 and over, and that is not Medicinal Cannabis.
- C. "Adulterant" means any poisonous or deleterious substance that may render Cannabis or Cannabis Products impure or injurious to health, as determined by the City's Environmental Health or Public Health Divisions.
- D. "Adulterated" means any Cannabis or Cannabis Product with Contaminates exceeding any testing thresholds and/or containing any Adulterant.
- E. "Batch" shall have the same meaning as set forth in MAUCRSA, as amended from time to time,
- F. "Cannabis" shall have the same meaning as set forth in Section 26001 of the Business and Professions Code, as amended from time to time, and includes both adultuse and medicinal cannabis.
- G. "Cannabis Business" is a business possessing a State license as specified in Section 26050 of the Business and Professions Code, as amended from time to time, and includes Cannabis Businesses with an "A" designation ("ACB") and Cannabis Businesses with an "M" designation ("MCB").
- H. "Cannabis By-Products" means delta-8-THC and cannabinol when present in amounts greater than 0.2% of a product's dry weight.
- I. "Cannabis Compound(s)" means any or all of the following chemicals, as the context requires:
  - 1. "THC" or " $\Delta 9$ -THC" means  $\Delta^9$ -tetrahydrocannabinol, ( $\Delta$ )-(6aR,10aR)-6,6,9-trimethyl-3-pentyl-6a,7,8,10a- tetrahydro-6H-benzo[c]chromen-1-ol.
  - 2. "THCA" or "Δ9-THCA" means the acid form of THC.
  - 3. "CBD" or "Cannabidiol" means 2-[(1R,6R)-6-isopropenyl-3-methylcyclohex-2-en-1-yl]-5-pentylbenzene-1,3- diol.
  - 4. "CBDA" or "Cannabidiolic acid" means the acid form of CBD.

- 5. "CBN" or "Cannabinol" means 6,6,9-trimethyl-3-pentyl-benzo[c]chromen-1-ol.
- J. "Cannabis Cultivation Facility" or "Facility" shall have the same meaning as "cultivation site" as set forth in Section 26001 of the Businesses and Professions Code. It includes "Major Cannabis Cultivation Facility", defined as follows:
  - "Major Cannabis Cultivation Facility" means a Facility that is between 10,000 sf and 22,000 sf in total canopy area.
- K. "Cannabis Products" shall have the same meaning as set forth in Section 26001 of the Business and Professions Code, as amended from time to time, and includes both medicinal and adult-use Concentrates and Cannabis Products.
- L. "Cannabis Waste" means contaminated Cannabis or Cannabis Products that cannot be rendered safe and any Cannabis or Cannabis Products that have been designated as a waste by a Cannabis Business, or regulatory authority. Cannabis Waste does not include materials from the cultivation and manufacturing processes not known to be contaminated with pesticide or heavy metal residues and which may be composted by an approved process.
- M. "Concentrate" shall have the same meaning as set forth in Section 26001 of the Business and Professions Code, as amended from time to time.
- N. "Contaminant" means any pesticide, residual solvent or microbiological organism or product thereof, heavy metal, or any other Adulterant as determined by the Environmental Health Division.
- O. "Cosmetic Cannabis Product" means any article, or its components, intended to be rubbed, poured, sprinkled, or sprayed on, introduced to, or otherwise applied to, the human body, or any part of the human body, that is not an Edible Cannabis product and includes tinctures.
- P. "Cultivate" and "Cultivation" mean any activity involving the planting, growing, harvesting, drying, curing, grading or trimming of cannabis.
- Q. "Cultivator" means an individual or entity required to be licensed to cultivate cannabis pursuant to MAUCRSA, as amended from time to time.
- R. "Deliver" and "Delivery" shall mean any transit of Cannabis or Cannabis Product from a Retailer to a Customer at a residence.
- S. "Delivery-Only Retailer" is a Retailer that is limited to acquiring Cannabis and

delivering it to its Qualified Patients, Primary Caregivers, and adult consumers, and does not have a location to which Qualified Patients, Primary Caregivers, and adult consumers may come to acquire Cannabis or any other good or service.

- T. "Distributor" means an individual or entity required to be licensed as a distributor pursuant to MAUCRSA, as amended from time to time.
- U. "Edible Cannabis Product" (or "Edible") means a cannabis product that is intended to be used, in whole or in part, for human consumption, including but not limited to, chewing gum, but excluding products set forth in Division 15 (commencing with Section 32501) of the Food and Agricultural Code. An edible cannabis product is not considered food, as defined by Section 109935 of the health and Safety Code, or a drug, as defined by Section 109925 of the Health and Safety Code.
- V. "Manufacturer" means an individual or entity required to be licensed as a manufacturer pursuant to MAUCRSA, as amended from time to time.
- W. "Medicinal Cannabis" means Cannabis and Cannabis Products intended as medicine for those with a valid physician's recommendation in compliance with California law.
- X. "Microbusiness" shall have the same meaning set forth in MAUCRSA, as amended from time to time, and includes "Retail Nursery Microbusiness", defined as follows:
  - 1. "Retail Nursery Microbusiness" is restricted to either a Class 1 or Class 2 Nursery that sells plants and seeds on a retail basis, either at a location to which Customers may come to acquire cannabis plants or seeds, or by delivering plants or seeds. No other cannabis products may be sold at this type of use. Distribution is limited to those products directly related to this business. No cannabis consumption is permitted on site.
- Y. "Nursery" means an individual or entity required to be licensed as a Type 4 Cultivator pursuant to MAUCRSA, as amended from time to time, and includes "Class 1 Nursery" and "Class 2 Nursery," defined as follows:
  - 1. "Class 1 Nursery" means a nursery that only produces immature plants, such as cuttings or clones.
  - 2. "Class 2 Nursery" means a nursery that produces mature plants with flowers for the purpose of producing seeds, whether for distribution to a Retailer or for research purposes. A Class 2 Nursery may also produce cuttings or clones.

- Z. "Primary Caregiver" shall have the same meaning as set forth in Section 26001 of the Business and Professions Code, as amended from time to time.
- AA. "Principal" means any person that has direct or non-delegated indirect authority over the management or policies of a Cannabis Business.
- BB. "Protected Health Information" means documentation of a an MCB's Qualified Patient's medical history or condition other than a physician's recommendation, an identification card issued pursuant to Health and Safety Code Section 11362.7 et seq., or the written designation of a Primary Caregiver by a Qualified Patient or identification card holder. Protected Health Information shall not include information conveyed by a Qualified Patient to a Retailer regarding such Qualified Patient's medical condition, information conveyed by a Qualified Patient to a Retailer regarding efforts to ameliorate or otherwise address symptoms associated with such Qualified Patient's medical condition, or information regarding Cannabis or Medicinal Cannabis Products provided to a Qualified Patient.
- CC. "Qualified Patient" shall have the same meaning as provided in California Health and Safety Code Section 11362.7.

#### DD. Retailer

- 1. "Retailer" means both Retailers with a location to which Customers, Qualified Patients, or Primary Caregivers may come to acquire Cannabis or any other good or service, and Delivery-Only Retailers.
- 2. "Retailer" shall mean an ACB ("A-Retailer") or MCB ("M-Retailer") that is authorized under Chapter 12.22, Title 23, and California law to dispense Cannabis at a non-residential location. A Retailer may deliver to its Qualified Patients, Primary Caregivers, or adult consumers and provide other incidental services to its Qualified Patients, Primary Caregivers, or adult consumers to the extent permitted by California law.
- EE. "Solvent" means any substance in which another substance is dissolved, forming a solution.
- FF. "Tincture" means an extract of Cannabis or solution of such, typically made with food-grade alcohol or glycerin.
- GG. "Temporary Cannabis Event" shall mean an activity required to be licensed as a temporary cannabis event pursuant to MAUCRSA, as amended from time to time. Such events may involve onsite sale and consumption of cannabis goods and must be operated by a state-licensed event organizer.

### **12.21.030 Information Requirements**

Every Cannabis Business shall provide the following information to the City's Environmental Health Division, and shall be updated whenever there is any material change.

- A. A description of the Cannabis Business and its location, which shall include such information as the City may require that demonstrates compliance with applicable provisions of this Chapter.
- B. The name, address and 24-hour contact information for each Principal, including a photocopy of at least one primary form of photo identification, such as a California Driver's License or US Passport. This information shall also include any aliases, maiden or married names or other former legal names.
- C. Proof of the nature of the Cannabis Business's organizational status, such as articles of incorporation, by-laws, partnership agreements, and other documentation as may be appropriate or required by the City.

### 12.21.040 Operating Standards

- A. All Cannabis Businesses shall comply with the operating standards set forth in this Section.
- B. Cannabis Businesses shall comply with Health and Safety Code Sections 11362.7 et seq. and any other California laws that may be adopted concerning Adult-Use and Medicinal Cannabis, including but not limited to the Medicinal and Adult-use of Cannabis Regulation and Safety Act, and Chapters 12.22 or 12.26 and Title 23 of the Berkeley Municipal Code, and any other applicable City laws or regulations, and shall pay all applicable state or local taxes and fees. To the extent the requirements of this Chapter and Chapters 12.22 and 12.26 are more restrictive than California law, they shall apply. To the extent the requirements of this Chapter and Chapters 12.22 and 12.26 are less restrictive than California law, the requirements of California law shall apply except in instances where the state has expressly allowed localities to be less strict.
- C. MCBs may retain memberships.
- D. Cannabis Businesses shall only obtain Cannabis from licensed Distributors as authorized by California law.
- E. All employees and volunteers of a Cannabis Business must be at least 21 years of age.

- F. The Environmental Health Division may require any Cannabis Business to submit an odor control plan to be approved by the Division.
- G. Non-diversion. ACBs shall take all practicable steps necessary to prevent and deter diversion of Cannabis and Cannabis Products to persons under 21 years of age, including by using the state-mandated Track-and-Trace system. MCBs shall take all practicable steps necessary to prevent and deter diversion Medicinal Cannabis and Medicinal Cannabis Products to persons other than Qualified Patients or their Primary Caregivers, or non-MCBs, including by using the state-mandated Track-and-Trace system.

#### H. Security.

- 1. Cannabis Businesses shall provide adequate security and lighting on-site to ensure the safety of persons and protect the premises from theft at all times. Lighting shall be of sufficient intensity to illuminate all areas of the premises.
- 2. Retailers, Distributors and Cultivators must maintain camera coverage of their entire grounds to an extent sufficient to ensure the safety of persons and deter crime. Cameras must be maintained in good condition, and use a format approved by the City Manager, which is of adequate quality, color rendition and resolution to allow the ready identification of any individual committing a crime. The cameras shall be in use 24 hours per day, seven (7) days per week. The areas to be covered by the security cameras include, but are not limited to, dispensing areas, storage areas, cultivation areas, all doors, parking lots, and any other area determined by the City Manager. Surveillance footage must be retained for a period of 90 days and made available to the Berkeley Police Department for purposes of investigation of alleged crimes, promptly upon request without the necessity of a warrant or subpoena. Retention and maintenance of security camera recordings shall comply with Section 12.21.070. Retailers must also maintain security guards.
- Cannabis Businesses must be equipped with an alarm system that is operated and monitored by a security company licensed by and in good standing with the California Department of Consumer Affairs. Alarms shall be maintained and in good working condition at all times.
- 4. In order to prevent unauthorized entry during non-business hours, Retailers, Distributors and Cultivators shall either secure all exterior windows and roof hatches from the inside with bars, retractable, folding or sliding metal gates, or metal rollup or accordion doors, or provide at least one security guard during those hours.

- 5. Any security guards employed by Cannabis Businesses shall be licensed and possess a valid Department of Consumer Affairs "Security Guard Card" at all times. Security personnel may not be armed.
- All Cannabis Businesses must securely store all Cannabis at all times, except for limited amounts used for display purposes, samples or immediate sale, and the entrance to all storage areas shall be locked and under the control of staff at all times.
- 7. Cannabis Businesses shall make transactions with payment methods other than cash whenever feasible. All cash received, except that needed for retail customer transactions shall be kept in a secure receptacle such as a drop safe or other type of safe.
- 8. If any of the requirements in this section conflict with state law, the stricter requirement will apply.

### I. Neighborhood compatibility

- Cannabis Businesses shall be operated to ensure neighborhood compatibility, and shall take all steps necessary to ensure that Customers do not create neighborhood disturbances. Such measures shall include, but not be limited to, providing a security guard to patrol the area surrounding any Retailer, Distributor or Cultivator during all hours of operation.
- 2. Retailers shall provide the Police Department and all residents and property owners within 100 feet with the current name, phone number, secondary phone number and e-mail address of an on-site community relations staff person to whom notice of any operating problems associated with the establishment may be reported. This information shall be updated as necessary to keep it current. Retailers shall encourage neighbors to call this person to try to solve any operating problems.
- 3. All Cannabis Businesses shall have an on-site manager responsible for overall operation at all times they are open, and shall provide the Police Department with contact information for all such persons, including telephone number and e-mail address. Cannabis Businesses shall also provide the Police Department with the current name and phone numbers of at least one 24-hour-on-call manager. This information shall be updated as necessary to keep it current.
- 4. Cannabis Businesses shall take all reasonable steps to discourage and correct

objectionable conditions that constitute a public or private nuisance in parking areas, sidewalks, alleys and areas surrounding the premises and adjacent properties. Such conditions include, but are not limited to: smoking; creating a noise disturbance; loitering; littering; and graffiti.

- 5. Cannabis Businesses shall ensure all graffiti is removed from property and parking lots under their control within 72 hours of its appearance.
- J. Sale and Consumption of Cannabis, Tobacco and Alcohol
  - 1. Sale or consumption of tobacco is prohibited at Cannabis Businesses.
  - 2. Sale and/or service of alcoholic beverages at Cannabis Businesses is prohibited.
- K. Holding requirements. Any juice or beverage produced in accordance with Section 40270 of the California Code of Regulations Title 17, Division 1, Chapter 13, Subchapter 3, Article 4 that requires refrigeration to prevent the rapid growth of undesirable organisms or the formation of alcohol through fermentation shall be held below 41 Fahrenheit to prevent the cannabis product from becoming adulterated during the manufacturing, processing, packing, holding, and transporting. Transporting includes both by a Distributor among licensees and by Retailers conducting delivery to Customers, Qualified Patients, and Qualified Caregivers. Fixed facilities shall hold such cannabis products in equipment certified to ASTM commercial food safety equipment standards by an organization such as but not limited to NSF, UL, or ETL.

#### 12.21.050 Records

A. General. All Cannabis Businesses shall maintain contemporaneous financial and operational records sufficient to show compliance with this Chapter, Chapter 12.26, and applicable California law, as well as satisfaction of commitments made in the Cannabis Business's application and during the ranking and allocation process. Such records shall be maintained in a secure location under the control of the Cannabis Business within the City of Berkeley, and shall be subject to inspection by the City upon reasonable notice during regular operational hours or by appointment.

#### B. Finances.

- 1. Cannabis Businesses shall make their financial records available to the City on an annual basis. Such audited records shall be limited to information necessary for the City to determine fair payment of taxes and for M-Retailers very low income 2% distribution verification.
- C. Operations. Cannabis Businesses shall maintain the following information and make

it available to the City within 30 days of the end of each calendar year.

- 1. The total number of very low-income members and the amount distributed;
- 2. The total and net amount of revenue collected during the year;
- 3. The consideration paid for each Batch;
- 4. Monetary and non-monetary contributions;
- 5. Total monetary and non-monetary distributions to suppliers;
- 6. Salaries and overhead; and
- 7. A complete list of the types of Cannabis, Cannabis Products and Edibles available, and the prices thereof.

### 12.21.060 Operating Procedure and Criteria

No Cannabis Business may operate in the City of Berkeley without all applicable City of Berkeley licenses. The Council may by resolution establish procedures and criteria for accepting applications to operate Cannabis Businesses and determining which, if any, to approve.

### 12.21.070 Confidentiality of Information

- A. The City's review of information submitted or maintained pursuant to this Chapter shall preserve the confidentiality of all information about Principals and members to the maximum extent consistent with state and local law. The City shall incur no liability for the inadvertent or negligent disclosure of such information. Disclosure of any Principal or Member information to the City for purposes of this Chapter shall not be deemed a waiver of confidentiality. Financial information provided to the City pursuant to Section 12.21.050 shall be deemed to be "financial information" covered by Chapter 7.26.
- B. The information required by Section 12.21.040 and recordings from security cameras, shall be confidential and shall not be subject to public inspection or disclosure except to City and State employees for purposes of law enforcement.

### 12.21.080 Authority of City Manager

A. The City Manager or his or her designee shall have authority to determine the nature of any Cannabis Business or purported Cannabis Business and whether that entity complies with any of the requirements of this Chapter, Chapters 12.22 and 12.26, and

Title 23, and to conduct inspections as provided in Chapter 1.16.

- B. The City Manager or his or her designee may promulgate regulations for the administration and implementation of this Chapter, including, but not limited to, regulations relating to non-diversion, record-keeping, and tracking and tracing Cannabis.
- C. The City Manager or his or her designee may require any Cannabis Business to obtain operating permits from the City of Berkeley Fire Department, Toxics Management Division, Environmental Health Division, and any other department or division.
- D. The City Manager or his or her designee shall have authority to enter onto private property and perform such inspections as may be necessary or convenient to implement and enforce this Chapter, Chapters 12.22 and 12.26, and Title 23, and to adopt regulations to implement this Chapter, Chapters 12.22 and 12.26, and Title 23.

#### 12.21.090 Abatement of Violations

- A. Violations of this Chapter or Chapters 12.22 or 12.26 shall constitute an administrative citation under Chapter 1.26. The City may enforce this Chapter through proceedings under Chapter 1.24, Chapter 1.28, Chapter 23B.64 and any other law or ordinances it deems appropriate.
- B. Notwithstanding anything to the contrary, violations of this Chapter or Chapters 12.22 or 12.26 shall not be punishable as public offenses to the extent that doing so would conflict with California law.

#### 12.21.100 Fees

The City Council may establish by resolution the fees that shall be charged to Cannabis Businesses for administration and implementation of this Chapter. The adoption of such fees shall not prevent the City from recovering enforcement costs from Cannabis Businesses not specified in such resolution.

## 12.21.110 Severability

If any word, phrase, sentence, part, section, subsection, or other portion of this Chapter, or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this Chapter, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The City Council hereby declares that it would have passed this title, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or

more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional.

Section 2. That Berkeley Municipal Code Chapter 12.22 is amended to read as follows:

# Chapter 12.22 CANNABIS BUSINESS OPERATING STANDARDS

#### Sections:

Article I General

12.22.010 Applicability and Purpose

12.22.020 Selection Process

#### Article II Cannabis Businesses

12.22.030	Eligibility Requirements
12.22.040	Retailers
12.22.050	Distributors
12.22.060	Manufacturers
12.22.070	Cultivators
12.22.080	Testing Laboratories
12.22.090	Microbusinesses
12.22.100	<b>Temporary Cannabis Events</b>
12.22.110	Collectives Prohibited

#### Article III Enforcement

12.22.120	Fees
12.22.130	Authority of City Manager
12.22.140	Severability
12.22.150	Reserved
12.22.160	Reserved
12.22.170	Reserved
12.22.180	Reserved

## 12.22.010 Applicability and Purpose

A. This Chapter applies to all Cannabis Businesses as defined in Chapter 12.21. The purpose of the Chapter is to provide specific operating standards applicable to these businesses and to implement the provisions contained in the Medicinal and Adult-Use of Cannabis Regulation and Safety Act, codified in Division 10 of the Business and Professions Code, Section 1602 and 1617 of the Fish and Game Code, Sections 37104, 54036, and 81010 of the Food and Agriculture Code, Division 10 of the Health and Safety Code, Division 2 of the Revenue and Taxation Code, Sections 23222 and 2429.7 of the

Vehicle Code, and Sections 1831, 1847, and 13276 of the Water Code ("MAUCRSA"), as amended from time to time.

#### 12.22.020 Selection Process

The Council may by resolution establish procedures and criteria for accepting applications to operate Retailers or Major Cannabis Cultivators and determining which, if any, to approve.

## 12.22.030 Eligibility requirements

A. No Principal of any business of a certain license type may be a Principal for any other business of the same license type in the City of Berkeley, except that a State "M" licensee may also be a State "A" licensee of the same license type.

#### 12.22.040 Retailers

Retailers shall comply with the operating standards set forth in this Section.

- A. Retailers must obtain operating permits from and allow inspections by the City of Berkeley Environmental Health Division.
- B. Retailers shall only allow Customer visits between the hours of 9:00 a.m. and 9:00 p.m.
- C. A Retailer may deliver cannabis only to the extent allowed by its State license.
- D. Accessibility. Retailers shall comply with all physical accessibility requirements that would be applicable to a newly-constructed building, except that pre-existing Retailers permitted under Ordinance No. 6826-N.S. shall not be required to comply with such requirements as long as they remain in the same location as when this Chapter became effective, except as may be required by other laws.

#### E. Signage.

- 1. All Retailers must either provide to each Customer or prominently display at all points of sale a notice containing the language set forth in this Section.
  - a. If provided to each Customer, the notice shall be printed on paper that is no less than 5 inches by 8 inches in size, and shall be printed in no smaller than 18-point font.
  - b. If prominently displayed at all points of sale, the notice shall be printed on a poster no less than 3 feet by 3 feet in size, shall be printed in no smaller than

- a 28-point font, displayed prominently behind the main dispensing counter at eye-level (i.e., with mid-point five feet above the floor).
- 2. All Retailers must prominently display a notice as set forth in subsection 12.22.040.E that contains the following language:

"The use of cannabis may impair a person's ability to drive a motor vehicle or operate heavy machinery."

All Retailers that provide delivery services, including Delivery-only Retailers, must provide this notice to each delivery Customer as set forth in subsection 12.22.040.E.

3. All Retailers must prominently display a notice as set forth in subsection 12.22.040.E that contains the following language:

"WARNING: Cannabis is not tested by local, state or federal governmental agencies for health, safety, or efficacy. There may be health risks associated with the consumption of cannabis or cannabis products."

All Retailers that provide delivery services, including Delivery-only Retailers, must provide this notice to each Customer as set forth in subsection 12.22.040.E.

- 4. Any M-Retailer that allows Customer visits must prominently display a notice as set forth in subsection 12.22.040.E that contains the following language::

  "This M-Retailer provides medicinal cannabis only to Qualified
- "This M-Retailer provides medicinal cannabis only to Qualified Patients and their Primary Caregivers, who must have a valid California Medical Marijuana Identification Card or a verifiable, written recommendation from a physician for medicinal cannabis."

All M-Retailers that provide delivery services, including Delivery-only M-Retailers, must provide this notice to each delivery Customer as set forth in subsection 12.22.040.E.

5. All M-Retailers must prominently display a notice as set forth in subsection 12.22.040.E that contains the following language:

"This Medicinal Cannabis Retailer is licensed in accordance with the laws of the City of Berkeley and the State of California. The sale or diversion of medicinal cannabis for non-medical purposes is a violation of State and local laws."

All M-Retailers that provide delivery services, including Deliveryonly M-Retailers, must provide this notice to each delivery Customer as set forth in subsection 12.22.040.E. 6. Any A-Retailer that allows Customer visits must prominently display a notice as set forth in subsection 12.22.040.E that contains the following language:

"This Adult-Use Cannabis Retailer is licensed in accordance with the laws of the City of Berkeley and the State of California. The sale or diversion of adult- use cannabis to persons under the age of 21 is a violation of State and local laws."

All A-Retailers that provide delivery services, including Delivery-only A-Retailers, must provide this notice to each delivery Customer as set forth in subsection 12.22.040.E.

## F. Consumption of Cannabis

1. The consumption of Cannabis or Cannabis Products in public places is prohibited.

## G. Delivery Requirements

- 1. Medicinal and Adult Use cannabis may be delivered by a Retailer, as long as the deliveries comply with the appropriate State license.
- 2. All Retailers that provide delivery services must comply with the following requirements.
  - a. All vehicles used for delivery shall be maintained and operated in a manner and in a condition required by law and applicable regulations.
  - b. The following persons may not drive delivery vehicles:
    - i. a person who does not possess a valid driver's license;
    - ii. a person who has been at fault within the immediately preceding two years in any motor vehicle accident causing death or personal injury;
    - iii. a person who has been at fault in three or more motor vehicle accidents within the previous 12 months;
    - iv. a person who has been under suspension, revocation or probation within the last five years by the Department of Motor Vehicles for a cause involving the safe operation of a motor vehicle;

- v. a person who has been convicted of any of the following misdemeanor offenses within the past five years: driving under the influence or reckless driving involving alcohol or reckless driving involving bodily injury;
- vi. a person who has been convicted of any of the following offenses: a second or subsequent conviction for driving under the influence, or any felony conviction for driving under the influence (with or without injury), or vehicular manslaughter, or habitual traffic offender.
- c. The following persons may not be involved in making deliveries:
  - any person who is required to register as a sex offender under Section 290 of the California Penal Code;
  - ii. any person who has within the past ten years been convicted of any felony offense involving moral turpitude.
- d. Persons involved in making deliveries must have in their possession a copy of the document memorializing the City's approval of the delivery service.
- e. Persons involved in making deliveries may not be armed.
- f. Delivery vehicles may not advertise any activity related to Cannabis, carry symbols or emblems related to Cannabis, or advertise the name of the Retailer.
- g. Delivery of Cannabis shall be directly to the residence of the Customer unless said residence is in a park, school or hospital. Deliveries to parks, schools, hospitals, and all non-residential locations are prohibited.
- h. Deliveries may occur only between the hours of 8:00 a.m. and 10:00 p.m.
- i. Delivery vehicles shall not carry or transport at any one time an amount of Cannabis, Cannabis Products, cash and/or cash equivalents worth, in total, more than three thousand dollars (\$3,000).
- j. All orders to be delivered shall be packaged by the name or identification number of the Customer for whom the delivery is intended.

- k. The person responsible for making deliveries shall have a copy of the record of all delivery requests while making deliveries.
- I. All Retailers that provide delivery service shall maintain at all times Commercial General Liability insurance providing coverage at least as broad as ISO CGL Form 00 01 on an occurrence basis for bodily injury, including death, of one or more persons, property damage and personal injury with limits of not less than One Million Dollars (\$1,000,000) per occurrence and Comprehensive Automobile Liability (owned, non-owned, hired) providing coverage at least as broad as ISO Form CA 00 01 on an occurrence basis for bodily injury, including death, of one or more persons, property damage and personal injury, with limits of not less than One Million Dollars (\$1,000,000). The Commercial General Liability policy shall provide contractual liability, shall include a severability of interest or equivalent wording, shall specify that insurance coverage afforded to the City shall be primary, and shall name the City, its officials and employees as additional insured. Failure to maintain insurance as required herein at all times shall be grounds for immediate suspension of the privilege of providing delivery service.

#### H. M-Retailers

- 1. M-Retailers must not admit any person without first verifying his or her status as a Qualified Patient or Primary Caregiver.
- 2. No physician recommendations for Medicinal Cannabis may be provided on site.
- 3. M-Retailers may not provide more Medicinal Cannabis to a Qualified Patient or Primary Caregiver than is necessary for the personal medicinal use of the Qualified Patient for whom the Medicinal Cannabis is intended, and may not dispense more Medicinal Cannabis to a Qualified Patient or Primary Caregiver per day than permitted by State law.
- 4. M-Retailers must take all practicable steps necessary to prevent and deter diversion of Medicinal Cannabis to any person who is not a Qualified Patient or Primary Caregiver. M-Retailers must limit access to Medicinal Cannabis to authorized personnel only. M-Retailers must maintain an inventory management system that accounts for all Medicinal Cannabis separately from Adult Use Cannabis if both types are sold or distributed at the Retailer.

- 5. M-Retailers must not admit any Qualified Patient under 18 years of age pursuant to MAUCRSA.
- 6. Medicinal Cannabis for low income persons
  - a. At least 2% (by weight) of the annual amount of Medicinal Cannabis in dried plant form provided by a M-Retailer to Qualified Patients and Primary Caregivers shall be provided at no cost to very low-income Qualified Patients who are Berkeley residents or their Primary Caregivers. This amount shall be calculated every six months, based on the amount dispensed during the immediately preceding six months. Medicinal Cannabis provided under this Section shall be the same quality on average as Medicinal Cannabis that is dispensed to other persons.
  - b. For purposes of this Section, income shall be verified using federal income tax returns or another reliable method approved by the City Manager.
  - c. For purposes this Section, "very low income" shall mean the household income levels established by the U.S. Department of Housing and Urban Development.
  - d. M-Retailers shall keep an accurate roster of very low-income Qualified Patients who are Berkeley residents, which shall include a copy of either a California Medical Cannabis Identification Card or a physician's recommendation, and, if using a Primary Caregiver, a written authorization from the Qualified Patient to be represented by such Primary Caregiver. Such records shall be maintained in a manner that protects the confidentiality of the Qualified Patient and Primary Caregiver.
  - e. M-Retailers shall track distributions to very low-income Qualified Patients (or their Primary Caregivers) in an inventory management system compatible with the state Track-and-Trace program. M-Retailers shall generate a report every six (6) months showing the total percentage of Medicinal Cannabis sales distributed to Berkeley residents. If an M-Retailer voluntarily expands the program to residents outside of Berkeley, that percentage shall be calculated separately.
- I. A-Retailers must not admit any person under 21 years of age. If an A-Retailer also holds an M-Retailer license, access to the M-Retailer portion of the establishment is subject to the requirements of subsection 12.22.040.H.

#### 12.22.050 Distributors

- A. Distributors must obtain operating permits from and are subject to inspections by the City of Berkeley Environmental Health Division.
- B. Distributors must maintain a written or computerized log compatible with the State Track-and-Trace system documenting:
  - 1. the date, type, and amount of Product tested;
  - 2. the source(s) of any contaminated Cannabis
  - 3. the results of the testing, including the name and level of the substance detected; and
  - 4. the disposition of the Cannabis from which any contaminated sample was obtained, including the amount and the date and manner of disposition.

Such logs shall be maintained for at least one year and be made available to the City upon request.

- C. Distributors are subject to the provisions of the California Retail Food Code and the Sherman Food, Drug and Cosmetic Law, even if those laws are not directly applicable to Edible or Cosmetic Cannabis Products. Handwashing facilities shall be adequate and convenient and be furnished with running water at a suitable temperature. Handwashing facilities shall be located in preparation areas and where good sanitary practices require employees to wash and/or sanitize their hands, and provide effective hand-cleaning and sanitizing preparations and sanitary towel service or suitable drying devices.
- D. Scales and weighing mechanisms must be able to weigh to within 1/100th of a gram, shall be maintained in good working order and shall be subject to annual inspection by either the Alameda County Department of Agriculture/Weights and Measures or a licensed scale company.

#### 12.22.060 Manufacturers

A. All Manufacturers must obtain operating permits from and are subject to inspections by the City of Berkeley Environmental Health Division.

- B. Compliance with State Food and Product Safety Requirements.
  - 1. A Manufacturer that prepares Cannabis Products must comply with the relevant provisions of all State and local laws regarding the preparation, distribution, labeling and sale of food and cosmetics, even if those laws are not directly applicable to Edible or Cosmetic Cannabis Products.
  - 2. Preparation of Edible and Cosmetic Cannabis Products.
    - a. Individuals involved in the production or distribution of Edibles and Cosmetic Cannabis Products shall thoroughly wash their hands before commencing production and before handling the finished product. Gloves must be worn when packaging Edibles or Cosmetic Cannabis Products.
    - b. In order to reduce the likelihood of foodborne disease transmission, individuals who are suffering from symptoms associated with acute gastrointestinal illness or are known to be infected with a communicable disease that is transmissible through foodstuffs are prohibited from preparing Edibles or Cosmetic Cannabis Products until they are free of that illness or disease, or are incapable of transmitting the illness or disease through foodstuffs. Individuals who have sores or cuts on their hands must use gloves when preparing and handling Edibles or Cosmetic Cannabis Products.
    - c. All employees of Manufacturers who produce Edibles must be State certified food handlers. The valid certificate number of such Manufacturers must be on record at each Retailer where the edible product is distributed, and a copy of the certificate kept either on-site, or made available during inspections if kept off-site.
  - 3. Scales and weighing mechanisms must be able to weigh to within 1/100th of a gram, shall be maintained in good working order and shall be subject to annual inspection by either the Alameda County Department of Agriculture/Weights and Measures or a licensed scale company.

#### 4. Manufacture of Concentrates

a. Cold-water and mechanical extraction equipment shall be maintained in sanitary condition and approved for use by the City of Berkeley Environmental Health Division.

- b. Any manufacture method using compressed gases or flammable solvents, whether volatile or non-volatile, shall be approved in advance and inspected by the City of Berkeley Fire Department and Toxics Management Division.
- c. All Concentrates shall be produced under sanitary conditions and maintained free of filth and contaminants.

#### 12.22.070 Cultivators

- A. Cultivators must obtain operating permits from and are subject to inspections by the City of Berkeley Environmental Health Division.
- B. Cultivator license types shall be the same as defined in MAUCRSA, with the exception of Nursery, as defined in Section 12.21.020.
- C. Energy Use. Cultivators must include all feasible (under the current Title 24, Part 6) cost-effective water and energy efficiency measures, including but not limited to natural daylighting, high efficiency lighting, networked lighting and mechanical controls, and natural cooling.
  - 1. Cultivators must include the following systems to the extent feasible: on-site renewable energy generation; energy storage batteries; water collection, filtration and reuse; and rainwater harvesting.
  - 2. Cultivators must include in any application for a Cannabis Cultivation Facility a description of all energy and water systems, measures employed to maximize efficient resource use, and the following metrics, with supporting documentation:
    - a. Planned lighting power density (watts/sf)
    - b. Planned lighting Energy Utilization Index (kBtu/sf/year)
    - c. Planned total site Energy Utilization Index (kBtu/sf/year)
    - d. Planned potable water consumption (gallons/sf/year)
  - 3. Cultivators must mitigate the carbon dioxide emissions caused by the generation of electrical energy delivered to its Facility by participating in East Bay Community Energy's (EBCE) 100% renewable content option for electricity or equivalent. Until businesses have the option to purchase power through EBCE, the offset will be achieved through purchase of renewable energy certificates certified by the Center for Resource Solutions.

- 4. Cultivators shall be responsible for demonstrating compliance with this Section on a calendar-year basis. Documentation shall include copies of energy and water bills, as well as an authorization to energy and water providers to disclose energy and water consumption at the Facility directly to the City. All parties that are responsible for energy and water bills shall also be responsible for providing such documentation and authorization.
- 5. The annual amount paid by a Cultivator to both mitigate carbon dioxide emissions caused by the generation of electrical energy to its Facility and to offset the carbon content of all electrical energy delivered to its Facility shall not exceed 10% of the Facility's annual energy bill. This fee shall be reconsidered after five years to determine whether it should be readjusted to reflect lower energy rates or higher costs of renewable energy certificates.
- D. Class 2 Nurseries must track the amount of, and disposition of, flower remaining after seed harvesting.
- E. Cultivators must store in a safe manner all pesticides approved for use. Only pesticides approved for use may be stored onsite. Any unapproved pesticides found onsite may trigger a crop hold until the live plants are tested and found free of unapproved pesticide. Plants with any level of unapproved pesticides may be destroyed in the presence of City officials designated by the City Manager.
- F. Cultivators must maintain all growing rooms in a clean, safe and sanitary manner and free of visible molds and fungal growth.
- G. Cannabis Cultivation Facilities shall not harbor infestations of rodents or non-beneficial insects.
- H. In Facilities using CO2 enrichment, ambient oxygen sensors shall be installed in any hallways, offices, or other enclosed occupied spaces.

# 12.22.080 Testing Laboratories

Testing Laboratories must obtain operating permits from and are subject to inspections by the City of Berkeley Environmental Health Division.

#### 12.22.090 Microbusinesses

- A. Microbusinesses must obtain separate City-issued operating permits for each activity conducted on the premises.
- B. Microbusinesses are subject to the operating standards set forth in this Chapter for each activity conducted on the premises.
- C. If the operating standards for the activities are different, the more restrictive standard shall apply, except as follows:
  - 1. Signage for Retail Nursery Microbusinesses shall be subject to the regulations for storefront Retailers.
- D. If the operating permit for one of the activities is revoked, the entire Microbusiness must cease operation until all operating permits at the premises are reinstated.

#### 12.22.100 Reserved

#### 12.22.110 Collectives Prohibited

Collectives previously authorized by the California Health and Safety Code shall be prohibited and must cease operation after January 9, 2019 pursuant to California Health and Safety Code Sections 11362.765 and 11362.775 and California Business and Professions Code Section 26033.

#### 12.22.120Fees.

The City Council may establish by resolution the fees that shall be charged for administration and implementation of this Chapter. The adoption of such fees shall not prevent the City from recovering enforcement costs not specified in such resolution.

# 12.22.130 Authority of City Manager

- A. The City Manager or his or her designee shall have authority to determine the nature of any Cannabis Business or purported Cannabis Business and whether that entity complies with any of the requirements of this Chapter, Chapters 12.21 and 12.26, and Title 23, and to conduct inspections as provided in Chapter 1.16.
- B. The City Manager or his or her designee may promulgate regulations for the administration and implementation of this Chapter, including, but not limited to, regulations relating to non-diversion, record-keeping, and tracking and tracing Cannabis.

- C. The City Manager or his or her designee may require any Cannabis Business to obtain operating permits from the City of Berkeley Fire Department, Toxics Management Division, Environmental Health Division, or any other department or division.
- D. The City Manager or his or her designee shall have authority to enter onto private property and perform such inspections as may be necessary or convenient to implement and enforce this Chapter, Chapters 12.21 and 12.26, and Title 23, and to adopt regulations to implement this Chapter, Chapters 12.21 and 12.26, and Title 23.
- E. The City Manager or his or her designee may promulgate regulations for the selection of Retailers, Cultivators, and other Cannabis Businesses that require a selection process.

## 12.22.140 Severability

If any word, phrase, sentence, part, section, subsection, or other portion of this Chapter, or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this Chapter, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The City Council hereby declares that it would have passed this title, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional.

12.22.150 Reserved 12.22.160 Reserved 12.22.170 Reserved 12.22.180 Reserved

Section 3. That Berkeley Municipal Code Chapter 12.23 is repealed.

Section 4. That Berkeley Municipal Code Chapter 12.25 is repealed.

Section 5. That Berkeley Municipal Code Chapter 12.27 is repealed.

<u>Section 6:</u> Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Old Berkeley City Hall, 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.

## Page 25 of 30

At a regular meeting of the Council of the City of Berkeley held on April 23, 2019, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Davila, Droste, Hahn, Harrison, Kesarwani, Robinson, Wengraf,

and Arreguin.

Noes: None.

Absent: None.

#### ORDINANCE NO. 7,647-N.S.

# AMENDING BERKELEY MUNICIPAL CODE CHAPTER 23C.25 TO MODIFY THE CANNABIS USES ORDINANCE

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

<u>Section 1.</u> That Berkeley Municipal Code Chapter 23C.25 is amended to read as follows:

# Chapter 23C.25 CANNABIS USES

#### Sections:

23C.25.010 Retail Uses
23C.25.020 Cannabis Cultivation
23C.25.030 Manufacturing, Testing and Distribution
23C.25.040 Microbusinesses

#### Section 23C.25.010 Retail Uses

- A. Retailer is defined in Section 12.21.020.
- B. Retailers may not be located within 600 feet of another Retailer or a public or private elementary school, middle school or high school.
- C. Expansion of an approved Retailer shall follow the conversion regulations for the Zoning District in which it is located and shall comply with subdivision (B) of this Section.
- D. An M-Retailer existing and authorized as of January 1, 2010, that does not comply with this Section, may continue at its current medical cannabis dispensing location and shall be considered a legal nonconforming use. Notwithstanding Section 23C.04.060 or subdivision (B) of this Section, the Zoning Officer may approve an Administrative Use Permit to allow the expansion of a legal nonconforming medical cannabis dispensary use on any parcel or on two adjacent parcels where a dispensary was located on one of the parcels as of July 1, 2010.

#### E. Cannabis Retailers

1. Seven Cannabis Retailers as defined in Section 12.21.020 shall be permitted as of right with a Zoning Certificate in C-prefixed zones if they comply with the parking requirements applicable to the uses they include, and any security requirements promulgated by the Chief of Police.

- 1. Retailers shall be approved through a selection process as set forth in Section 12.22.020.
- 2. No additional Retailers shall be considered for a period of three years from the effective date of this ordinance.

#### Section 23C.25.020 Cannabis Cultivation

- A. Notwithstanding anything to the contrary in this Chapter, cultivation of cannabis as defined in Chapters 12.21 and 12.22 and MAUCRSA, as defined in BMC Section 12.21.010), shall be permitted as a matter of right with a Zoning Certificate in the M District, subject to the following limitations:
  - 1. Such locations shall be limited to licensed Cannabis Businesses.
  - 2. Cannabis may not be dispensed, and client, patient or member services or retail sales are prohibited, at such locations.
  - 3. No single location used for cultivation and associated uses by a licensee may exceed 22,000 square feet of total canopy area, except that separate spaces used by different licensees may be aggregated on the same location.
  - 4. There is no numeric limit for Cannabis Cultivation Facilities under 10,000 sf in total canopy area, up to 48,000 sf.
  - 5. Up to six Major Cannabis Cultivation Facilities between the size of 10,000 sf and 22,000 sf in total canopy area are permitted.
  - 6. Outdoor commercial cultivation is prohibited.
  - 7. The total canopy area used for cannabis cultivation shall not exceed 180,000 square feet.
- B. Cannabis nurseries, as defined in Chapter 12.21 are considered Cannabis Cultivation uses and are subject to the same regulations as Cultivators.
- C. Such locations shall comply with all regulations in Chapter 12.22, security regulations promulgated by the Chief of Police, and the requirements of this Chapter, and shall not be located within 300 feet of a private or public elementary, middle or high school. Such locations may include testing, processing, manufacturing and food preparation only to the extent expressly permitted by MAUCRSA.
- D. No Cannabis uses may be approved under this Section until the City Council adopts a licensing process and standards for such uses. Such standards shall include a

requirement that indoor cultivation uses provide for an energy offset through a program specified by the City to offset the net increased energy that is used by the Facility as compared to a regular industrial facility, and may include, but shall not be limited to, whether proposed Facilities will provide a percentage of all usable product cultivated at no cost to very low income patients and will use organic methods in cultivation and processing to the maximum extent reasonable; and whether their form of organization, ownership and practices ensure equity and accountability, low prices and an adequate supply of high quality cannabis to Customers.

E. Notwithstanding Subsection 23C.25.020.D, Cannabis Cultivators with Cannabis Cultivation Facilities (as defined in Section 12.21.020) that do not exceed 10,000 square feet in total canopy area are permitted as a matter of right with a Zoning Certificate in the M District, subject to a limitation on total canopy area used for Cannabis Cultivation of 180,000 square feet.

## Section 23C.25.030 Cannabis Manufacturing, Testing Labs and Distribution

- A. Uses such as, but not limited to, testing, processing, and food preparation, that involve cannabis as defined in Chapter 12.21 but do not involve dispensing, client, patient or member services, or cultivation (other than for testing), shall be evaluated and regulated under this Title without regard to the fact that they involve cannabis.
- B. Manufacturers, Testing Labs, Research and Development and Distribution businesses which are licensed as Cannabis Businesses by the State may not be located within 300 feet of a public or private elementary, middle or high school.
- C. For the purposes of this Chapter, the following Cannabis uses shall be evaluated and regulated for Zoning purposes in the same way as the existing non-Cannabis uses, with the exception of distance buffers from schools:

Cannabis Use	Non-Cannabis Use
Manufacturing, processing, food	Light Manufacturing
preparation	
Testing labs	Testing labs
Research and Development	Research and Development
Distribution	Wholesale Uses

## Section 23C.25.040 Microbusinesses

- A. Microbusinesses are defined in Section 12.21.020
- B. Microbusinesses are subject to the development standards set forth in this Chapter for each activity conducted on the premises, with the following exceptions:

1. In cases where the development standards for two activities are different, the more restrictive standards shall apply.

## 2. Retail Nursery Microbusinesses

- a. For purposes of this Section, "Existing Nursery" means a plant nursery in the City of Berkeley as of the adoption of this ordinance.
- b. A maximum of two Existing Nurseries are permitted to convert to Retail Nursery Microbusiness, either: 1) by right with a Zoning Certificate in C- and M-prefixed zoning districts, if they comply with the development standards set forth in the Zoning Ordinance and in this Chapter for each activity conducted on the premises; or 2) subject to a Use Permit as set forth in Chapter 23B.32 for substantial expansion or change in character to non-conforming uses in R-prefixed districts (Section 23C.04.060.B). The Zoning Certificates and/or Use Permits shall be approved notwithstanding the number of Retailers and Cultivators in the City.
- c. Zoning Certificates and/or Use Permits shall be issued to Existing Nurseries on a first-come, first-served basis. The right to retain one of the allocated Zoning Certificates shall be determined based on the date of issuance of a concurrent Business license and establishing and continuously operating the business or, if a Use Permit is required, on the date the application for the Use Permit is deemed complete so long as the Use Permit is implemented with a Businesses License within 30 days of approval and establishing and continuously operating the business.
- d. The 600-foot retail buffer shall not apply between Storefront Retailers and Retail Nursery Microbusinesses.

<u>Section 2.</u> Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Old Berkeley City Hall, 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.

## Page 30 of 30

At a regular meeting of the Council of the City of Berkeley held on April 23, 2019, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Davila, Droste, Hahn, Harrison, Kesarwani, Robinson, Wengraf,

and Arreguin.

Noes: None.

Absent: None.

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#### ORDINANCE NO. 7,650-N.S.

# ADDING CHAPTER 13.104 TO THE BERKELEY MUNICIPAL CODE TO ADOPT A SANCTUARY CONTRACTING ORDINANCE

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

<u>Section 1.</u> That a new Chapter 13.104 is hereby added to the Berkeley Municipal Code to read as follows:

## **Chapter 13.104**

#### SANCTUARY CITY CONTRACTING

Sections:	
13.104.010	Title.
13.104.020	Definitions.
13.104.030	Prohibition on Use of City Resources.
13.104.040	Investigation and Reporting.
13.104.050	Enforcement.
13.104.060	Severability.
13.104.070	Construction.
13.104.080	<b>Chapter Supersedes Existing Law and Regulations.</b>
13.104.090	Effective Date.

## 13.104.010 Title.

This ordinance shall be known as the Sanctuary City Contracting Ordinance.

## 13.104.020 Definitions.

- A. "City" means the City of Berkeley, California.
- B. "Data Broker" (also commonly called information broker, information reseller, data aggregator, and information solution provider) means either of the following:
- 1. The collection of information, including personal information about consumers, from a wide variety of sources for the purposes of reselling such information to their customers, which include both private-sector businesses and government agencies;
- 2. The aggregation of data that was collected for another purpose from that for which it is ultimately used.
- C. "Extreme Vetting" means data-mining, threat modeling, predictive risk analysis, or other similar services.

Extreme Vetting Does not include the following:

- 1. The City's computer-network health and performance tools;
- 2. Cybersecurity capabilities, technologies and systems used by the City of Berkeley Department of Information Technology to predict, monitor for, prevent, and protect technology infrastructure and systems owned and operated by the City of Berkeley from potential cybersecurity events and

Ordinance No. 7,650-N.S. Page 1 of 4

- cyber-forensic based investigations and prosecutions of illegal computer based activity.
- D. "ICE" means the United States Immigration and Customs Enforcement, and any subdivision thereof.
- E. "Person or Entity" means any private natural person, corporation, institution, subsidiary, affiliate, or division under operating control of such person; the parent entities that have operating control over such person, and the subsidiaries, affiliates and divisions under operating control of such parent entity. Government entities and employees are expressly excluded from this definition.

## 13.104.030 Prohibition on Use of City Resources.

- A. No officer, employee, department, board, commission, City Council, City Manager, or other entity of the City shall enter into a new, amended, or extended contract or agreement with any Person or Entity that provides ICE with any "Data Broker" or "Extreme Vetting" services as defined herein, unless a waiver is granted based on a specific determination that no reasonable alternative exists, taking into consideration the following:
  - 1. The intent and purpose of this ordinance;
  - 2. The availability of alternative services, goods and equipment; and
- 3. Quantifiable additional costs resulting from use of available alternatives.

  The following processes shall be followed in considering a waiver: The
  City Manager or designee shall file a waiver request. The Council shall make the final

decision on granting the waiver.

- B. All public works, construction bids, requests for information, requests for proposals or any other solicitation issued by the City shall include notice of the prohibition listed above.
- C. For the purpose of determining which Person or Entity provides ICE with Data Broker or Extreme Vetting services, the City Manager shall rely on:
- 1. Information available on federal contracting websites, or in the absence of those, another common source of federal data;
- 2. A declaration under the penalty of perjury executed by the Person or Entity, affirming that they do not provide Data Broker or Extreme Vetting services to ICE.
- D. Any Person or Entity identified as a supplier of Data Broker or Extreme Vetting services to ICE and potentially affected by this Section shall be notified by the City Manager of the determination. Any such Person or Entity shall be entitled to a review of the determination by appeal to the City Manager. Request for such review shall be made within thirty (30) business days of notification, or seven (7) business days of the date of a City solicitation or notice of a pending contract or purchase, of interest to the Person or Entity seeking review. Any Person or Entity vendor so identified may appeal the City Manager's determination to the City Council, within fifteen (15) business days of the determination.

#### 13.104.040 Investigation and Reporting.

A. The City Manager, or their designee, shall review compliance with Section 13.104.030. The City Manager may initiate and shall receive complains regarding violations of Section 13.104.030. All officers, employees, departments, boards,

commissions, and other entities of the City shall cooperate with the City Manager in any investigation of a violation of Section 13.104.030.

B. By November 1 of each year, the City Manager shall schedule and submit to the City Council a written, public report regarding compliance with Section 13.104.030 over the previous year. At minimum, this report must (1) detail with specificity the steps taken to ensure compliance with Section 13.104.030, (2) disclose any issues with compliance, including any violations or potential violations of this Ordinance, and (3) detail actions taken to cure any deficiencies with compliance.

#### 13.104.050 Enforcement.

- A. Right to Cure. This Chapter does not provide a private right of action upon any person or entity to seek injunctive relief against the City or any employee unless that person or entity has first provided written notice to the City Manager by serving the City Clerk, regarding the specific alleged violations of this Chapter. If the alleged violation is substantiated and subsequently cured, a notice shall be posted in a conspicuous manner on the City's website that describes, to the extent permissible by law, the corrective measures taken to address the violation.
- B. Cause of Action. If a specific alleged violation is not remedied within 90 days of that written notice, a person or entity may institute proceedings for injunctive relief, declaratory relief, or writ of mandate in any court competent jurisdiction to enforce this Ordinance.
- C. Civil Penalties. If the City is found liable in a cause of action brought by an individual under subsection B. above for a violation that is the result of arbitrary or capricious action by the City or an employee or agent thereof in their official capacity, the City shall be liable for a civil penalty no greater than \$5,000 per violation, as determined by the court. In determining the amount of civil penalty, the court shall consider prior violations of this ordinance by the City department that committed the violation.
- D. Attorney's Fees and Costs. A court shall award a plaintiff who prevails on a cause of action under subsection B. reasonable attorney's fees and costs in an amount not to exceed \$15,000.
- E. Limitations on Actions. Any person bringing an action pursuant to this ordinance must first file a claim with the City pursuant to Government Code 905 or any successor statute within four years of the alleged violation.
- F. Any contracting Person or Entity knowingly or willingly supplying false information in violation of Section 13.104.030C.2., shall be guilty of a misdemeanor and up to a \$1,000 fine.

#### 13.104.060 Severability.

The provisions in this Ordinance are severable. If any part of provision of this Ordinance, or the application of this Ordinance to any person or circumstance, is held invalid, the remainder of this Ordinance, including the application of such part or provisions to other persons or circumstances, shall not be affected by such holding and shall continue to have force and effect.

#### 13.104.070 Construction.

The provisions of this Ordinance are to be construed broadly to effectuate the purposes of this Ordinance.

## 13.104.080 Chapter Supersedes Existing Law and Regulations.

The provisions of this chapter shall supersede any conflicting law or regulations.

#### 13.104.090 Effective Date.

This Ordinance shall take effect on July 1, 2019.

At a regular meeting of the Council of the City of Berkeley held on April 23, 2019, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Davila, Droste, Hahn, Harrison, Kesarwani, Robinson, Wengraf,

and Arreguin.

Noes: None.

Absent: None.

#### ORDINANCE NO. 7,651-N.S.

AUTHORIZING THE CITY MANAGER TO EXECUTE A FRANCHISE AGREEMENT BETWEEN FLIXBUS, INC. AND THE CITY TO OPERATE LONG-DISTANCE BUS SERVICE IN BERKELEY FOR AT LEAST A TEN-YEAR TERM

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

Section 1. The Council finds as follows:

- a. Council referred to the City Manager the initiation of a franchise agreement with FlixBus, Inc. (FlixBus) on October 30, 2018.
- b. Council adopted a resolution on March 26, 2019, declaring the Council's intention to consider at a public hearing, set for April 30, 2019 at 6:00 p.m., whether to grant a franchise to FlixBus to provide long-distance bus service to the Berkeley public.
- c. The City's Climate Action Plan has set a target of reducing transportation emissions 33% below 2000 levels by 2020, and 80% below 2000 levels by 2050. The Plan states that transportation modes, such as public transit, walking, and cycling, must become primary means of fulfilling the City's mobility needs to achieve these targets.
- d. The City's General Plan includes Policy T-2: Public Transportation Improvements: Encourage regional and local efforts to maintain and enhance public transportation services.
- e. The only current direct access to long-distance public transportation within Berkeley is the Amtrak station located at University Avenue and Second Street for the Capitol Corridor route between Sacramento and San Jose.
- f. FlixBus is a long-distance bus company proposing routes that will connect Berkeley to Southern California and Salt Lake City, Utah, with points in between.
- g. FlixBus has obtained approval from the California Public Utilities Commission (CPUC) to provide intercity bus service and is already operating at a bus stop in San Francisco.
- h. The execution of a franchise agreement with FlixBus will enable long-distance bus service to operate on City streets.
- i. FlixBus will work with City Public Works staff regarding their service and will meet reporting requirements as indicated in Exhibit A.

<u>Section 2.</u> The City Manager is hereby authorized to enter into a 10-year franchise agreement, which may be extended upon mutual consent with FlixBus Inc., as operator of long-distance bus service in Berkeley. A franchise fee schedule, as proposed in Exhibit B, will be reviewed annually and adjusted as needed based on analysis of staff time, required resources, the stop location(s), service levels, and meter rates. Revenue from the Roadway Usage Fees and Bus Stop Base Fees will be deposited into the Fund 011

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General Fund. Revenue from the Bus Stop Usage Fee will be deposited into the Fund 631 Parking Meter Fund. Contract terms are further described in the draft franchise agreement set forth in Exhibit A.

<u>Section 3.</u> 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.

At a regular meeting of the Council of the City of Berkeley held on April 30, 2019, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Davila, Droste, Hahn, Harrison, Kesarwani, Robinson, Wengraf,

and Arreguin.

Noes: None.

Absent: None.

## FLIXBUS, INC. FRANCHISE AGREEMENT

**THIS agreement** is made and entered into this day of \_\_\_\_, 2019 by and between the City of Berkeley, a municipal corporation ("City"), and FLIXBUS, INC., a Delaware corporation with a registration in San Francisco, California ("Grantee").

**WHEREAS**, pursuant to Chapter 9.60 of the Berkeley Municipal Code (BMC), Grantee has applied to City for a Franchise to provide inter-city and inter-state bus service to the public with a stop in the City of Berkeley ("Franchise"); and

**WHEREAS**, on March 26, 2019 and April 2, 2019, the City Council held a public hearing for the purpose of hearing persons in favor of or in opposition to the granting of such Franchise; and

**WHEREAS**, the City Council has determined that the grant of such Franchise to Grantee is in the public interest; and

**WHEREAS**, City and Grantee desire to enter into a Franchise Agreement ("Agreement") in order that Grantee may provide inter-city and inter-state bus service in the City of Berkeley;

NOW, THEREFORE, City and Grantee do hereby agree as follows:

## 1. GRANT OF FRANCHISE

By Ordinance No. City granted to Grantee an exclusive Franchise authorizing Grantee to provide inter-city and inter-state bus service to the public in the City of Berkeley and to use the public rights of way for such purpose no sooner than thirty (30) days after the second public hearing. Grantee acknowledges that this Franchise is subject to the terms and conditions specified in the City Charter, the terms and conditions specified in Ordinance No. N.S., the provisions of Chapter 9.60 of the Berkeley Municipal Code, and the terms and conditions of this Franchise agreement ("Agreement").

## 2. TERM OF FRANCHISE

Subject to Section 11 of this Agreement, the Franchise shall be not less than 10 years. Grantee shall pay annual Franchise fees as set forth by the Public Works Department. Initial fees are set forth in Exhibit A.

## 3. RELATIONSHIP OF GRANTEE TO CITY

A. Grantee shall be deemed at all times to be a franchisee and shall be wholly responsible for the manner in which Grantee performs the services required of Grantee by the terms of this Agreement. Grantee shall be liable for the acts and omissions of it, its employees and its agents. Nothing contained herein shall be construed as creating an employment or agency relationship between City and Grantee.

- B. Terms in this Agreement referring to direction from City shall be construed as providing for direction as to policy and the result of Grantee's services only and not to the means by which such a result is obtained.
- C. Nothing in this Agreement shall operate to confer rights or benefits on persons or entities not party to this Agreement.

## 4. GRANTEE'S RECORDS AND REPORTING

- A. Grantee shall keep and maintain books of account and other records showing all business transactions conducted by Grantee in connection with the Franchise granted to Grantee. Such records shall be kept at Grantee's place of business shown in Section 15 of this Agreement for receipt of notices.
- B. Grantee shall require its subcontractors, if any, who perform any services in connection with the Franchise granted to Grantee to keep and maintain books of account and other records showing all business transactions conducted by such subcontractors in connection with the Franchise granted to Grantee.
- C. Pursuant to Section 61 of the City Charter, all such books of account and other records shall be subject to inspection and/or audit at Grantee's place of business during normal business hours upon request or demand of the City Manager, City Auditor, City Attorney, or other City officer, employee or consultant authorized by any of these officers. The purpose of such inspection and/or audit shall be for verification of any fees or penalties paid by Grantee, and the accuracy thereof.
- D. Operator shall deliver a report twice annually to the City. The half-year report will be due January 31 for the period covering July 1 through December 31 of the previous calendar year. The annual report will be due July 31 for the previous fiscal year of July 1 through June 30. It shall be submitted in Microsoft Word and PDF and contain information as required by the Public Works Department. The following pieces of information are required to be included by the Grantee in the report: average daily passenger boardings and alightings at the Grantee's bus stop in Berkeley for the period covered by the report, including the average for weekdays and weekend days; frequency and schedule of the grantee's bus service to the Berkeley stop by route, including any schedule changes that occurred during the reporting period; and a list of complaints and positive feedback about the Grantee's buses or bus service received during the reporting period from Berkeley passengers.

## 5. AUDIT REQUIREMENT

In the event any audit conducted by City or by City's representative discloses that Grantee has made any intentional misrepresentation with respect to the fees or penalties due to City, or discloses that Grantee has underpaid fees or penalties due to City in an amount greater than One Thousand Dollars (\$1,000), then in addition to any other remedies available to City, Grantee shall reimburse City for City's costs incurred in the performance of the audit. Such reimbursement shall be paid by

Grantee within thirty (30) days of the date City notifies Grantee of the amount of City's costs.

## 6. <u>INDEMNIFICATION</u>

- A. Grantee shall defend, indemnify, and save harmless City and its respective commissioners, officers, agencies, departments, agents, and employees (each, an "Indemnified Party"; and collectively, "Indemnified Parties") from and against any and all claims, demands, causes of action, proceedings or lawsuits brought by third-parties ("Claims"), and all losses, damages, liabilities, penalties, fines, forfeitures, costs and expenses arising from or incidental to any Claims (including attorneys' fees and other costs of defense) (collectively, with Claims, "Liabilities"), resulting from, or arising out of, the operation of inter-city and inter-state bus services and the provision of services, whether such operation or services is performed or provided by Grantee or by Grantee's subcontractors or any other person acting for or on behalf of Grantee.
- B. Notwithstanding the foregoing, the following shall be excluded from Grantee's indemnification and defense obligations contained in the preceding paragraph:
  - 1. Any Liabilities to the extent resulting from, or arising out of:
    - a. the gross negligence or willful misconduct of any Indemnified Party; or
    - b. Grantee complying with the written directives or written requirements of City, if Grantee has previously objected to such written directives or requirements in writing, with respect to (A) the location or configuration of a bus stop in relation to the street or sidewalk on which such bus stop is located or to which it adjoins, or (B) a City's standards for alteration or maintenance of sidewalks.
- C. The indemnification obligations set forth in section 6(A) above include any claim against Grantee or City contesting City's authority to issue a permit for a bus stop..
- D. Upon receipt by any Indemnified Party of actual notice of a Claim to which such Indemnified Party is entitled to indemnification in accordance with this Section 6, such Indemnified Party shall give prompt notice of such Claim to Grantee. Grantee shall assume and prosecute the defense of such Claim at the sole cost and expense of Grantee. Grantee may settle any such Claim in its discretion so long as such settlement includes an unconditional release of the Indemnified Party.
- E. Nothing in this Agreement shall constitute a waiver or limitation of any rights which City may have under applicable law. All rights and remedies of City, whether under this Agreement or other applicable law, shall be cumulative.

#### 7. INSURANCE REQUIREMENTS

- A. Minimum Coverages. The insurance requirements specified in this section shall cover Grantee's own liability and the liability arising out of work or services performed under this Agreement by any subconsultants, subcontractors, suppliers, temporary workers, independent contractors, leased employees, or any other persons, firms or corporations that Grantee authorizes to work under this Agreement (hereinafter referred to as "Agent"). Grantee shall, at its own expense, obtain and maintain in effect at all times during the life of this Agreement the following types of insurance against claims, damages and losses due to injuries to persons or damage to property or other losses that may arise in connection with the performance of work under this Agreement.
- B. Grantee shall include in every subcontract the requirement that the Agent maintain adequate insurance coverage with appropriate limits and endorsements to cover the risks associated with work to be performed by the Agent. To the extent that an Agent does not procure and maintain such insurance coverage, Grantee shall be responsible for any and all costs and expenses that may be incurred in securing such coverage or in fulfilling Grantee's indemnity obligation under Section 6 as to itself or any of its Agents in the absence of such coverage.
- C. In the event Grantee or its Agents procure excess or umbrella coverage to maintain certain requirements outlined below, these policies shall also satisfy all specified endorsements and stipulations, including provisions that Grantee's or its Agent's insurance, as the case may be, be primary without right of contribution from City.
  - 1. Workers' Compensation Insurance with Statutory limits, and Employer's Liability Insurance with a limit of not less than \$1,000,000 per employee for injury by disease and \$1,000,000 for injury for each accident, and any and all other coverage of Grantee's employees as may be required by applicable law. Such policy shall contain a Waiver of Subrogation in favor of City. Such Workers' Compensation & Employer's Liability may be waived, if and only for as long as Grantee is a sole proprietor or a corporation with stock 100% owned by officers with no employees.
  - 2. Commercial General Liability Insurance for Bodily Injury and Property Damage liability, covering the operations of Grantee and Grantee's officers, agents, and employees and with limits of liability which shall not be less than \$2,000,000 combined single limit per occurrence with a general aggregate liability of not less than \$2,000,000, and Personal & Advertising Injury liability with a limit of not less than \$2,000,000. Such policy shall contain a Waiver of Subrogation in favor of City. City and its commissioners, directors, officers, representatives, agents and employees are to be named as additional insureds. Such insurance shall be primary and contain a Separation of Insureds Clause as respects any claims, losses or liability arising directly or indirectly from Operator's operations.

- 3. Business Automobile Insurance for all automobiles owned (if any), used or maintained by Grantee and Grantee's officers, agents and employees, including but not limited to owned (if any), leased (if any), non-owned and hired automobiles, with limits of liability which shall not be less than \$5,000,000 combined single limit per accident.
- 4. Umbrella Insurance in the amount of \$3,000,000 providing excess limits over Employer's Liability, Automobile Liability, and Commercial General Liability Insurance. Such umbrella coverage shall be following form to underlying coverage including all endorsements and additional insured requirements.
- D. Acceptable Insurers. All policies will be issued by insurers qualified to do business in California and with a Best's Rating of A-VIII or better.
- E. Self-Insurance. Grantee's obligation hereunder may be satisfied in whole or in part by adequately funded self-insurance, upon evidence of financial capacity satisfactory to City.
- F. Deductibles and Retentions. Grantee shall be responsible for payment of any deductible or retention on Grantee's policies without right of contribution from City. Deductible and retention provisions shall not contain any restrictions as to how or by whom the deductible or retention is paid. Any deductible or retention provision limiting payment to the Named Insured is unacceptable.
- G. In the event that City is entitled to coverage as an additional insured under any Grantee insurance policy that contains a deductible or self-insured retention, Grantee shall satisfy such deductible or self-insured retention to the extent of loss covered by such policy, for any lawsuit arising from or connected with any alleged act of Grantee, subconsultant, subcontractor, or any of their employees, officers or directors, even if Grantee or subconsultant is not a named defendant in the lawsuit.
- H. Insurance shall be primary insurance and no other insurance or self insured retention carried or held by any named or additional insureds other than the Grantee or its contractors shall be called upon to contribute to a loss covered by insurance for the named insured.
- I. Claims Made Coverage. If any insurance specified above is written on a "Claims-Made" (rather than an "occurrence") basis, then in addition to the coverage requirements above, Grantee shall:
  - 1. Ensure that the Retroactive Date is shown on the policy, and such date must be before the date of this Agreement or the beginning of any work under this Agreement:
  - 2. Maintain and provide evidence of similar insurance for at least three (3) years following the expiration or termination of this Agreement, including the requirement of adding all additional insureds; and
  - 3. If insurance is cancelled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the commencement of

any work hereunder, Operator shall purchase "extended reporting" coverage for a minimum of three (3) years after the expiration or termination of this Agreement.

- J. Failure to Maintain Insurance. All insurance specified above shall remain in force until the expiration or termination of this Agreement. Grantee must notify City if any of the above required coverages are non-renewed or cancelled. The failure to procure or maintain required insurance and/or an adequately funded selfinsurance program will constitute a material breach of this Agreement.
- K. Certificates of Insurance. Prior to commencement of any work hereunder, Grantee shall deliver to City Certificates of Insurance verifying the aforementioned coverages. Such certificates shall make reference to all provisions and endorsements referred to above and shall be signed on behalf of the insurer by an authorized representative thereof.
- L. Disclaimer. The foregoing requirements as to the types and limits of insurance coverage to be maintained by Grantee are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by Grantee.

#### 8. EQUIPMENT

Any and all equipment necessary for establishing bus stops in the City right of way shall be prepared and installed by the Grantee, including surveys to establish underground utility locations, developing site plans, and getting City-issued permits. The City's Public Works Department is solely authorized to identify suitable bus stop locations and provide approval for establishing bus stops.

## 9. COMPLIANCE WITH LAW

Grantee shall perform, implement and manage the installation, operation, maintenance and removal of bus stop equipment in accordance with applicable federal, state, and local law, in accordance with all regulations promulgated under such laws, and in accordance with the terms and conditions of this Agreement.

## **10. PERMITS AND LICENSES**

Grantee shall obtain and maintain, at Grantee's sole cost and expense, all permits and licenses applicable to Grantee's operations under this Franchise, which are required of Grantee by any governmental agency.

## 11. TERMINATION OF FRANCHISE

A. If at any time City believes Grantee may not be adequately performing its obligations under this Agreement, City may request from Grantee written assurances of performance and a written plan to correct observed deficiencies in Grantee's performance if written notice of the same is provided by City. Failure to

- provide written assurances constitutes a separate ground to declare a default under this Agreement.
- B. Grantee shall be in default of this Agreement and City may, in addition to any other legal or equitable remedies available to City, terminate the Grantee's right to perform under the Franchise:
  - 1. Should Grantee make a general assignment for the benefit of creditors, admit in writing its inability to pay its debts as they become due, file a voluntary petition in bankruptcy, be adjudged bankrupt or insolvent, file a petition or answer seeking for itself any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any present or future statute, law, or regulation, filing any answer admitting or not contesting the material allegations of a petition filed against Grantee in any such proceeding, or seek, consent to, or acquiesce in, the appointment of any trustee, receiver, custodian or liquidator of Grantee or of all or any substantial part of the properties of Grantee, or if Grantee, its directors or shareholders, take action to dissolve or liquidate Grantee; or
  - 2. Should Grantee commit a material breach of this Agreement and not cure such breach within ten (10) calendar days of the date of notice from City to Grantee demanding such cure; or, if such failure is curable but not curable within such ten (10) day period, within such period of time as is reasonably necessary to accomplish such cure. (In order for Grantee to avail itself of this time period in excess of 10 calendar days, Grantee must provide City within the 10 day period a written plan acceptable to City to cure said breach, and then diligently commence and continue such cure according to the written plan); or
  - 3. Should Grantee violate or allow a violation of any valid law, statute, regulation, rule, ordinance, permit, license or order of any governmental agency applicable to the Franchise and does not cure such violation within ten (10) days of the date of the notice from City to Grantee demanding such cure; or, if such failure is curable but not curable within such ten (10) day period, within such period of time as is reasonably necessary to accomplish such cure. (In order for Grantee to avail itself of this time period in excess of 10 calendar days, Grantee must provide City within the 10 day period a written plan to cure said violation acceptable to City, and then diligently commence and continue performance of such cure according to the written plan.).
- C. Convenience Termination: If at any time the City or the Grantee would like to terminate the Franchise, 90 days' notice shall be required. The City will return unused Franchise fees to the Grantee and the Grantee will remove all of their installations in the public right of way, including but not limited to street furniture, pavement markings, and poles and ensure that the public right of way is returned to its original condition prior to Grantee's installations.

## 12. COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT

Grantee acknowledges that, pursuant to the Americans with Disabilities Act (ADA), programs, services and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. Grantee shall provide the services specified in this Agreement in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights laws. Grantee will not be responsible for ADA matters which are in the control of City. Grantee agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this Agreement and further agrees that any violation of this prohibition on the part of Grantee, its employees, agents or assigns shall constitute a material breach of this Agreement.

## 13. NON- DISCRIMINATION

In order to minimize the probability of a claim being filed against the City, in the performance of this Agreement, Grantee shall not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, national origin, age (over 40), sex, pregnancy, marital status, disability, sexual orientation or AIDS.

## 14. CITY BUSINESS LICENSE, PAYMENT OF TAXES, TAX I.D. NUMBER

Grantee has obtained a City business license as required by B.M.C. Chapter 9.04, and its license number is written below; or, Grantee is exempt from the provisions of B.M.C. Chapter 9.04 and has written below the specific B.M.C. section under which it is exempt. Contractor shall pay all state and federal income taxes and any other taxes due. Grantee certifies under penalty of perjury that the taxpayer identification number written below is correct.

## 15. RECEIPT OF NOTICES

A written notice is deemed served when a party sends the notice in an envelope addressed to the other party to this Agreement and deposits it with the U.S. Postal Service, first class mail, postage prepaid. For purposes of this Agreement, all notices to City shall be addressed as follows:

City Manager City of Berkeley 2180 Milvia Street, 5th Floor Berkeley, CA 94704

For purposes of this Agreement, all notices to Grantee shall be addressed as follows:

Pierre Gourdain FLIXBUS, INC. 12575 Beatrice Street Los Angeles, CA 90066

## **16. GOVERNING LAW/VENUE**

This Agreement shall be deemed to have been executed in Alameda County. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California, excluding its conflict of laws rules. Venue for all litigation relative to the formation, interpretation and performance of this Agreement shall be in Alameda County, California.

## 17. CONFIDENTIALITY

A. Grantee acknowledges and agrees that City is a public entity subject to the provisions of the Public Records Act (Cal. Gov. C. 6250 et seq.) Except as otherwise required by law, including the Charter of the City of Berkeley and the Berkeley Municipal Code, City will not disclose trade secrets or proprietary financial information received from Grantee. Any such trade secrets or proprietary financial information which Grantee believes should be exempted from disclosure shall be specifically identified and marked as such. Blanket-type identification by designating whole pages or sections shall not be permitted and shall be invalid. The specific information must be clearly identified as such.

#### B. Duty to Defend:

Upon a request for records regarding this Agreement, City will immediately notify Grantee and specify a time when the records will be made available for inspection. If the Grantee, in a timely manner, identifies any proprietary, trade secret, or confidential commercial or financial information which Grantee determines is not subject to public disclosure, the Grantee will be required to fully defend (including all attorney's fees and costs), in all forums, the City's refusal to produce such information; otherwise, City will make such information available to the extent required by law. To the maximum extent permitted by law, Grantee shall release and hold harmless City from any and all judgments, liabilities, fines or penalties imposed as a result of City's refusal to disclose records regarding this Agreement.

## 18. AMENDMENTS

The terms and conditions of this Agreement shall not be altered or otherwise modified except by a written amendment to this Agreement executed by City and Grantee.

#### 19. ENTIRE CONTRACT

The terms and conditions of this Agreement, all exhibits attached and any documents expressly incorporated by reference represent the entire agreement between the parties with respect to the subject matter of this Agreement. This Agreement shall supersede any and all prior contracts, oral or written, regarding

the subject matter between City and Grantee. No other contract, statement, or promise relating to the subject matter of this Agreement shall be valid or binding except by a written amendment to this Agreement.

## **20. SEVERABILITY**

If any part of this Agreement or the application thereof is declared invalid for any reason, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision or application, and to this end the provisions of this Agreement are declared to be severable.

## 21. WAIVER

Failure of City to insist on strict performance shall not constitute a waiver of any of the provisions of this Agreement or a waiver of any other default of Grantee.

## **22. ASSIGNMENT**

Grantee may not assign this Agreement without the prior written consent of the City, except that Grantee may assign its right to any money due or to become due hereunder.

## 23. SECTION HEADINGS

The sections and other headings of this Agreement are for convenience of reference only and shall be disregarded in the interpretation of this Agreement.

# **WITNESS** THE EXECUTION OF this agreement ON THE DATE WRITTEN BELOW EACH SIGNATURE:

### CITY OF BERKELEY

By:	
City Manage	r
Countersigned by:	
CITY AUDITOR	_
Attest:	
City CLERK	_
Approved as to Form:	
Deputy City Attorney	_
GRANTEE	
Grantee Representative Name (printed or typed)	_
Ву:	
Signature	_
Printed name and title of signatory, if different from G	_ rantee Representative name

Tax Identification No		
Berkeley Business License No		
Incorporated: Yes No		
·		
Certified Woman Business Enterprise: Yes	No	
Certified Minority Business Enterprise: Yes	No	
Maria atata atlantatu		
If yes, state ethnicity:		
Certified Disadvantaged Business Enterprise: Yes _	N	١o

## Franchise Fees – Initial Launch and Future Adjustments

Description of Fees Do					Deposit Account		
Roadway usage fee	Calc	ulated by th	e number	of trips scheduled using City of Berkeley streets, annual true up based on	General Fund 011		
	actu	al service.					
Bus stop base fee	Calc	ulated as a p	er bus sto	op base fee for establishing and maintaining a bus stop in the City's right-of-	General Fund 011		
	way						
Bus stop usage fee	Calc	ulated as a p	er bus sto	op usage fee for having a stop in a metered area, based on dwell time and	Parking Meters		
	met	er rates. Anr	nual true-	up based on average dwell time and meter rates.	Fund 631		
				Roadway Usage Fee			
<b>Fee Type</b>		Cost	Unit	Explanation			
Roadway usage fee	\$	0.10	per trip	Assumes 28 trips per week for 39 weeks a year, 46 trips per for for 13 weeks	a year for a total of		
				1690 trips. True-up for actual number of trips.			
Estimated annual roadway usage fee	\$	169.00					
		Bus St	op Base	Fee (Only if bus stop in City's right of way)			
Fee Туре		Cost	Unit	Explanation			
Bus stop base fee	\$	400.00	per stop	Covers maintenance and staff time for each stop in the City's right of way.			
				The Department of Public Works is solely responsible for establishing a bus stop, including curb			
				painting.			
				Franchise fees do not include encroachment permits fees or Berkeley business license.			
				Applicant is responsible for obtaining an encroachment permit for installing infrastructure such			
				as poles, flags, or other street furniture.			
				Applicant is responsible for coordinating with an underground utility location	company before		
				installing infrastructure that requires any drilling.			
I	us S	top Usage	Fee (Only	y if bus stop in City's right of way in a metered area)			
Fee Туре		Cost	Unit	Explanation			
Estimated average vehicle dwell time		0.17	Hour	Provided by Flixbus, true up for calculated average dwell time			
Estimated annual usage of stop		1690	Times	Provided by Flixbus, true up for actual usage			
Estimated meter rate	\$	3.50	Hour	Example - based on City rates in the metered area where the bus stop is located			
Estimated annual bus stop usage fee	\$	985.83	Actual fee depends on meter rates in the area where bus stop located				
			Exa	mples of Possible Annual Fees			
				Bus stop not in City's right of way	\$ 169.00		
				One bus stop in City's right of way in non-metered area	\$ 569.00		
		On	e bus stop	o in City's right of way in Downtown Berkeley Premium Zone at \$3.50 per hour	\$ 1,554.83		

Franchise fees subject to change annually based on analysis of staff time, required resources, stop locations, service levels, and meter rates.



CONSENT CALENDAR
May 14, 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 2019 Annual Appropriations Ordinance

#### RECOMMENDATION

Adopt first reading of an Ordinance amending the FY 2019 Annual Appropriations Ordinance No. 7,634–N.S. for fiscal year 2019 based upon other adjustments in the amount of \$22,245,702 (gross) and \$19,746,430 (net).

#### FISCAL IMPACTS OF RECOMMENDATION

On June 26, 2018 the City Council adopted the FY 2019 Budget, authorizing gross appropriations of \$461,650,106 and net appropriations of \$406,847,665 (net of dual appropriations).

The first amendment to the FY 2019 Annual Appropriations Ordinance, adopted by Council on December 4, 2018, increased the gross appropriations to \$611,035,546 and net appropriations to \$512,574,751 and represents the re-authorization of funding previously committed in FY 2018.

This second amendment to the FY 2019 Annual Appropriations Ordinance totals \$22,245,802 (gross) and \$19,746,430 (net) and increases gross appropriations to \$636,281,348 and net appropriations to \$532,321,181.

#### **BACKGROUND**

The Annual Appropriations Ordinance (AAO) establishes the expenditure limits by fund for FY 2019. 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, and adjustments to adopted expenditure authority due to emergency needs.

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.

When Council adopts an appropriations ordinance (budget), it is based on projected revenues and expenditures. If revenues do not support the adopted level of expenditures then the adopted appropriations levels cannot be supported. 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:

Summary of Proposed Amendments					
		Proposed			
Fund	Ar	nendments			
General Fund (011)	\$	1,267,406			
Capital Improvement Fund (501)	\$	1,300,000			
All Other Funds		19,678,396			
Total	\$	22,245,802			

#### **Proposed Amendments**

The Proposed Amendments total \$22,245,802 and include the following items:

- □ \$1,267,406 in General Funds for a few of the following items:
  - \$27,000 in FY 2018 Community Agency Funds for a contract with Berkeley Project
  - \$950,000 in U1 Funds for a Small Sites Loan to Bay Area Community Land Trust for the renovation of the Stuart Street Apartments
  - \$66,612 for a contract with Wittman Enterprises, LLC for emergency response billing service, fire inspection billing, and wrap-around services to the Berkeley Fire Department
  - \$213,000 for a payment to the California Department of Health Care
     Services for the Ground Emergency Medical Transport Quality Assurance
     Fee
  - \$10,794 for Rent Board Rent Tracking System
- \$2,200,000 in Playground Camp Funds for an adjustment for the request for proposal for construction management for the Berkeley Tuolumne Camp Rebuild project
- □ \$1,488,169 in CDBG Funds for the Mental Health Clinic Construction project
- \$115,108 in UC Settlement Funds for a transfer to the General Fund for FY 2019
   Golden Bear Building Mitigation Fee payment revenues
- \$149,269 in Private Percent for Arts funds for non-personnel costs and art projects
- □ \$139,400 in Mental Health State Aid Realignment funds for a contract with Blooming Willow to provide diversity consulting for the Mental Health Division (\$25,000) and for a request for proposal for a Nursing Registry contract to provide services when there are position vacancies (\$114,400)

- \$2,027,721 in Mental Health Services Act Funds for contracts in the City Manager's Office 2020 Vision Program and in Health, Housing, and Community Services and funds in Public Works for the Mental Health Building Renovation Project
- \$153,792 in One-Time Grant: Non-Capital Expenditure Funds for grants in Health, Housing, & Community Service for the Alameda County Coordinated Entry System, Crisis Triage Line, Homeless Emergency Aid Program, and US Food & Drug Administration Local Retail Food Safety Program
- \$1,501,016 in FEMA Funds for the North Berkeley Senior Center Seismic Retrofit project
- □ \$346,901 in Shelter+Care HUD Funds for housing assistance payments
- \$1,050,000 in Capital Improvement Funds for the Berkeley Marina Area Specific Plan
- \$7,564,403 in Measure T1 Funds for Public Art Projects, the North Berkeley Senior Center Retrofit Project, and the Mental Health Renovation
- \$409,188 in Marina Funds for the Marina Marketing Plan, Marina Maintenance Needs, Marina Finger Dock Installation, Sea Level Rise Study, Marina Operations and Parking Plan implementation costs, and Marina Emergency and Maintenance Needs
- \$2,434,400 in Sanitary Sewer Rehabilitation work at Bancroft Way, Allston Way, and other locations
- \$118,430 in Parking Meter Funds for the Marina Police Tenant and Parking Lot Project
- \$700,000 in Public Liability Funds for claims and judgement payments approved by Council.

This Amendment to the FY 2019 Annual Appropriations Ordinance is a Strategic Plan Priority, advancing our goal to provide an efficient and financially-healthy City government.

#### **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 2018 Adjusted Budget for funds authorized by Council, new funds received from outside entities, and for amounts appropriated from fund balances.

Staff has conducted a detailed analysis of the individual requests submitted by departments and is presenting recommendations for projects that are either currently under contract, represent council priorities, and/or are considered critical.

Amendment: FY 2019 Annual Appropriations Ordinance

CONSENT CALENDAR May 14, 2019

### **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 Annual Appropriations Ordinance Amendment #2 Recommendations

#### Page 5 of 19

#### ORDINANCE NO. -N.S.

## AMENDING THE ANNUAL APPROPRIATIONS ORDINANCE NO. 7,634–N.S. FOR FISCAL YEAR 2019

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

A. General Fund (Funds 001-099)	226,486,009
B. Special Funds (Funds 100-199)	111,341,400
C. Grant Funds (Funds 300-399)	45,601,299
D. Capital Projects Funds (Funds 500-550)	53,930,384
E. Debt Service Fund (Funds 551-599)	11,095,081
F. Enterprise Funds (Funds 600-669)	136,786,947
G. Internal Service Funds (Funds 146, 670-699)	40,577,255
H. Successor Agency (Funds 760-769)	57,600
I. Agency Funds (Funds 771-799)	5,123,621
J. Other Funds (Funds 800-899)	5,281,752
K. Total	
Total General Fund	226,486,009
Add: Total Other Than General Fund	409,795,339
Gross Revenue Appropriated	636,281,348
Less: Dual Appropriations	-63,382,913
Less: Revolving/Internal Service Funds	-40,577,255
Net Revenue Appropriated	532,321,181

<u>Section 2.</u> The City Manager is hereby permitted to make the following transfers by giving written notice to the Director of Finance:

a. From the General Fund to the General Fund – Stability Reserve Fund; Catastrophic Reserve Fund; Paramedic Tax Fund; Streetlight Assessment Fund; Phone System Replacement – VOIP Fund; Capital Improvement Fund; Debt Service Fund; Clean Storm Water Fund; Equipment Replacement Fund; Sick and Vacation Payout Fund; Public Liability Fund; Catastrophic Loss Fund; Information Technology Fund; Police Employee Retiree Health Assistance Plan; Safety

- Members Pension Fund; Payroll Deduction Trust Fund; Sick Leave Entitlement Fund; and Health State Aid Realignment.
- 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 2012 Lease Revenue Bonds BJPFA Debt Service Fund; 2010 COP (Animal Shelter) Fund; and PERS Savings 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; Health State Aide Realignment Trust Fund; and Tobacco Control Trust Fund.
- I. To Equipment Replacement Fund from General Fund; Alameda County Tay Tip 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; Alameda County Tay Tip 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; 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 Computer and Server Replacement Fund from General Fund; Target Case Management/Linkages Fund; Health (Short/Doyle); Library Fund; Playground Camp Fund; CDBG Fund; Rent Stabilization Board Fund; Parks Tax Fund; Employee Training Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation; Clean Storm Water Fund; Permit Service Center Fund; Unified Program (CUPA) 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; Alameda County Tay Tip 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 Fund; Vector Control Fund; Paramedic Tax Fund; Alameda County Grants Fund; Senior Supportive Social Services Fund; Family Care Support Program Fund; California Energy Commission Fund; Domestic Violence Prevention Vital Statistics Fund; 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 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; 1st Responder Advanced Life Support 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; Measure M General Obligation Street & Water Improvement 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; 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.

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; Alameda County Tay Tip Fund; Mental Health Service Act Fund; Health (Short/Dovle) 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 Fund; Vector Control Fund; Paramedic Tax Fund; Alameda County Grants Fund; Senior Supportive Social Services Fund; Family Care Support Program Fund; California Energy Commission Fund; Domestic Violence Prevention - Vital Statistics Fund; Library - Discretionary Fund; Playground Camp Fund; CALHOME Program 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 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; 1st Responder Advanced Life Support 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; 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; Alameda County Tay Tip 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 Fund; Vector Control Fund; Paramedic Tax Fund; Alameda County Grants Fund; Senior Supportive Social Services Fund; Family Care Support Program Fund; California Energy Commission Fund; Domestic Violence Prevention – Vital Statistics Fund; Library – Discretionary Fund; Playground Camp Fund; CALHOME Program 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 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; 1st Responder Advanced Life Support 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; 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.
- t. To Parking Meter Fund from the Permit Service Center Fund.
- u. To the Information Technology Fund from State Transportation Tax Fund; Rental Housing Safety Fund; Parks Tax Fund; Streetlight Assessment District Fund; Zero Waste Fund; Marina Fund; Sewer Fund; Clean Storm Water Fund; Off Street Parking Fund; Permit Service Center Fund; Parking Meter Fund; Equipment Maintenance Fund; and Building Maintenance Fund.

<u>Section 3.</u> 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

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branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

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#### Attachment for Annual Appropriations Ordinance Amendment No. 2 - Fiscal Year 2019

#### **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	835,695
Equipment Replacement Fund	6,454,217
Equipment Maintenance Fund	8,066,716
Building Maintenance Fund	3,780,381
Central Services Fund	385,804
Computer Replacement Fund	734,457
Workers' Compensation Fund	6,508,596
Public Liability Fund	3,697,050
Information Technology Fund	10,114,339
Subtotal Revolving/Internal Service Funds	\$40,577,255

#### **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	
Indirect Cost Reimbursement	
CDBG Fund	144,970
Street Light Assessment District Fund	138,579
Zero Waste Fund	2,661,527
Marina Enterprise Fund	511,844
Sanitary Sewer Fund	1,474,789
Clean Storm Water Fund	331,157
Permit Service Center Fund	1,925,914
Unified Program (CUPA) Fund	101,259
Subtotal Transfers to General Fund:	\$ 7,290,039

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Transfer to Safety Members Pension Fund from General Fund	551,804
Transfer to General Fund Stabilization Reserve Fund from General Fund	5,600,000
Transfer to General Fund Catastrophic Resever Fund from General Fund	4,580,000
Transfer to CA Energy Commission from General Fund	25,017
Transfer to PERS Savings Fund from General Fund	4,000,000
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	11,759,637
Transfer to Phone System Replacement - VOIP from General Fund	163,000
Transfer to FUND\$ Replacement Fund from General Fund	1,710,000
Transfer to Equipment Replacement Fund from General Fund	823,592
Transfer to Workers Compensation Fund from General Fund	1,820,339
Transfer to Public Liability Fund from General Fund	1,695,888
Transfer to Catastrophic Loss Fund from General Fund	1,351,564
Transfer to Information Technology Fund from General Fund	7,919,458
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 Information Technology Fund from State Transportation Tax Fund	30,483
Transfer to Information Technology Fund from Rental Housing Safety Fund	26,135
Transfer to Information Technology Fund from Parks Tax Fund	110,187
Transfer to Information Technology Fund from Streetlight Assessment District Fund	30,483
Transfer to General Fund from UC Settlement Fund	970,564
Transfer to Clean Storm Water Fund from UC Settlement Fund	285,153
Transfer to General Fund from Health State Aid Realignment Fund	2,643,280
Transfer from CIP Fund to PERS Savings Fund	151,065
Transfer to Berkeley Repertory Theater Debt Service Fund from CIP Fund	498,935
Transfer from CIP Fund to 2010 COP (Animal Shelter) Fund	402,913
Transfer from CIP Fund to Workers Compensation Fund	406,952
Transfer to Equipment Replacement Fund from Zero Waste Fund	1,262,247
Transfer to Information Technology Fund from Zero Waste Fund	689,398
Transfer to Information Technology Fund from Marina Fund	73,458
Transfer to Private Sewer Lateral Fund from Sewer Fund	90,501
Transfer to Information Technology Fund from Sewer Fund	467,000
Transfer to Information Technology Fund from Clean Storm Water Fund	194,022
Transfer to Catastrophic Loss Fund from Permit Service Center Fund	50,555
Transfer to Information Technology Fund from Permit Service Center Fund	450,679
Transfer to Catastrophic Loss Fund from Unified Program (CUPA) Fund	5,082
Transfer to Information Technology Fund from Off Street Parking Fund	13,475
Transfer to General Fund from Parking Meter Fund	1,742,288
Transfer to Information Technology Fund from Parking Meter Fund	39,361
Transfer to Information Technology Fund from Equipment Maintenance Fund	41,200
Transfer to Information Technology Fund from Building Maintenance Fund	41,200
Transfer from Special Tax Bonds CFD#1 ML-ROOS to CFD#1 District Fire	100,000
Protect Bond (Measure Q)	
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:	56,092,874
Sub-Total Dual Appropriations	63,382,913

#### SUMMARY OF APPROPRIATIONS BY FUND

			2nd AAO		
	FY 2019		Other	Total	FY 2019
ERMA	Revised #1				
Fund # Fund		Reappropriations	Adjustments	Amend.	Revised #2
11 General Fund Discretionary	225,218,603		1,267,406	1,267,406	226,486,009
101 Library	23,553,944		.,,,	-	23,553,944
102 Direct Loan/Inter - Library Loan	18,000			_	18,000
103 Library Services & Technology	62,553			_	62,553
104 Library Gift Fund	150,000			_	150,000
105 Library Foundation	540,541				540,541
106 Asset Forefeiture	201,000			_	201,000
107 Special Tax Measure E	1,520,257		(250,000)	(250,000)	1,270,257
107 Special Fax Measure E 108 First Source Fund	45,841		(230,000)	(230,000)	45,841
110 Sec 108 Loan Gty Asst.	544,837			-	544,837
•	·			-	-
111 Fund Raising Activities	64,149		F 000	-	64,149
113 Sports Field (Vendor Oper)	211,755		5,000	5,000	216,755
114 Gilman Fields Reserve AC	114,133		45.000	-	114,133
115 Animal Shelter	53,759		15,900	15,900	69,659
116 Paramedic Tax	3,750,649			-	3,750,649
117 California Energy Commission	48,450			-	48,450
119 Domestic Violence Prev - Vit Stat	24,469			-	24,469
120 Affordable Housing Mitigation	4,688,783			-	4,688,783
121 Affordable Child Care	75,000			-	75,000
122 Inclusionary Housing Program	318,616			-	318,616
123 Condo Conversion Program	767,391			-	767,391
124 Parking In-Lieu Fee	0		82,010	82,010	82,010
125 Playground Camp	5,937,988		2,200,000	2,200,000	8,137,988
126 State-Prop 172 Pub.Safety	1,344,419			-	1,344,419
127 State Transportation Tax	8,757,837			-	8,757,837
128 CDBG	3,986,993		1,488,169	1,488,169	5,475,162
129 Rental Housing Safety Program	1,195,194			-	1,195,194
130 Measure B - Local St & Road	4,034,572			-	4,034,572
131 Measure B - Bike and Pedestrian	551,213			-	551,213
132 Measure B - Paratransit	522,918			-	522,918
133 Measure F Alameda County VRF St & Rd	762,658			-	762,658
134 Measure BB - Local St & Road	4,990,662			-	4,990,662
135 Meaure BB - Bike & Pedestrian	453,033			-	453,033
136 Measure BB - Paratransit	397,349			-	397,349
137 1-Time Funding: Non-Grant	461,941			-	461,941
138 Parks Tax	16,538,168		5,000	5,000	16,543,168
139 Streets & Open Space Improvements	1,140,512		0,000	-	1,140,512
140 Measure GG - Fire Prep Tax	4,876,034		31,340	31,340	4,907,374
141 1st Responder Advanced Life Support	412,780		51,000	51,000	463,780
142 Streetlight Assesment District	2,748,117		01,000	-	2,748,117
143 Berkeley Bus Ec Dev	156,387				156,387
•	166,514			-	166,514
145 Bayer (Miles Lab) 146 Employee Training	835,695			-	·
1 ,	,		115 100	115 100	835,695
147 UC Settlement	1,593,079		115,108	115,108	1,708,187
148 Private Percent - Art Fund	20,179		149,269	149,269	169,448
149 Private Party Sidewalks	172,485			-	172,485
150 Public Art Fund	369,378			-	369,378
152 Vital & Health Statistics Trust Fund	29,594			-	29,594
156 Hlth State Aid Realign Trust	3,866,474			-	3,866,474
157 Tobacco Cont.Trust	411,398			-	411,398
158 Mental Health State Aid Realign	4,126,538		139,400	139,400	4,265,938
159 Citizens Option Public Safety Trust	310,690			-	310,690
161 Alameda Cty Abandoned Vehicle Abatement	158,767			-	158,767
162 Shelter Operations	61,206			-	61,206
307 Capital Grants - Local	1,076,792			-	1,076,792
309 OTS DUI Enforcement Education Prg.	123,500		250,000	250,000	373,500
310 HUD/Home	793,509			-	793,509
311 ESGP	228,799		17,500	17,500	246,299
312 Health (General)	2,406,682		49,028	49,028	2,455,710
313 Target Case Management Linkages	1,238,753		,	-	1,238,753
314 Alameda County Tay Tip	346,606			_	346,606
315 Mental Health Service Act	9,079,439		2,027,721	2,027,721	11,107,160
316 Health (Short/Doyle)	3,799,970		214,400	214,400	4,014,370
317 EPSDT Expansion Proposal	237,277		, 100	, 100	237,277
318 Alcoholic Bev Ctr OTS/UC	50,554			_	50,554
310 Allochono BOV Ott OTO/OO	50,554	1		-	50,554

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#### SUMMARY OF APPROPRIATIONS BY FUND

	2nd AAO				
	FY 2019		Other	Total	FY 2019
RMA	Revised #1				
nd# Fund		Reappropriations	Adjustments	Amend.	Revised #2
319 Youth Lunch	268,677		-	-	268,6
320 Sr. Nutrition Title III	98,503			-	98,5
321 CFP Title X	130,739			-	130,7
324 BUSD Grant	295,579			-	295,5
325 Vector Control	334,739			-	334,7
326 Alameda County Grants	573,419			-	573,4
327 Senior Supportive Social Services	50,900			-	50,9
328 Family Care Support Program	71,353			-	71,3
329 CA Integrated Waste Management	42,944			-	42,9
331 Housing Mitigation	508,462			-	508,4
332 Climate Protection Campaign	15,044			-	15,0
333 CALHOME	383,100			-	383,1
334 Community Action	286,230			-	286,2
336 One-Time Grant: No Cap Exp	2,857,026		153,792	153,792	3,010,8
338 Bay Area Air Quality Management	28,606			-	28,6
339 MTC	4,717,251			-	4,717,2
340 FEMA	1,609,425		1,501,016	1,501,016	3,110,4
341 Alameda Cty Waste Mgt.	285,000			-	285,0
343 State Dept Conserv/Recylg	28,000			-	28,0
344 CALTRANS Grant	1,801,699			-	1,801,6
345 Measure WW Park Bond Grant	1,999,513			-	1,999,
346 CALTRANS Safe Routes 2 School	685			-	
347 Shelter+Care HUD	4,360,408		346,901	346,901	4,707,3
348 Shelter+Care County	540,500		33,485	33,485	573,9
349 JAG Grant	50,000		•	-	50,0
350 Bioterrorism Grant	287,773			-	287,
501 Capital Improvement Fund	16,948,709		1,050,000	1,050,000	17,998,
502 Phone System Replacement	61,737			, , , , <u>-</u>	61,
503 FUND\$ Replacement	9,924,150			-	9,924,
504 PEG-Public, Education & Government	100,000			_	100,0
506 Measure M GO Street & Water Imps	8,331,726			-	8,331,7
511 Measure T1 - Infra & Facil.	9,949,659		7,564,403	7,564,403	17,514,0
551 Debt Service Fund	2,632		,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	-	2,6
552 09 Measure FF Debt Service	1,618,665			-	1,618,6
553 2018 GORBS	2,617,595			-	2,617,
554 2012 Lease Revenue Bonds BJPFA	501,535			-	501,
555 2015 GORBS - 2002 G.O. Refunding Bonds	483,543			-	483,
556 2015 GORBS (2007, Series A)	182,029			_	182,
557 2015 GORBS (2008 Measure I)	613,762			_	613,
558 2010 COP (Animal Shelter)	404,798			_	404,
559 Measure M GO Street & Water Imps	1,656,089			_	1,656,
560 Infrastucture & Facilities Measure T1	3,014,433			_	3,014,
601 Zero Waste	47,369,313			_	47,369,
606 Coastal Conservancy	150,400			_	150,
608 Marina Operation	7,642,469		409,188	409.188	8,051,
611 Sewer	28,875,784		2,434,400	2,434,400	31,310,
612 Private Sewer Lateral FD	217,972		2, .0 ., .00	-,,	217,
616 Clean Storm Water	4,403,844			_	4,403,
621 Permit Service Center	19,576,072			_	19,576,0
622 Unified Program (CUPA)	890,369			_	890,
626 BJPFA Lease Revenue Bonds	100,000				100,
627 Off Street Parking	11,435,701		750	750	11,436,
631 Parking Meter	9,994,373		118,430	118,430	10,112,
636 Building Purchases and Management			110,430	110,430	3,167,
671 Equipment Replacement	3,167,882 6,454,217			_	6,454,
671 Equipment Replacement 672 Equipment Maintenance	8,066,716			-	8,066,
				-	
673 Building Maintenance Fund	3,780,381			-	3,780,
674 Central Services	385,804			-	385,
675 Computer & Server Replacement Fund	734,457			-	734,
676 Workers Compensation	6,508,596		700 000	700.000	6,508,
678 Public Liability	2,997,050		700,000	700,000	3,697,
680 Information Technology	10,114,339			-	10,114,
762 Successor Agency - Savo DSF	57,600			-	57,0
774 Sustainable Energy Fin District	28,778		. = =	-	28,
776 Thousand Oaks Underground	97,371		186	186	97,

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#### SUMMARY OF APPROPRIATIONS BY FUND

	FY 2019
ERMA	Revised #1
Fund # Fund	
777 Measure H - School Tax	500,000
778 Measure Q - CFD#1 Dis. Fire Protect Bond	122,589
779 Spl Tax Bds. CFD#1 ML-ROOS	875,307
781 Berkeley Tourism BID	650,000
782 Elmwood Business Improvement District	61,482
783 Solano Ave BID	35,816
784 Telegraph Avenue Bus. Imp. District	489,000
785 North Shattuck BID	174,011
786 Downtown Berkeley Prop & Improv. District	2,014,081
801 Rent Board	5,281,752
GROSS EXPENDITURE:	614,035,546
Dual Appropriations	(61,583,541)
Revolving & Internal Service Funds	(39,877,255)
NET EXPENDITURE:	512,574,751

	2nd AAO		
	Other	Total	FY 2019
Reappropriations	Adjustments	Amend.	Revised #2
		-	500,000
	75,000	75,000	197,589
		-	875,307
		-	650,000
		-	61,482
		-	35,816
		-	489,000
		-	174,011
		-	2,014,081
		-	5,281,752
-	22,245,802	22,245,802	636,281,348
-	(1,799,372)	(1,799,372)	(63,382,913)
-	(700,000)	(700,000)	(40,577,255)
-	19,746,430	19,746,430	532,321,181

Attachment 2

Eural #	Eural Naves	Domartmand	Recommended	Project		Mandated by		City Manager	Commental livelification
Fund #	Fund Name General Fund	Department Health Housing &	Adjustment \$27,000	Number	name Berkeley Project	Law	by Council X	Request	Comments/Justification Appropriate FY 2018 Community Agency
	Concrair and	Community Services	Ψ21,000		Contract		^		funds for Berkeley Project. Funds were approved by Council on 6/27/17 through Resolution 68,075-N.S.
11	General Fund	Health Housing & Community Services	\$950,000		Measure U1 Small Sites Loan to Bay Area Community Land Trust		Х		Measure U1 Small Sites Program loan for Bay Area Community Land Trust's renovation of Stuart Street Apartments, located at 1638 Stuart Street. In October 2018, Council authorized staff-level approval of Small Sites Program loans greater than \$50,000 through Resolution 68,623-N.S. and Ordinance Number 7,630-
11	General Fund	Fire	\$66,612		Wittman Enterprise LLC Contract		Х		Contract with Wittman Enterprise LLC to provde emergency respone billing service, fire inspection billing, and wrap-around services to the Berkeley Fire Department. Approved by Council on 12/11/18 through Resolution 68,707-N.S. These funds cover FY 2019.
11	General Fund	Fire	\$213,000		Ground Emergency Medical Transport Quality Assurance Fee	X			Funds to pay the State of California Department of Health Care Services the Ground Emergency Medical Tranport Quality Assurance Fee for emergency medical transport services.
11	General Fund	Rent Board	\$10,794		Rent Tracking System		Х		Funds to fix bugs and enhancements to Rent Tracking System. Council approved an allocation of \$193.595 in FY 2018 AAO #1 Report. These are the remaining unspent funds from the allocation.
11 Total			\$1,267,406						
107	Measure E		(\$250,000)		Correction	Х			AAO #1 had the increase for OTS Grant on the line that is for Measure E Special Tax.
107 Total			(\$250,000)						
113	Sports Field (Vendor Operated)	Parks Recreation & Waterfront	\$5,000		Gilman Sports field			Х	An adjustment to pay for water at the sports field.
113 Total 115	Animal Shelter	Animal Care Services	\$5,000 \$15,900		Animal Shelter Non-			Х	Funds for vaccines, pharmaceuticals,
115 Total	Animai Sheller	Ariiiriai Care Services	\$15,900		Personnel Expenses			^	supplies and emergency vet care for the remainder of FY 2019
124	Parking In-Lieu Fee	Public Works	\$82,010	14ST06	Shattuck Reconfiguration			Х	Appropriate funds for the Shattuck Reconfiguration Project
124 Total			\$82,010						
125	Playground Camp Fund	Parks Recreation & Waterfront	\$2,200,000		Berkeley Tuolumne Camp			Х	Request for Proposal for construction management for Berkeley Tuoulumne Camp rebuild project
125 Total			\$2,200,000						
128	CDBG	Public Works	\$1,488,169		Mental Health Clinic Construction			Х	Funds for the construction contract for the Mental Health Clinic Building
128 Total			\$1,488,169						
138	Parks Tax	Health Housing & Community Services	\$5,000		Berkeley Project Contract		Х		Appropriate FY 2018 Community Agency funds for Berkeley Project. Funds were approved by Council on 6/27/17 through Resolution 68,075-N.S.
138 Total			\$5,000						
140	Measure GG	Fire	\$31,340		Fire Staff Reorganaization		Х		Funds for 17% of Emergency Services Coordinator. Plan was approved by Council on 9/13/18 but Measure GG portion was not included in AAO #1.
140 Total			\$31,340						
141	1st Response Advanced Life Support	Fire	\$51,000		Vehicle Purchase			Х	Purchase new vehicle for Paramedic Supervisor I
141 Total			\$51,000						
147	UC Settlement	Non-Departmental	\$115,108		UC Long Range Development Payments			Х	Increase transfer to General Fund for FY 2019 for Golden Bear Building Mitigation Fee payment revenues
	1	ļ	****		1		-		<del> </del>
147 Total			\$115,108						
<b>147 Total</b> 148	Cultural Trust	Economic Development	\$115,108 \$149,269		Private Percent for Arts		X		Funds for the Private Percent for Arts Non- Personnel costs

Attachment 2

Fund #	Fund Name	Department	Recommended Adjustment	Project	Description/Project			City Manager	Comments/Justification
<b>Fund #</b> 158	Fund Name Mental Health State Aid	Department Health Housing &	\$25,000	Number	name Blooming Willow	Law	by Council	Request X	Comments/Justification  Contract with Blooming Willow to provide
	Realigment	Community Services	, ,,,,,		Contract				diversity consulting for Mental Health Division unit dealing with issues of inclusivity
158	Mental Health State Aid Realigment	Health Housing & Community Services	\$114,400		Nursing Registry Contract			Х	Funds for a Request for Proposal and contract to establish a Nursing Registry to be used to provide services when there are position vacancies.
158 Total			\$139,400						
309	OTS DUI Enformcement Education Program		\$250,000		Correction	Х			AAO #1 had the increase for OTS Grant on the line that is for Measure E Special Tax
309 Total			\$250,000						
311	ESGP	Health Housing & Community Services	\$17,500		Bay Area Community Services Contract		Х		Funds originally approved for Berkeley Food & Housing Project that were repaid to the City and being reallocatd to Bay Area Community Services for the STAIR Center. Approved by Council on 3/12/19 through Resolution 68,780-N.S.
311 Total			\$17,500						
312	Health (General)	Health Housing & Community Services	\$24,028		TB Real Time Allotment Grant	X			Revise grant budget based on additional allocation provided to the City.
312	Health (General)	Health Housing & Community Services	\$25,000		HIV Grant	X			Funds from California Department of Health for HIV prevention activities
312 Total			\$49,028						
315	Mental Health Services Act	City Manager's Office	\$334,410		YMCA of East Bay Contract		Х		Contract with YMCA of the East Bay through June 30, 2021 to operate Berkeley 2020 Vision Early Childhood and Resiliency Project. Approved by Council on 3/12/19 through Resolution No 68,777-N.S.
315	Mental Health Services Act	City Manager's Office	\$37,300		Hatchel Tabernik & Associates contract		Х		Contract with Hatchel Tabenik & Associates to evaluate the Berkeley 2020 Vision Early Childhood Trauma and Resiliency Project to build the capacity of staff across Berkeley's four Head Start sites to recognize trauma and integrate a trauma- and resiliency-informed approach into their work with children and families. Approved by Council on 10/30/18 as part of the Mental Health Services Act Innovations Trauma Informed Care Plan Update through Resolution No. 68,640 - N.S.
315	Mental Health Services Act	Health Housing & Community Services	\$750,000		Mental Health Wellness Center		X		Memordum of Understanding with Alameda County Behavioral Health Care Services to fund the construction costs of a Mental Health Wellness Center located in the City of Berkeley. Approved by Council on 1/29/19 through Resolution 68,749-N.S.
315	Mental Health Services Act	Health Housing & Community Services	\$75,000		No Place Like Home Grant		Х		Funds for the No Place Like Home Technical Assistance Grant. Approved by Council on 10/3/17 through Resolution No. 68,165-N.S.
315	Mental Health Services Act	Health Housing & Community Services	\$100,000		Asian Pacific Islander Services		Х		Approved Mental Health Services Act Plan allocated funds for a Request for Proposal and Contract to provide additional services Asian Pacific Islanders, who are underserved in our system.
315	Mental Health Services Act	Health Housing & Community Services	\$50,000		Evaluation Services		Х		Approved Mental Health Services Act Plan allocated funds for a Request for Proposal and Contract to hire a contractor to develop results based accountability systems for Mental Health programs
315	Mental Health Services Act	Health Housing & Community Services	\$49,800		Tech Suite Innovation Project contract		Х		Council approved innovation project to implement a variety of mental health apps for the community. This is the funding for that project
315	Mental Health Services Act	Public Works	\$631,211		Mental Health Building Renovation Project			Х	Funds for the Mental Health Building Reonvation project at 2640 Martin Luther King Jr. Way
315 Total			\$2,027,721						
316	Health (Short/Doyle)	Health Housing & Community Services	\$100,000		Cultural Humility Contract		Х		Council authorized an Request For Proposal for a cultural humility consultant for the Mental Health Division. The RFP has been completed and have selected the vendor, and will be awarding the contract in an upcoming Council item. Funds are needed to execute contract upon Council approval.

Attachment 2

			Recommended	Project		Mandated by		City Manager	
<b>Fund #</b> 316	Fund Name Health (Short/Doyle)	Department Health Housing &	Adjustment \$114,400	Number	name Nursing Registry	Law	by Council	Request X	Comments/Justification  Funds for a Request for Proposal and
310	Treatif (Grioty Doyle)	Community Services	\$114,400		Contract			^	contract to establish a Nursing Registry to be used to provide services when there are position vacancies.
316 Total			\$214,400						
336	One-Time Grant: No Capital Expenditures	Health Housing & Community Services	\$30,653		Alameda County Coordinated Entry System Grant		Х		Funds for contract with the City of Albany for services related to the operation of the Berkeley Food & Housing Project Housing Resource Center. Approved by Council on 7/25/17 through Resolution No. 68,100-N.S.
336	One-Time Grant: No Capital Expenditures	Health Housing & Community Services	\$77,139		Crisis Triage Line Grant		Х		Appropriate grant funds from the Mental Health Services Accountability Commission to operate a crisis triage line. Approved by Council on 11/27/18 through Resolution No. 68,668 - N.S.
336	One-Time Grant: No Capital Expenditures	Health Housing & Community Services	\$20,000		Homeless Emergency Aid Program Grant		Х		Appropriate grant funds from Alameda County Housing & Community Development Department for the California Emergency Aid Program to hire a Community Services Specialist to administer the program. Approved by Council on 3/12/19 through Resolution No. 68,779-N.S.
336	One-Time Grant: No Capital Expenditures	Health Housing & Community Services	\$26,000		US Food & Drug Administration Grant		Х		Appropriate grant funds from the U.S. Food & Drug Administration for local retail food safety program. Approved by Council on 10/30/18 throug Resolution No. 68,648-N.S.
336 Total			\$153,792						
340	FEMA	Public Works	\$1,501,016	18CB01	NBSC Seismic Retrofit			Х	Appropriate funds for construction located at the North Berkeley Senior Center (1901 Hearst Avenue). Construction anticipated to begin April 2019.
340 Total			\$1,501,016						
347	Shelter+Care HUD	Health Housing & Community Services	\$346,901		Housing Assistance Payments	Х			Revise grant budget based on addiitional allocation provided to the City.
347 Total			\$346,901						
348 348 Total	Shelter+Care County	Health Housing & Community Services	\$33,485 \$33,485		Housing Assistance Payments	Х			Revise grant budget based on addiitional allocation provided to the City.
501	Capital Improvement Fund	Parks Recreation & Waterfront	\$1,050,000		Berkeley Marina Area Specific Plan		Х		Funds for Berkeley Marina Area Specific Plan with Hargreaves Associates. Approved by Council on 4/30/19.
501 Total			\$1,050,000						
511	Measure T1	Economic Development	\$350,000		Measure T1 Public Art Projects			Х	Funds for Measure T1 Public Art Projects in FY 2019.
511	Measure T1	Public Works	\$5,390,043		Measure T1 NBSC Seismic Retrofit			Х	Appropriate funds for construction located at the North Berkeley Senior Center (1901 Hearst Avenue). Construction anticipated to begin April 2019.
511	Measure T1	Public Works	\$1,824,360	14CB05	Mental Health Renovation			Х	Appropriate funds for major interior renovations at the Mental Health Clinic located at 2640 Martin Luther King Jr. Way
511 Total			\$7,564,403						
608	Marina Opeations/Maintenance	Parks Recreation & Waterfront	\$22,500		Marina Marketing plan			X	An adjustment to develop marketing for the Marina.
608	Marina Opeations/Maintenance Marina	Parks Recreation & Waterfront  Parks Recreation &	\$45,000 \$125,000		Marina maintenance needs  Marina finger dock			X	An adjustment for additional maintenance needs.  An adjustment for dock installation and
608	Opeations/Maintenance  Marina	Waterfront			installation			X	disposal.  An adjustment for the additional costs for
608	Marina Opeations/Maintenance	Parks Recreation & Waterfront	\$33,688		Sea Level Rise Study	<u> </u>			the Sea Level Rise Study project
608	Marina Opeations/Maintenance	Parks Recreation & Waterfront	\$83,000		Marina operations & Parking Plan Implementation			Х	An adjustment for upcoming Marina Operations and Parking Plan Implementation costs.
608	Marina Opeations/Maintenance	Parks Recreation & Waterfront	\$100,000		Marina emergency and maintenance needs			Х	An adjustment for emergency piling work and additional maintenance needs.
611	Sanitary Sewer	Public Works	\$409,188 \$2,434,400	19SR03	Alston Bancroft		Х		Funds for contract with Pacific Trenchless, Inc for Sanitary Sewer Rehabilitation work at Bancroft Way, Alston Way, and other locations. Approved by Council on 1/29/19 through Resolution No. 68,751 - N.S.
611 Total	Off Street Parking Fund	Non-Departmental	\$2,434,400 \$750		Bank of New York Trustee Fees			Х	Additional funds to cover the Trustee Fees for the Bank of New York

## Page 19 of 19

#### FY 2019 Annual Appropriations Ordinance Amendment #2 Recommendations

Attachment 2

Fund #	Fund Name	Demontment	Recommended	Project	Description/Project	-		City Manager	Comments/Justification
627 Total	runa Name	Department	Adjustment \$750	Number	name	Law	by Council	Request	Comments/Justinication
627 Total			\$750						
631	Parking Meter Fund	Public Works	\$118,430		Marina Police Parking Lot			Х	Parking lot improvements to 125/127 Univeristy Avenue for the move of the Police Department Parking Enforcement Unit to the Marina
631 Total			\$118,430						
678	Public Liability Fund	City Attorney's Office	\$700,000		Claims & Judgements		Х		Additional funds to pay outstanding claims and judgement settlements in FY 2019.
678 Total			\$700,000						
776	Thousand Oaks Undergrounding	Non-Departmental	\$186		Bank of New York Trustee Fees			Х	Additional funds to cover the Trustee Fees for the Bank of New York
776 Total			\$186						
778	CFD NO. 1 Disaster Fire Protection	Fire	\$75,000		Vehicle Purchase			Х	Funds to purchase a Ford F550 Crew Cab Truck to deliver supplies to the Fire
778 Total			\$75,000						
Grand Total			\$22,245,802						



CONSENT CALENDAR May 14, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Henry Oyekanmi, Director, Finance Department

Subject: Contract: Keenan Financial Services to Establish, Maintain and Invest for an

IRS Section 115 Trust Fund

#### RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a contract with Keenan Financial Services to establish a pension Section 115 trust that includes Keenan Financial Services providing trust administration, trustee/custodian, and investment advisory services for the Trust; and authorizing the City's Plan Administrator to execute the legal and administrative documents on behalf of the City and to take whatever additional actions are necessary to establish a Section 115 trust fund, establish the authority for the management of the Section 115 investments, develop investment policies for the Section 115 trust fund, and Select an initial model investment portfolio, from the choices provided.

#### FISCAL IMPACTS OF RECOMMENDATION

Approving the vendor to establish and maintain the Trust and make investments for the Section 115 pension trust fund should result in better investment returns than those available using the investment policies for the City's pooled investments.

#### **BACKGROUND**

At the November 28, 2017 Council meeting, the City Manager was directed to bring back to Council a proposal to establish an Irrevocable Supplemental Pension Trust and other options as proposed by staff.

At the June 26, 2018 Council meeting, the City Council adopted a Resolution appointing the City Manager as the Plan Administrator and authorizing the City Manager to take the necessary steps to negotiate and execute the documents to establish a Section 115 Trust Fund to use as a pension rate stabilizing fund, and delegate authority for managing the Section 115 Trust Fund investments.

Compensation packages for the City of Berkeley employees include California Public Employees Retirement System (CalPERS) pensions, a Police Retirement Income Benefit Plan and three retiree medical plans (Miscellaneous Retiree Health Premium

Assistance Plan; Police Retiree Premium Assistance Plan; and Fire Employees Retiree Health Plan), referred to as other post-employment benefits (OPEB).

Recent changes in rate smoothing strategies by CalPERS have increased volatility in employer contribution rates in pensions. Monies set aside in a Section 115 Trust can be used to ease budgetary pressures resulting from unanticipated spikes in employer contribution rates. For example, a CalPERS employer who has extra money after making their current CalPERS contribution might set aside some or all of the surplus to use in future years when the required contribution is less affordable. The City wants to take steps to better manage and reduce its pension and other post-employment benefit liabilities. These actions will represent best practices for financial management, slowing the increases in the City's annual pension costs, and positioning the City to achieve retiree medical cost savings into the future.

Steps already taken by the City to address pension costs include implementing pension reform by establishing second-tier pension plans for all new employees. PEPRA miscellaneous will be enrolled in a 2% at 62 plan and PEPRA safety members (police and fire) will be enrolled in a 2.7% at 57 plan. PEPRA members are required to pay half the normal cost of their plans.

However, changes by CalPERS, and past investment market losses by CalPERS have led to rapidly increasing pension rates and costs. The related ramp up in annual costs will continue for the next several years.

The City wants to take steps to better manage and reduce its pension and other postemployment benefit liabilities.

Until recently, the City's only option for reducing the unfunded actuarial accrued liability was to commit additional funds to CalPERS. Unfortunately, these funds would be subject to the same market volatility as the CalPERS investment policy, and the funds are not accessible to the City for other pension expenses. In the last couple of years, a private letter ruling was received from the IRS that establishes that under Section 115 of the Internal Revenue Code, public agencies or municipalities could create a separate trust to "pre-fund" its CalPERS unfunded liability. This will provide an alternative to sending the funds to CalPERS, and will provide greater local control over the assets and investment portfolio management.

A League of California Cities' Retirement System Sustainability Study and Findings (January 2018) revealed the following:

 Rising pension costs will require cities over the next seven years to nearly double the percentage of their General Fund dollars they pay to CalPERS. Between FY 2018-19 and FY 2024-25, cities' dollar contributions will increase by more than 50 percent. For example, the impact would be the following for the City of Berkeley if CalPERS payments increased by 50 percent, as the League expects.

Estimated Employer	FY 19	FY 24-25 Based on California
Contribution	Adopted Budget	League of Cities Estimate
Miscellaneous	\$29.96M	\$44.54M
Police	\$14.57M	\$19.69M
Fire	\$7.33M	\$10.18M

- 2. For many cities, pension costs will dramatically increase to unsustainable levels;
- 3. Many cities face difficult choices that will be compounded in the next recession.
- 4. Tangible savings resulting from PEPRA will not have a substantial effect on city budgets for decades.

According to the League, some things cities can do today are the following:

- Develop and implement a plan to pay down the city's Unfunded Actuarial Liability (UAL). Possible methods include shorter amortization periods and pre-payment of cities UAL.
- 2. Consider local ballot measures to enhance revenues
- Create a pension rate stabilization program: Establishing and funding a local Section Trust Fund can help offset unanticipated spikes in employer contributions.
- 4. Change service delivery methods and levels of certain public services
- 5. Use procedures and transparent bargaining to increase employee pension contributions
- Issue a pension obligation bond (POB). However, financial experts including the Government Finance Officers Association (GFOA) strongly discourage local agencies from issuing POBs. Moreover, this approach only delays and compounds the inevitable financial impacts.

On April 4, 2017, the City Manager presented to Council a report titled <a href="Projections of Future Liabilities">Projections of Future Liabilities</a> - Options to Address Unfunded Liabilities Tied to Employee Benefits (<a href="https://www.cityofberkeley.info/Clerk/City\_Council/2017/04\_Apr/City\_Council\_04-04-2017\_- Special\_Meeting\_Agenda.aspx">Special\_Meeting\_Agenda.aspx</a>) which provided a thorough overview of the City's long term expenditure obligations. On that same date, the City's actuary presented to Council a presentation titled <a href="Pension and OPEB Funding Study">Pension and OPEB Funding Study</a> which identified options to address the City's unfunded liabilities tied to post-employee benefits.

One of the recommendations made by the City's actuary is the establishment of an irrevocable supplemental (Section 115) pension trust with an initial "seed" deposit of \$3 million as a "start up" contribution. Going forward the City should set aside approximately 3% of payroll which is about \$4 million in year 1 and 4% of payroll which is approximately about \$5.5 million in year 2 and for the foreseeable future.

This Council report deals with the recommendation from both the League and the City's actuary which is to establish a local Section 115 Trust Fund to help offset future spikes in employer contributions.

#### **CURRENT SITUATION AND ITS EFFECTS**

The City identified three agencies that provide professional Trust administrative, trustee/custodial, and investment advisory or management services: Public Agency Retirement Services (PARS), PFM Asset Management LLC (PFM), and Keenan, and Requests for Proposals (RFP) were sent out. In their responses to the RFP, they identified their team of companies to provide the Trust services as follows:

#### PARS team:

- Trust Administrator-PARS
- Trustee/Custodian-US Bank
- Investment Manager-Highmark Capital Management

#### PFM team:

- Trust Administrator-PFM
- Trustee/Custodian-Wells Fargo Bank
- Investment Manager-PFM

#### Keenan Financial Services team:

- Trust Administrator-Keenan
- Trustee/Custodian-Benefit Trust Company
- Investment Manager-Morgan Stanley

The RFPs were evaluated by a review committee consisting of the Director of Finance, the Treasury Manager and an outside consultant for the City.

The RFPs were evaluated using the following criteria:

1.	Firm's integrity and competence	20%
2.	Price Proposal	20%
3.	Qualifications to do the project	50%
4.	Socially Responsible investing	10%

#### Following is the RFP Rating Sheet:

#### RFP RATING SHEET OF VENDORS

	Keenan	PFM Asset	Public Agency
	Financial	Management	Retirement
	Services	LLC	Services (PARS)
Firm's integrity			
and competence	20	20	20
Price proposal	20	11	10

Qualifications to			
do the project	50	50	50
Socially	10	0	10
responsible			
investing			
Total	100	81	90

All three firms have significant experience establishing and maintaining Section 115 trusts and providing investment options and investment advisory services. All three reviewers gave Keenan Financial Services the highest rating based on the above criteria. Staff recommends establishing a pension Section 115 trust with Keenan Financial Services.

It should be pointed out that PFM would not sign the City's socially responsible investing forms and gave the following reason for not doing so:

"While PFM as a firm may comply with some of these criteria, we have no way to consistently research, analyze, and confirm compliance on an ongoing basis. Therefore, PFM, as a firm and investment advisor, is not able to document, disclose, or confirm compliance with the social responsibility criteria listed above adopted by the City."

After the City Council approves the resolution to approve a contract with Keenan Financial Services establish, maintain and invest for an IRS Section 115 trust, the following next steps need to be taken:

- 1. Sign Board of Authority Member Agreement
- 2. Sign Pension Stabilization Trust for California Municipalities Participation Agreement, and appoint two individuals as authorized representatives
- 3. Develop investment policies for the Section 115 Trust, to be approved by the City Council
- 4. Select an initial model investment portfolio, from the choices provided. Staff recommends the Moderate portfolio consisting of 33% equity securities and 67% fixed income securities. The City may change the designation of the model portfolio in the future by executing an amendment to section 9 of the Participants' Agreement.
- 5. Make the deposits into the Section 115 Trust The current plan is as follows:
  - a. Immediately deposit the nearly \$4 million that is currently in the PERS Savings fund.
  - Immediately deposit the \$4 million allocated by Council during the budget process
  - c. Deposit the \$1.1 million discount the City saved by prepaying the FY 2019 unfunded liability payments required by CalPERS, by June 30, 2019.

CONSENT CALENDAR May 14, 2019

6. Keenan is to provide quarterly and annual investment reports to Council.

#### **ENVIRONMENTAL SUSTAINABILITY**

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

#### RATIONALE FOR RECOMMENDATION

An adequately funded Section 115 Trust can be used to help offset future spikes in CalPERS employer retirement contributions. In addition, establishing the trust fund should result in better investment returns than those available using the investment policies for the City's pooled investments.

#### **CONTACT PERSON**

Henry Oyekanmi, Director, Finance Department, 981-7300

#### Attachments:

1: Resolution

Exhibit A: Board of Authority Member Agreement

Exhibit B: Pension Stabilization Trust for California Municipalities Participation

Agreement

Exhibit C: Keenan Financial Services Investment Portfolio Options

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

## CONTRACT: KEENAN FINANCIAL SERVICES TO ESTABLISH, MAINTAIN AND INVEST FOR AN IRS SECTION 115 TRUST FUND

WHEREAS, it is determined to be in the best interest of the City to set aside funds for the pre-funding of its CalPERS pension obligation to be held in trust for the exclusive purpose of making future contributions of the City's required pension contributions and any employer contributions in excess of such required contributions at the discretion of the City; and

WHEREAS, a tax-exempt trust performing an essential governmental function within the meaning of Section 115 of the Internal Revenue Code (as amended) and the Regulations issued thereunder, and is a tax-exempt trust under the relevant statutory provisions of the State of California; and

WHEREAS, the City's establishment and operation of the Section 115 trust has no effect on any current or former employee's entitlement to post-employment benefits; and

WHEREAS, an RFP was sent to all firms with significant experience establishing and maintaining Section 115 trusts and providing investment options and investment advisory services; and

WHEREAS, the responses to the RFP were evaluated by a committee consisting of the Director of Finance, the Treasury Manager, and an outside consultant for the City; and

WHEREAS, all three reviewers gave Keenan Financial Services the highest rating based on the criteria outlined in the RFP.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a contract, and any amendments, with Keenan Financial Services to establish an IRS Section 115 Trust Fund, to include trust administrative, trustee/custodian, and investment advisory services.

BE IT FURTHER RESOLVED that the City's Plan Administrator is hereby authorized to execute the legal and administrative documents on behalf of the City and to take whatever additional actions are necessary to establish a Section 115 trust fund, establish the authority for the management of the Section 115 investments, develop investment policies for the Section 115 trust fund, and Select an initial model investment portfolio, from the choices provided.

#### PENSION STABILIZATION TRUST FOR CALIFORNIA MUNICIPALITIES

#### **BOARD OF AUTHORITY MEMBER AGREEMENT**

WHEREAS, the Board of Authority of the Pension Stabilization Trust for California Municipalities (the "PST") adopted the Trust; and WHEREAS, the PST allows up to one Member of the Board of Authority to be appointed by each Adopting Entity; and WHEREAS, the Member must sign a written acceptance and agree to administer the PST; and WHEREAS, the Member's written acceptance must be in a form satisfactory to the Board of Authority; NOW, THEREFORE, the Adopting Entity, the Member and the Board of Authority agree as follows: Section 1: Appointment as Member: The Board hereby confirms the appointment by \_\_\_\_\_\_ of , as Member, pursuant and subject to the terms and conditions of the PST. Section 2: Acceptance as Member: \_\_\_\_\_ hereby accepts his or her appointment as Member pursuant and subject to the terms and conditions of the PST and agrees to administer the PST. IN WITNESS WHEREOF, the duly authorized parties hereto have executed this Agreement as of\_\_\_\_\_, 2017. **Adopting Entity:** CHAIRMAN OF THE BOARD OF THE PENSION STABILIZATION TRUST FOR **CALIFORNIA MUNICIPALITIES** Signature: \_\_\_\_\_\_ Signature: Title: \_\_\_\_\_\_ **ACCEPTANCE AS MEMBER** 

Name: \_\_\_\_\_\_

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

# PENSION STABILIZATION TRUST FOR CALIFORNIA MUNICIPALITIES PARTICIPATION AGREEMENT

THIS PARTICIPATION AGREEMENT is entered into by the undersigned California public entity (the "Adopting Entity") and Benefit Trust Company, a Kansas corporation, as Trustee (the "Trustee") of the Pension Stabilization Trust for California Municipalities (the "Trust"), effective as of the date specified on the signature page (the "Effective Date"), with reference to the following:

- A. The Board of Authority (the "Board") of the Trust has established the Trust to help California Municipalities stabilize the funding of their pension benefit liabilities by creating a secure vehicle to hold assets pending their contribution to a pension plan in satisfaction of a public entity's funding obligation. The Trust is intended to qualify as a trust arrangement that is tax exempt under applicable guidance and procedures under Section 115 of the Internal Revenue Code.
- B. The Adopting Entity has adopted a pension plan for its eligible employees (the "Plan") to which the Adopting Entity is required to make regular contributions. To the extent the Adopting Entity may from time to time have excess funds, a portion of which can be used to prefund contributions to the Plan, the Adopting Entity desires to have a secure trust to which it may contribute such funds and to have the trust hold such pre-funding contributions.
- C. In order to participate in the Trust, the Adopting Entity must be a public entity in the State of California and must enter into this Participation Agreement (the "Agreement").

NOW, THEREFORE, the Adopting Entity and the Trustee agree as follows:

- 1. **Participation.** The undersigned Adopting Entity agrees to all of the provisions, terms and conditions of the Trust and agrees to participate in the Trust in accordance with the terms of this Agreement. The Adopting Entity agrees to cooperate in providing any information reasonably required by the Trustee or the Board to administer the Trustee properly.
- 2. Representations of Adopting Entity. The Adopting Entity makes the following representations and warranties, and acknowledges that the Trustee is relying on these representations in entering into this Agreement:
- (a) The Adopting Entity is a public entity within the State of California under the California Constitution and applicable sections of the Government Code.
- (b) By executing this Agreement, the Adopting Entity acknowledges that it has determined that the Trust is appropriate for the pre-funding of a portion of its pension liabilities under the Plan.
- (c) The Plan has been adopted by all necessary action of the governing body of the Adopting Entity and remains in full force and effect, in compliance with all applicable legal requirements.

- (d) The adoption of this Agreement has been approved by all necessary action of the Adopting Entity's governing body and the person signing this Agreement on its behalf is authorized to do so.
- (e) Neither the execution and delivery of this Agreement by the Adopting Entity, nor compliance by the Adopting Entity with any of the provisions hereof, nor the consummation of the transactions contemplated hereby, will result in a default, or give rise to any right of termination, cancellation or acceleration, under any term, condition or provision of any agreement or other instrument or obligation to which the Adopting Entity is a party or by which it or any of its properties or assets may be bound.
- (f) The Adopting Entity has received a copy of the Pension Stabilization Trust Agreement (the "Trust Agreement"), is aware of the terms and conditions thereof and agrees that in the event of any conflict between the terms of the Trust and this Agreement, the terms of the Trust will control.
- (g) The Adopting Entity has not received any legal, accounting or investment advice from the Trustee, the Board or their representatives. The Adopting Entity acknowledges that it has had the opportunity to consult with independent legal counsel regarding this Agreement and the Trust.
- 3. Administration Fees. The Trustee will allocate reasonable fees for administration to each Adopting Entity's account in the Trust in accordance with the fee schedule established from time to time with the Board. Such fees shall not exceed 0.30% (30 basis points) per annum on the value of the assets held in the account. Fees will be collected monthly directly from the account.
- 4. **Responsibility for Legal Compliance.** The Adopting Entity acknowledges that the Trustee will not be responsible for compliance with any obligations or to enforce any obligations the Adopting Entity may have under the Plan. All such compliance shall be the responsibility of the Adopting Entity.
- 5. **Indemnification.** The Adopting Entity agrees to indemnify and hold harmless the Trust, the Trustee and the Board from any and all liabilities and losses, including attorneys' fees, arising out of the claim by any person for damages caused by or resulting from the failure of the Adopting Entity to comply with the provisions of the Plan, the Trust or applicable requirements of federal or state law.

#### 6. Amendment and Termination.

- (a) This Agreement and the Declaration of Trust constitute the entire agreement of the parties concerning the Adopting Entity's participation in the Trust. This Agreement may be amended only through a written document executed by the Trustee and the Adopting Entity.
- (b) The Agreement may be terminated by the Adopting Entity by providing 90 days written notification of its intent to terminate its participation in the Trust; provided that

#### Page 11 of 14

upon such a termination, none of the assets held in the Trust for contribution to the Plan shall be returned or otherwise made available to the Adopting Entity for any purpose.

- (c) The Trust may be terminated in accordance with the provisions of the Trust Agreement.
- (d) The Adopting Entity's rights and obligations under this Agreement cannot be assigned without the written consent of the Trustee.

#### 7. **Right to Rely.**

- (a) The Adopting Entity acknowledges that the Trustee will rely upon any representations that it or any of its authorized representatives make to the Board.
- (b) The Adopting Entity hereby designates the persons identified on the signature page of this Agreement as the persons authorized to represent the Adopting Entity in connection with matters regarding the Adopting Entity's participation in the Trust and the disbursement of funds from the Trust (the "Authorized Representative"), and agrees that the Board and the Trustee may rely upon the representations of the Authorized Representative until and unless notified in writing that this person is no longer authorized to represent the Adopting Entity in this manner. Any such notice must identify a new person who will serve as the Adopting Entity's Authorized Representative.

#### 8. General Provisions.

- (a) Any notice required under this Agreement shall be in writing and shall be furnished to the recipient at the addresses provided separately by the parties, unless the recipient has provided the sender with notice of a change of address.
  - (b) This Agreement shall be governed by the laws of the State of California.
- (c) The failure of the Trustee to seek redress for violation of or to insist upon the strict performance of any provision of the Agreement shall not be deemed a waiver and will not prevent a subsequent act, which would have originally constituted a violation, from having the effect of an original violation. The rights and remedies provided in this Agreement are cumulative and the use of any right or remedy does not limit the Trustee's right to use any or all other remedies. All rights and remedies in this Agreement are in addition to any other legal or equitable rights that the Trustee may have.
- (d) Every provision of the Agreement is intended to be severable. If any term or provision hereof is invalid for any reason whatsoever, its invalidity will not affect the validity of the remainder of the Agreement.
- (e) This Agreement may be executed in any number of counterparts with the same effect as if all parties hereto had all signed the same document. All counterparts shall be construed together and shall constitute one agreement.

(f) Unless the context requires otherwise, the use of a feminine prorincludes the masculine and the neuter, and vice versa, and the use of the singular includes plural, and vice versa.	
(g) The headings used in this Agreement are provided for convenience and not intended to be a part of this Agreement or to influence the interpretation of the terms of Agreement. This Agreement shall not be construed on the basis of which party drafted Agreement or a particular provision thereof.	this
9. <b>Selection of Model Portfolio.</b> The Adopting Entity has reviewed tolerance for risk and its requirements for the investment of the Account, and has also review the model portfolios offered by the Trustee. Solely and by virtue of this review, the Adopting Entity hereby directs the Trustee to invest the assets of the Account in accordance with following model portfolio with its commensurate approximate target asset allocation understanding that the target asset allocation will vary from time to time based upon material fluctuations, and that with the exception of Fixed Income, model portfolio asset allocations be adjusted +/- 5% from time to time at the discretion of the Trustee:	ewed oting the tion, arket
CHECK ONE:	
☐ Fixed Income (100% fixed income securities)	
☐ Conservative (16% equity securities, 84% fixed income securities)	
☐ Moderate (33% equity securities, 67% fixed income securities)	
☐ Moderate Growth (45% equity securities, 55% fixed income securities)	
☐ Growth (61% equity securities, 39% fixed income securities)	
☐ Aggressive Growth (76% equity securities, 24% fixed income securities)	
The Adopting Entity understands and agrees that the Trustee shall be under no duty to quest the prudence of the model portfolio the Adopting Entity directs, and shall have no liability any loss of any kind which may result by reason of the inherent volatility of the asset allocative directed. Once the Adopting Entity has directed the Account to be invested pursuant to a magnetic portfolio as listed above the Trustee will assume discretionary authority and responsibility for management.	y for ation odel
The Adopting Entity may change the designation of the model portfolio to be utilized by executing an amendment to this section 9 of the Participation Agreement. Said amendment was go into effect upon the acknowledgement of receipt by the Trustee.	vill
10. List two Individuals appointed as Authorized Representatives:	

## Page 13 of 14

IN WITNESS WHEREOF, the parti	es have ex	ecuted this Agreement as of, 2018.
Adopting Entity:		BENEFIT TRUST COMPANY, TRUSTER FOR THE PENSION STABILIZATION TRUST FOR CALIFORNIA MUNICIPALITIES
Signature:		By: Scott W. Rankin, Senior Vice President
Title:		

EXHIBT D

## KENNAN FINANCIAL SERVICES INVESTMENT OPTIONS

				Fixed	Conservative	Moderate	Moderate	Growth	Aggressive
				Income	_		Growth		Growth
Total Equities				0.00%	16.00%	33.00%	45.00%	61.00%	75.00%
Total Bonds				100.00%	84.00%	67.00%	55.00%	39.00%	25.00%
Total .				100.00%	100.00%	100.00%	100.00%	100.00%	100.00%
Domestic equities:	Style	Ticker	Expenses						
1. Large Cap domestic equities:									
a. Alger capital appreciation focus	Large growth	ALGYX	0.65%	0%	1%	3.5%	6%	6%	8%
b. Columbia contrarian core	Large blend	COFYX	0.66%	0%	2%	3%	4%	5%	7%
c. Oakmark select	Large value	OANLX	0.82%	0%	2%	4%	4%	6%	7%
2. Small/ Mid cap domestic equities:									
a. Hartford midcap	Mid growth	HMDYX	0.76%	0%	0%	1%	2%	4%	6%
b. Alger small cap focus	Small growth	AGOZX	0.90%	0%	1%	3%	4%	5%	6%
c. Undiscovered managers' behavioral value	Small blend	UBVFX	0.79%	0%	1%	1%	2%	4%	5%
3. Real Estate Investment Trusts:									
a. Cohen &Steers Real Estate securities	Real Estate	CSZIX	0.88%	0%	1%	2%	2%	3%	4%
b. PGIM Global Real Estate	Real Estate	PGRQX	0.80%	0%	0%	1%	2%	2.5%	3%
Total Domestic Equities & REITs				. 0	8%	19%	26%	35.5%	46.0%
International/ Global Equities:									
a. John Hancock International Growth	Int'l growth	JIGTX	0.93%	0%	2%	2%	3%	4%	4%
b. Brandeis International small cap	Int'I SMID	BISRX	1.00%	0%	1%	1.5%	2%	3%	4%
c. American Funds New Perspectives Fund	Global growth	ANWFX	0.55%	0%	1%	2%	2%	3%	4%
d. American Funds New World Fund	Emerging markets	NFFFX	0.76%	0%	1%	1%	1.5%	2%	3%
e. PGIM Jennison Global Opportunities	Global growth	PRJQX	0.84%	0%	0%	1%	1.5%	2%	3%
f. Oakmark International	Int'i value	OANIX	0.81%	0%	1%	2%	3%	3%	3%
g. Hartford International Value	Int'I value	HILYX	0.91%	0%	1%	2%	3%	4%	4%
h. Thornburg Investment Income Builder	Global Blend	TIBOX	0.85%	0%	1%	3%	3%	5%	5%
Total International/Global Equities				0%	8%	15%	19%	25.5%	30.0%
Fixed Income:									
a. BlackRock Total Return	Domestic Bond	MPHQX	0.39%	16%	14%	11%	9%	6%	4%
b. Guggenheim Investment Grade Bond	Domestic Bond	GIUSX	0.50%	16%	14%	11%	9%	6%	4%
c. PGIM Total Return Bond	Domestic Bond	PTRQX	0.46%	16%	14%	11%	9%	6%	4%
d. Western Asset Core Plus Bond	Domestic Bond	WAPSX	0.42%	16%	14%	11%	9%	6%	4%
e. Guggenheim Macro Opportunities	Domestic Bond	GIOIX	0.97%	16%	12%	11%	9%	6%	4%
f. Hartford World Bond	Global Bond	HWDYX	0.67%	8%	7%	4%	4%	3%	1%
g. Brandywine Global Opportunities Bond	Global Bond	GOBSX	0.56%	6%	5%	4%	3%	3%	1.5%
h. Brandywine Global Alternative Credit	Global Bond	LMAMX	1.25%	6%	4%	4%	3%	3%	1.5%
Total Bonds				100%	84%	67%	55%	39%	24%
Total Investments				100%	100%	100%	100%	100%	100%
Expected Return				4.50%	5.00%	6.00%	6.99%	7.69%	8.46%
Expected Standard Deviation				3.12%	4.26%	6.09%	7.41%	9.48%	11.89%



CONSENT CALENDAR May 14, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: David Brannigan, Fire Chief

Subject: Contract: Falck for Mental Health Ambulance Transport Services

## RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Falck Northern California Corp (Contractor) to provide mental health related ambulance transportation (from July 1, 2019 to June 30, 2021, in an amount up to \$5,670,000, with an option to extend for two additional years, for a total contract amount not to exceed \$11,340,000.

## FISCAL IMPACTS OF RECOMMENDATION

## Mental Health Transport Billing:

- a. The City shall compensate Contractor for the difference between the cost of service provision and corresponding revenue received by the Contractor as determined, less any performance penalty, for each 5150 response in the Berkeley exclusive operating area (EOA).
- b. In response to this RFP, contractor provided a cost per service estimate of \$2025 per call. Based on historical data, an estimate of 1400 calls per year is expected, resulting in an estimated total cost to the City of up to \$2,835,000. The actual cost will vary depending on the number of transports and costs recovered by Falck patient billing.
- c. Revenue may come from general Fund associated with measure P or otherwise.

Contract: Falck for Mental Health Ambulance Transport Services

CONSENT CALENDAR May 14, 2019

## CURRENT SITUATION AND ITS EFFECTS

The Berkeley Fire Department operates four, 24-hour, Advanced Life Support (ALS) ambulances. The four ambulances are staffed with two sworn firefighter paramedics. Additionally, the department has nine fire engines and trucks, staffed with a minimum of one firefighter paramedic. When responding to emergency medical incidents, a fire engine or truck is always dispatched along with an ambulance. In most cases the fire engine/truck arrives at the call faster than the ambulance and begins to provide life-saving emergency medical care at an ALS level

A subset of emergency medical treatment and transport is for people experiencing psychiatric emergencies. These patients are always contacted by a Berkeley Police Officer and sometimes a member of Berkeley Mental Health's Mobile Crisis Team. Once they have made a determination that the patient requires further treatment and transport, the County's private ambulance provider, Paramedics Plus, is requested and responds. The Alameda County Emergency Medical Services Agency (LEMSA) reimburses Paramedics Plus for the costs related to the treatment and transport of these patients that they are unable to collect from the patient.

According to the California Code of Regulations (CCR), 5150(a) "When a person, as a result of a mental health disorder, is a danger to others, or to himself or herself, or gravely disabled, a peace officer, ...designated members of a mobile crisis team, ...may, upon probable cause, take, or cause to be taken, the person into custody for a period of up to 72 hours for assessment, evaluation, and crisis intervention, or placement for evaluation and treatment in a facility designated by the county for evaluation and treatment...".

New City of Berkeley Transport Responsibilities

In 2017, the Alameda County LEMSA conducted a Request for Proposal (No. EMS-901017 Emergency Ambulance Service, 911 Response, ALS Transport) to select a private ambulance transport provider that would provide emergency medical transport services to Alameda County except Berkeley, Alameda City, Albany and Piedmont. Berkeley is one of four exclusive operating areas (EOA) in Alameda County. The four EOAs correspond with the fire departments that started providing emergency ALS ambulance response and transport prior to 1980. When the new contract for Alameda County, per their RFP, goes into effect on July 1st, 2019 the City will have to assume responsibility for the transport and cost of transport for psychiatric patients in Berkeley.

Contract: Falck for Mental Health Ambulance Transport
Services

CONSENT CALENDAR May 14, 2019

City of Berkeley No. 18-11181-C:

On March 21, 2019, a Request for Proposal (RFP) for MENTAL HEALTH PATIENT TRANSPORT, Specification No. 19-11305-C, was issued. The RFP closed on April 23, 2019. One (1) bid was received and reviewed by staff and was found to meet the requirements of the RFP.

## **BACKGROUND**

Since 2002, the private ambulance provider for the Alameda County exclusive operating area (EOA) has provided transport for non-emergency mental and behavioral health patients in Berkeley and the other three cities that have exclusive operating areas (EOA) for ambulance service in Alameda County. The four city EOAs correspond with the fire departments that started providing emergency ALS ambulance response and transport prior to 1980. When the new contract for Alameda County's EOA ambulance provider goes into effect on July 1st, 2019 Berkeley will assume responsibility for the transport of non-emergency mental and behavioral health patients in the City's EOA.

In 2018 the County's private transport provider transported 1090 mental and behavioral health patients in Berkeley. During the same time, the Berkeley Fire Department transported an additional 253 mental and behavioral health patients. In total, there are nearly 1400 mental and behavioral health transports that occur annually in the City.

To absorb the new requirement to provide transport to mental and behavioral health patients, the City seeks a private ambulance provider to supplement the existing transport capacity in the City and be the primary mental and behavioral health transport service in Berkeley.

#### **ENVIRONMENTAL SUSTAINABILITY**

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

## RATIONALE FOR RECOMMENDATION

The impacts of absorbing psychiatric transport within the Fire Department include less time for responding to other emergencies, and less training and development for personnel, which is already greatly impacted by call volume. Additionally, there would likely be increased employee fatigue (both chronic and acute), greater attrition of employees to other fire departments that do not transport and increased "burnout" and other associated mental health conditions (depression, PTSD, suicide, anger management, etc). Additionally, there is an immediate need to take on this work, and staffing up internally to fill the need would have been impossible with such little time.

Contract: Falck for Mental Health Ambulance Transport
Services

CONSENT CALENDAR May 14, 2019

## ALTERNATIVE ACTIONS CONSIDERED

- Creation of Basic Life Support (BLS) Ambulance Division. : Though this may be a
  good long term alternative, it would be impossible to implement by July 1st, 2019.
  The milestones that would need to be implemented prior to upstaffing a BLS
  transport division are: creation of a new job classification, recruitment and hiring
  of at least 12 FTE, ambulance specification/design and purchase, and
  modifications to fire stations to accommodate additional personnel.
- 2. Transport by EMT and Berkeley Mental Health: The legal authority to place a person on an involuntary psychiatric hold lies with the police, mental health professionals, and physicians. Berkeley Mental Health and Berkeley Police are the primary contacts with the patient population in question. An alternative to EMT ambulance transport is a hybrid where an EMT and a Mental Health Provider could team up and transport to John George. This adds significant cost due to the higher salaries of licensed mental health providers.
- 3. Transport by Berkeley Police: At times, police officers transport patients on a 5150 hold to John George Pavilion. This option would remove police officers from Berkeley for extended periods. This option also puts care and transport of psychiatric patients with law enforcement and not health care professionals.

## **CONTACT PERSON**

Dave Brannigan, Fire Chief, (510) 981-3473

Attachments:

1: Resolution

## CONTRACT: FALCK FOR MENTAL HEALTH AMBULANCE TRANSPORT SERVICES

WHEREAS, Alameda County will no longer provide transport service for mental health patients on a 5150 hold in the City of Berkeley as of July 1, 2019; and

WHEREAS, Berkeley Police and Berkeley Mental Health place approximately 1,400 people on 5150 holds annually; and

WHEREAS, the Berkeley Fire Department provides Advanced Life Support (Paramedic) ambulance transport services in an exclusive operating area for the City of Berkeley and UC Berkeley; and

WHEREAS, Measure P was passed by voters in November 2018 and included a provision to provide funding for mental health support and emergency transport; and

WHEREAS, the costs for mental health ambulance transport services will be appropriated in the Biennial Budget beginning FY 2021.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a contract and any amendments with Falck Northern California Corp. to provide mental health ambulance transport services to the City of Berkeley from July 1, 2020 to June 30, 2022, in an amount up to \$5,670,000, with an option to extend for two additional years in two one-year increments, for a total contract amount not to exceed \$11,340,000.



CONSENT CALENDAR
May 14, 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 Alameda County to

Conduct Public Health Services

## RECOMMENDATION

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

- 1. **Public Health Infrastructure Program** in the projected amount of \$32,080 for FY 2020.
- 2. Foster Care Program in the projected amount of \$93,187 for FY 2020.
- 3. Berkeley High School and Berkeley Technology Academy Health Center Programs in the projected amount of \$178,778 for FY 2020.
- 4. School Linked Health Services Program (Measure A Funding) in the projected amount of \$193,175 for FY 2020.
- 5. **Tobacco Prevention Program** in the projected amount of \$76,290 for FY 2020.

#### FISCAL IMPACTS OF RECOMMENDATION

The City of Berkeley will receive funds in the amount of \$573,510 from Alameda County for FY 2020 from the sources listed below. There is no local match required for any of these grants, however, the City does provide a significant amount of general fund to support these important programs. Each contract has been entered into the citywide contract management system database and assigned the following CMS numbers:

1. **Public Health Infrastructure Program**: CMS No. FAQ8M, Revenue Project Code 326-51-506-559-2053-000-000-433110-. This contract is anticipated to be for \$32,080 in FY 2020.

- Foster Care Program: CMS No. RHC7S, Revenue Project Code 326-51-506-556-2046-000-000-431110-. This contract is anticipated to be for \$93,187 in FY 2020.
- 3. Berkeley High School Health Center and Berkeley Technology Academy Programs: CMS No. WMEFT, Revenue Project Code 326-51-506-561-0000-000-000-433110-. This contract is anticipated to be for \$178,778 in FY 2020.
- 4. School Linked Health Services Program (Measure A Funding): CMS No. NGVZR, Revenue Project Code 326-51-506-560-0000-000-000-432110-. This contract is anticipated to be for \$193,175 in FY 2020.
- 5. **Tobacco Prevention Program:** CMS No. SQTJM, Revenue Project Code 326-51-506-559-2053-000-000-433110-. This contract is anticipated to be for \$76,290 in FY 2020.

Spending of all referenced grant funds is subject to Council approval of the budget for each fiscal year and the Annual Appropriations Ordinances. Depending on the timing of when grants are officially awarded and the amounts are determined, the grant budgets will be adjusted as part of a future amendment to the FY 2020 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. Alameda County revenue is an important source of support for these City public health programs. In FY 2020, there are no significant changes to this support.

- 1. **Public Health Infrastructure Program:** Improves the Public Health infrastructure of the Berkeley Health Division by conducting epidemiological surveillance, ongoing data management and analysis to monitor the Berkeley community's health. Additionally, these funds are used in Public Health Program evaluations, including assessment of impact on health inequities and priorities identified in the Health Status Report.
- 2. Foster Care Program: Meets State mandated Child Health and Disability Prevention (CHDP) requirements. This is the Health Care Program for Children in Foster Care (HCPCFC) which provides preventive health services for Berkeley children in foster care. Services include: medical and health care case planning; referrals for medical, dental, mental health and developmental services; coordination of health services for children in out-of-county and out-of-state placements; and provides medical education through the interpretation of

- medical reports and training for foster care team members on the special health care needs of children and youth in foster care.
- 3. Berkeley High School and Berkeley Technology Academy Health Center Programs: Provides clinical and health education services to adolescents attending Berkeley High School and Berkeley Technology Academy.
- 4. School Linked Health Services Program (Measure A Funding): Increases the capacity of Berkeley Unified School District to meet the health, medical and dental needs of K-5 students, and to create the infrastructure to more effectively perform public health surveillance for communicable diseases, promote school connectedness, and reduce chronic absenteeism.
- 5. **Tobacco Prevention Program:** Provides tobacco cessation services, enforcement of tobacco retail licensing requirements and youth prevention 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 receives specific funding through Alameda County to meet core public health objectives. The Division is committed to providing services to the community to promote healthy environments and prevent the spread of disease.

## **ENVIRONMENTAL SUSTAINABILITY**

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

## RATIONALE FOR RECOMMENDATION

These funds provide necessary revenue to support vital services related to the City of Berkeley's mandates as a Public Health jurisdiction. They also support the Department's work to reduce health inequities in Berkeley and improve the health of our community.

#### ALTERNATIVE ACTIONS CONSIDERED

The Public Health Division assesses each funding source to ensure that it supports the City's mission and goals. The alternative action of not seeking any of these funding sources would be 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: Public Health Infrastructure Program

Revenue Grant Agreements: Funding Support from Alameda County to Conduct Public Health Promotion, Protection, and Prevention Services

- 2: Resolution: Foster Care Program
- 3: Resolution: Berkeley High School and Berkeley Technology Academy Health Center Programs
- 4: Resolution: School Linked Health Services Program (Measure A Funding)
- 5: Resolution: Tobacco Prevention Program

## GRANT AGREEMENT WITH ALAMEDA COUNTY FOR THE PUBLIC HEALTH INFRASTRUCTURE PROGRAM FOR FISCAL YEAR 2020

WHEREAS, the City of Berkeley Public Health Division of the Department of Health, Housing & Community Services is committed to providing necessary support to analyze data, plan and disseminate information, and provide general public health education; and

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services provides a broad range of public health 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 Public Health Division seeks to eliminate health inequities; and

WHEREAS, the City of Berkeley should seek outside funding wherever possible to fund vital health services.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is hereby authorized to submit a grant agreement to Alameda County for fiscal year 2020 funding for the Public Health Infrastructure Program to accept the grant; execute any resultant revenue agreements and amendments; and implement the projects and appropriation of funding in the amount of \$32,080 for related expenses, subject to securing the grant. Budget Codes (Revenue): 326-51-506-559-2053-000-433110- (Expenditure): 326-51-506-559-2053-000-451- various; CMS No. FAQ8M. A record signature copy of said agreements and any amendments shall be on file in the office of the City Clerk.

## GRANT AGREEMENT WITH ALAMEDA COUNTY FOR THE FOSTER CARE PROGRAM TO PROVIDE CHDP AND HCPCFC PROGRAMMING FOR FY 2020

WHEREAS, the City of Berkeley Public Health Division of the Department of Health, Housing & Community Services is committed to insuring that Berkeley children in foster care receive the full scope of preventive health services; 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 Public Health Division seeks to eliminate health inequities; and

WHEREAS, the City of Berkeley should seek outside funding wherever possible to fund vital health services.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is hereby authorized to submit a grant agreement to Alameda County for fiscal year 2020 funding for the Foster Care Program to meet our mandate so that Berkeley children in foster care receive the full scope of Child Health and Disability Prevention Program preventive health services, to accept the grant; execute any resultant revenue agreements and amendments; and implement the projects and appropriation of funding in the amount of \$93,187 for related expenses, subject to securing the grant. Budget Codes (Revenue): 326-51-506-556-2046-000-000-431110-; (Expenditure): 326-51-506-556-2046-000-451- various; CMS No. RHC7S. A record signature copy of said agreements and any amendments shall be on file in the office of the City Clerk.

GRANT AGREEMENT WITH ALAMEDA COUNTY FOR THE BERKELEY HIGH SCHOOL AND BERKELEY TECHNOLOGY ACADEMY HEALTH CENTER PROGRAMS FOR FY 2020

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services is committed to providing health services and health education to adolescents attending Berkeley High and Berkeley Technology Academy; and

WHEREAS, the City of Berkeley Public Health Division of the 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 Public Health Division seeks to eliminate health and educational inequities; and

WHEREAS, the City of Berkeley should seek outside funding wherever possible to fund vital health services.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is hereby authorized to submit a grant agreement to Alameda County for fiscal year 2020 funding for the Berkeley High School and Berkeley Technology Academy Health Center Programs to provide health services and health education to adolescents attending Berkeley High and Berkeley Technology Academy, to accept the grant; execute any resultant revenue agreements and amendments; and implement the projects and appropriation of funding in the amount of \$178,778 for related expenses, subject to securing the grant. Budget Codes (Revenue): 326-51-506-561-0000-000-433110-; (Expenditure): 326-51-506-560-0000-000-451- various; CMS No. WMEFT. A record signature copy of said agreements and any amendments shall be on file in the office of the City Clerk.

# GRANT AGREEMENT WITH ALAMEDA COUNTY FOR THE SCHOOL LINKED HEALTH SERVICES (MEASURE A) PROGRAM FOR FY 2020

WHEREAS, the City of Berkeley Public Health Division of the Department of Health, Housing & Community Services is committed to increasing the capacity of Berkeley Unified School District to meet the health, medical and dental needs of students, and to create the infrastructure to more effectively perform public health surveillance and enforcement functions for communicable diseases and disease outbreaks; 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 Public Health Division seeks to eliminate health and educational inequities; and

WHEREAS, the City of Berkeley should seek outside funding wherever possible to fund vital health services.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is hereby authorized to submit a grant agreement to Alameda County for fiscal year 2020 funding for the School Linked Health Services Program (Measure A Funding) to increase the capacity of the Berkeley Unified School District to meet the health, medical and dental needs of students, and to create the infrastructure to more effectively perform public health surveillance and enforcement functions for communicable diseases and disease outbreaks, to accept the grant; execute any resultant revenue agreements and amendments; and implement the projects and appropriation of funding in the amount of \$193,175 for related expenses, subject to securing the grant. Budget Codes (Revenue): 326-51-506-560-0000-000-432110-; (Expenditure): 326-51-506-560-0000-000-451- various; CMS No. NGVZR. A record signature copy of said agreements and any amendments shall be on file in the office of the City Clerk.

## GRANT AGREEMENT WITH ALAMEDA COUNTY FOR THE TOBACCO PREVENTION PROGRAM FOR FY 2020

WHEREAS, the City of Berkeley Public Health Division of the Department of Health, Housing & Community Services is committed to providing tobacco cessation services, enforcement of tobacco retail licensing requirements and youth prevention education; 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 Public Health Division seeks to eliminate health inequities; and

WHEREAS, the City of Berkeley should seek outside funding wherever possible to fund vital health services.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is hereby authorized to submit a grant agreement to Alameda County for fiscal year 2020 funding for the Tobacco Prevention Program: to provide tobacco cessation services, enforcement of tobacco retail licensing requirements and youth prevention education, to accept the grant; execute any resultant revenue agreements and amendments; and implement the projects and appropriation of funding in the amount of \$76,290 for related expenses, subject to securing the grant. Budget Codes (Revenue): 326-51-506-559-2053-000-000-433110-; (Expenditure): 326-51-506-559-2053-000-451- various; CMS No. SQTJM. A record signature copy of said agreements and any amendments shall be on file in the office of the City Clerk.



Office of the City Manager

CONSENT CALENDAR May 14, 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 Public Health Services

## RECOMMENDATION

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

- 1. Child Health and Disability Prevention (CHDP) Program, which includes Early Periodic Screening, Diagnosis and Treatment (EPSDT) and Health Care Program for Children in Foster Care (HCPCFC), in the projected amount of \$442,073 for FY 2020.
- 2. Maternal, Child and Adolescent Health (MCAH) Program, in the projected amount of \$336,000 for FY 2020.
- 3. **Tuberculosis Control Program** in the projected amount of \$14,000 for FY 2020.
- 4. **Women, Infants and Children (WIC)** in the projected amount of \$525,547 each year for Federal Fiscal Years 2020 through 2022 for a total of \$1,576,641.
- 5. **Nutrition Education & Obesity Prevention (NEOP) Program,** in the projected amount of \$161,207 for Federal Fiscal Years 2020 through 2022 for a total amount of \$483,621.
- 6. **HIV/AIDS Surveillance** in the projected amount of \$29,088 for Fiscal Years 2020 through 2022 for a total of \$87,264.
- 7. **Sexually Transmitted Diseases (STD) Prevention and Control** in the projected amount of \$6,230 each year for FY 2020 through 2022 for a total of \$18,692.

## FISCAL IMPACTS OF RECOMMENDATION

The City of Berkeley will receive funds in the estimated amount of \$1,493,915 from the State of California for FY 2020 through the funding sources listed above. Each contract will have its own identifying CMS and contract number and each source has a defined budget code:

- 1. Child Health and Disability Prevention (CHDP) Program: CMS No. TGMJ6, Revenue Budget Code 312-51-506-556-2046-000-000-432110-, 312-51-506-562-0000-000-000-432110-, and 312-51-506-562-0000-000-000-432110-. Included in this single State contract, the Early Periodic Screening, Diagnosis, and Treatment (EPSDT) Program and the Health Care Program for Children in Foster Care (HCPCFC). The State establishes an annual cap on local revenue for this program and requires a local match. The precise amount of revenue the City earns is determined by the City's level of match funding, program staff time-studies, and level of eligible services. The City will provide \$39,152 in matching funding in Expenditure Budget Codes 312-51-506-562-0000-000-451- various and 011-51-506-555-0000-000-451- various. Revenue for FY 2020 is expected to be \$442,073.
- 2. Maternal, Child and Adolescent Health (MCAH) Program: CMS No. M682X, Revenue Budget Code 312-51-506-562-0000-000-000-432110-. The state establishes an annual cap on local revenue for this program and requires a local match. The precise amount of revenue the City earns is determined by the City's level of match funding, program staff time-studies, and level of eligible services. The City provides \$285,669 in matching funding in Expenditure Budget Codes 011-51-506-562-0000-000-451- various, 011-51-506-559-2073-000-451- various, and 011-51-506-562-0000-000-451- various. Revenue for FY 2020 is expected to be \$336,000.
- 3. Tuberculosis Control Program: CMS No. URX7F, Revenue Budget Code: 312-51-506-563-0000-000-000-432110-. There is no match required and this contract is expected to be for \$14,000 in FY 2020. The State mechanism for distribution of Tuberculosis funding is dependent upon the number of cases and may be significantly different from anticipated levels if there are fewer or more qualifying cases.
- **4. Women, Infants and Children (WIC):** CMS No. E22AM. Revenue Budget Code: 312-51-506-562-2061-000-000-432110-. There is no match required and this contract is expected to be for \$525,547 each year for Federal Fiscal Years 2020 through 2022 for a total of \$1,576,641.
- **5. Nutrition Education & Obesity Prevention (NEOP):** CMS No. RJQ5V. Revenue Budget Code: 312-51-506-559-2066-000-000-432110-. There is no match required and this contract is expected to be for \$161,207 each year for Federal Fiscal Years 2020 through 2022 for a total of \$483,621.

- **6. HIV/AIDS Surveillance:** CMS No. MRX31. Revenue Budget Code: 312-51-506-563-0000-000-432110-. There is no match required and this contract is expected to be for \$29,088 each year for FY 2020 through 2022 for a total of \$87,264.
- **7. Sexually Transmitted Diseases (STD) Prevention and Control:** CMS No. JSAHP. Revenue Budget Code: 312-51-506-561-0000-000-000-432110-. There is no match required and this contract is expected to be for \$6,230 each year for FY 2020 through 2022 for a total of \$18,692.

Spending of all referenced grant funds is subject to Council approval of the budget for each fiscal year and the Annual Appropriations Ordinances. Depending on the timing of when grants are officially awarded and the amounts are determined, the grant budgets will be adjusted as part of a future amendment to the FY 2020 Annual Appropriations Ordinance.

## **CURRENT SITUATION AND ITS EFFECTS**

As a local health jurisdiction, the City of Berkeley provides a broad range of public health program services to the community, with the goals of addressing health inequities, promoting healthy environments and behaviors, protecting residents from disease, and preventing illness, disability, and premature death. In addition to the funding referenced in this report, the City also has continuing multi-year public health grants with the State of California. The total additional anticipated revenue from these state grants is \$1,493,915 in FY 2020.

#### **BACKGROUND**

The City of Berkeley receives funding from many sources annually to complete work related to improving the health of the community. As a local health jurisdiction, the City is entitled to specific State funding to meet core public health objectives. The Division is committed to providing essential services to the community to prevent the spread of disease and to promote healthy environments.

The State establishes funding caps for the CHDP/EPSDT/HCPCFC and MCAH programs, with actual revenue determined by City matching funds and service delivery. Revenue projections are based on recent year actual revenues in these programs, service-delivery staffing, eligible client populations, and available matching funds. These projections will enable the Department to keep expenditures within actual revenues, by budgeting expenditures to realistic revenue projections.

Each grant serves a specific purpose in the Department's work towards improving the health of our community:

1. Child Health and Disability Prevention (CHDP) Program, which includes the Early Periodic Screening, Diagnosis, and Treatment (EPSDT) Program and the Health

CONSENT CALENDAR May 14, 2019

Care Program for Children in Foster Care (HCPCFC), ensures access to complete health assessments for the early detection and prevention of disease and disabilities for low-income children and youth including children in the foster care system.

- 2. Maternal, Child and Adolescent Health (MCAH) Program develops and implements systems that protect and improve the health of women of reproductive age, infants, children, adolescents and their families and works to reduce the morbidity and mortality of pregnant African American women and their infants. The MCAH program includes Berkeley's Black Infant Health program, which provides groups and other supports to pregnant and post-partum mothers and their infants.
- Tuberculosis Control Program conducts Public Health tuberculosis control and prevention activities and provides related services such as providing food, shelter, and incentives to enhance treatment adherence.
- 4. Women, Infants and Children (WIC) mitigates the negative health effects of poor nutrition among low income women, infants and children by providing nutritious foods to supplement diets, information on healthy eating, breastfeeding support and referrals to health care services.
- 5. Nutrition Education & Obesity Prevention (NEOP) promotes healthy eating and physical activity, and provides education and outreach around hypertension and diabetes to underserved communities in Berkeley. This grant specifically includes activities in the Heart 2 Heart program neighborhood.
- HIV/AIDS Surveillance meets core Public Health objectives by maintaining HIV
  case surveillance in health, medical, public health and social settings as well as
  by collecting and reporting accurate and complete HIV surveillance to the State
  Office of AIDS as required.
- 7. Sexually Transmitted Diseases (STD) Prevention and Control program supports evidence-based public health activities to proactively address STDs with emphasis on the prevention and control of infectious syphilis, congenital syphilis, gonorrhea, and chlamydia trachomatis infection.

## **ENVIRONMENTAL SUSTAINABILITY**

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

## RATIONALE FOR RECOMMENDATION

These funds support vital services related to our mandates as a public health jurisdiction and local initiatives designed to address health inequities in Berkeley and improve the health of Berkeley residents. These non-competitive grants support the

Department's mission and provide the City with funding to continue working to protect and improve the health of the community.

## ALTERNATIVE ACTIONS CONSIDERED

This funding is essential for the Public Health Division's mission and goals. The Public Health Division assesses each funding source to ensure that it supports the City's mission and goals. The alternative action of not seeking any of these funding sources would result in a significant reduction in public health services to the community.

## CONTACT PERSON

Janice Chin, Manager, Public Health Division, HHCS, (510) 981-5121

#### Attachments:

- 1. Resolution: CHDP/EPSDT/HCPCFC Program
- 2. Resolution: MCAH and BIH Programs
- 3. Resolution: Tuberculosis Control Program
- 4. Resolution: WIC
- 5. Resolution: NEOP
- 6. Resolution: HIV/AIDS Surveillance
- 7. Resolution: STD Prevention and Control

GRANT AGREEMENT: STATE OF CALIFORNIA FOR CHILD HEALTH AND DISABILITY PREVENTION (CHDP), EARLY PERIODIC SCREENING, DIAGNOSIS AND TREATMENT (EPSDT) AND HEALTH CARE PROGRAM FOR CHILDREN IN FOSTER CARE (HCPCFC) PROGRAMS FOR FY 2020

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services, Public Health Division, is committed to assuring access to complete health assessments for the early detection and prevention of disease and disabilities for low-income children and youth including children in the foster care system; and

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services provides a broad range of needed public health program services to the community; and

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services works to promote healthy environments and behaviors, protect residents from disease, and prevent illness, disability, and premature death; and

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services seeks to eliminate health inequities; and

WHEREAS, the City of Berkeley should seek outside funding wherever possible to fund vital health services.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is hereby authorized to submit a grant agreement to the State of California for funding for fiscal year 2020 for the Child Health and Disability Prevention, Early Periodic Screening, Diagnosis and Treatment (EPSDT) and Health Care Program for Children in Foster Care (HCPCFC): to assure access to complete health assessments for the early detection and prevention of disease and disabilities for low-income children and youth including children in the foster care system; to accept the grant; execute any resultant revenue agreements and amendments; and implement the projects and appropriation of funding in the estimated amount of \$442,073 for related expenses, subject to securing the grant. Budget Codes (Revenue): 312-51-506-556-2046-000-000-432110-, 312-51-506-562-0000-000-000-432110-, 312-51-506-562-0000-000-432110-; (Expenditure): 326-51-506-556-2046-000-451-various, 312-51-506-562-0000-000-451-various, and 011-51-506-555-0000-000-451-various; CMS No. TGMJ6. A record signature copy of said agreements and any amendments shall be on file in the office of the City Clerk.

## GRANT AGREEMENT: STATE OF CALIFORNIA FOR THE MATERNAL, CHILD, AND ADOLESCENT HEALTH (MCAH) FOR FY 2020

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services, Public Health Division, is committed to developing systems that protect and improve the health of women of reproductive age, infants, children, adolescents and their families; and

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services, Public Health Division, is committed to reducing the morbidity and mortality of pregnant African American women and their infants; and

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services provides a broad range of needed public health program services to the community; and

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services works to promote healthy environments and behaviors, protect residents from disease, and prevent illness, disability, and premature death; and

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services seeks to eliminate health inequities; and

WHEREAS, the City of Berkeley should seek outside funding wherever possible to fund vital health services.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is hereby authorized to submit a grant agreement to the State of California for funding for fiscal year 2020 for the Maternal, Child, and Adolescent Health (MCAH) program: to develop systems that protect and improve the health of women of reproductive age, infants, children, adolescents and their families and to reduce the morbidity and mortality of pregnant African American women and their infants; to accept the grant; execute any resultant revenue agreements and amendments; and implement the projects and appropriation of funding in the estimated amount of \$336,000 for related expenses, subject to securing the grant. Revenue Budget Code 312-51-506-562-0000-000-432110-. Expenditure Budget Codes 011-51-506-562-0000-000-451-various, 011-51-506-559-2073-000-451- various, and 011-51-506-562-0000-000-451-various. CMS No. M682X. A record signature copy of said agreements and any amendments shall be on file in the office of the City Clerk.

## GRANT AGREEMENT: STATE OF CALIFORNIA FOR THE TUBERCULOSIS PROGRAM FOR FY 2020

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services, Public Health Division, is committed to conduct Public Health tuberculosis control and prevention activities and provide related services to ensure adherence to State and Federal standards; and

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services, Public Health Division, is committed to protecting residents of Berkeley from unidentified and untreated tuberculosis infections and disease; and

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services provides a broad range of needed public health program services to the community; and

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services works to promote healthy environments and behaviors, protect residents from disease, and prevent illness, disability, and premature death; and

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services seeks to eliminate health inequities; and

WHEREAS, the City of Berkeley should seek outside funding wherever possible to fund vital health services.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is hereby authorized to submit a grant agreement to the State of California for funding for fiscal year 2020 for the Tuberculosis Control program: to conduct Public Health tuberculosis control and prevention activities and provide related services; to accept the grant; execute any resultant revenue agreements and amendments; and implement the projects and appropriation of funding in the estimated amount of \$14,000 for related expenses, subject to securing the grant. Budget Codes (Revenue): 312-51-506-563-0000-000-432110-; (Expenditure) 312-51-506-563-0000-000-451- various; CMS No. URX7F. A record signature copy of said agreements and any amendments shall be on file in the office of the City Clerk.

## RESOLUTION NO. -N.S.

## GRANT AGREEMENT: STATE OF CALIFORNIA FOR THE WOMEN, INFANTS AND CHILDREN PROGRAM

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services, Public Health Division, is committed to providing nutritious foods to supplement inadequate diets, nutrition education, and referrals to health care for pregnant, breastfeeding, and non-breastfeeding postpartum women, infants and children up to age five who are found to be at nutritional risk; and

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services provides a broad range of needed public health program services to the community; and

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services works to promote healthy environments and behaviors, protect residents from disease, and prevent illness, disability, and premature death; and

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services seeks to eliminate health inequities; and

WHEREAS, the City of Berkeley should seek outside funding wherever possible to fund vital health services.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is hereby authorized to accept State of California funding for federal fiscal years 2020 through 2022 for the Women, Infants and Children program: to provide nutritious foods to supplement inadequate diets, nutrition education, and referrals to health care for pregnant, breastfeeding, and non-breastfeeding postpartum women, infants and children up to age five who are found to be at nutritional risk; execute any resultant revenue agreements and amendments; and implement the projects and appropriation of funding in the estimated amount of \$1,576,641 for related expenses. Budget Codes (Revenue): 312-51-506-562-2061-000-000-432110-; (Expenditure) 312-51-506-562-2061-000-451-various; CMS No. E22AM. A record signature copy of said agreements and any amendments shall be on file in the office of the City Clerk.

# GRANT AGREEMENT: STATE OF CALIFORNIA FOR THE NUTRITION EDUCATION AND OBESITY PREVENTION (NEOP) PROGRAM

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services, Public Health Division, is committed to providing nutrition education and physical activity promotion to underserved communities; and

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services provides a broad range of needed public health program services to the community; and

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services works to promote healthy environments and behaviors, protect residents from disease, and prevent illness, disability, and premature death; and

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services seeks to eliminate health inequities; and

WHEREAS, the City of Berkeley should seek outside funding wherever possible to fund vital health services.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is hereby authorized to submit a grant agreement to the State of California for funding for Federal fiscal years 2020 through 2022 for the NEOP program: to provide nutrition education and physical activity promotion to underserved communities; to accept the grant; execute any resultant revenue agreements and amendments; and implement the projects and appropriation of funding in the total estimated amount of \$483,621 for related expenses, subject to securing the grant. Budget Codes (Revenue): 312-51-506-559-2066-000-432110-; (Expenditure): 312-51-506-559-2066-000-451- various; CMS No. RJQ5V. A record signature copy of said agreements and any amendments shall be on file in the office of the City Clerk.

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

## GRANT AGREEMENT: STATE OF CALIFORNIA FOR THE HIV/AIDS SURVEILLANCE PROGRAM

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services, Public Health Division, works to promote healthy environments and behaviors, protect residents from disease, and prevent illness, disability, and premature death; and

WHEREAS, the Public Health Division provides a broad range of needed public health services to the community; and

WHEREAS, the Public Health Division seeks to eliminate health inequalities; and

WHEREAS, the Public Health Division is mandated to conduct HIV/AIDS Surveillance in Berkeley; and

WHEREAS, the City of Berkeley should seek outside funding wherever possible to fund vital health services.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is hereby authorized to submit a grant agreement to the State of California for funding for fiscal years 2020, 2021, and 2022 for the HIV/AIDS Surveillance Program: to perform and enhance HIV/AIDS surveillance in Berkeley; to accept the grant; to execute any resultant revenue agreements and amendments; and to implement the projects and appropriation of funding in the estimated amount of \$87,264 for related expenses, subject to securing the grant. Budget Codes (Revenue): 312-51-506-563-0000-000-432110-; (Expenditure): 312-51-506-563-0000-000-451- various; CMS No. MRX31. A record signature copy of said agreements and any amendments shall be on file in the office of the City Clerk.

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

# GRANT AGREEMENT: CALIFORNIA DEPARTMENT OF PUBLIC HEALTH FOR SEXUALLY TRANSMITTED DISEASE (STD) PREVENTION AND CONTROL

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services provides a broad range of needed public health program services to the community; and

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services works to promote healthy environments and behaviors, protect residents from disease, and prevent illness, disability, and premature death; and

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services seeks to eliminate health inequities; and

WHEREAS, the City of Berkeley should seek outside funding wherever possible to fund vital health services; and

WHEREAS, it is state mandated to provide prevention and control of infectious syphilis, congenital syphilis, gonorrhea, and chlamydia trachomatis infection; and

WHEREAS, this California Department of Public Health funding will contribute toward supporting the investigation and prevention of sexually transmitted diseases.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is hereby authorized to accept grant funds from the California Department of Public Health for fiscal year 2020 through fiscal year 2022, for the prevention and control of infectious syphilis, congenital syphilis, gonorrhea, and chlamydia trachomatis infection; and to execute any resultant revenue agreements, amendments; and to implement the projects and appropriation of funding in the estimated amount of \$18,692 for related expenses, subject to securing the grant. Budget Code (Revenue): 312-51-506-561-0000-000-000-432110-; (Expenditure): 312-51-506-561-2057-000-451- various; CMS No. JSAHP. A record signature copy of said agreements and any amendments shall be on file in the office of the City Clerk.

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## CONSENT CALENDAR May 14, 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 Essential Access Health

to Conduct Public Health Services

## RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to submit a grant application to Essential Access Health, to accept the grant, execute any resultant revenue agreement and amendment, and implement the projects and appropriation of funding for related expenses to conduct public health promotion, protection, and prevention services for the Essential Access Health revenue agreement in the projected amount of \$139,260 for April 1, 2019 to March 30, 2020.

## FISCAL IMPACTS OF RECOMMENDATION

The City of Berkeley will receive funds in the projected amount of \$139,260 for FY 2020 through the funding source listed above. The contract will have its own identifying CMS and contract number and the source has a defined budget code.

**Essential Access Health,** CMS No. MZPL3: The April 1, 2019 – March 30, 2020 \$139,260 allocation will be allocated to revenue budget codes 321-51-506-561-0000-000-000-431110- and 321-51-506-560-0000-000-000-431110- and will be distributed among the health clinics as follows: Ann Chandler Public Health Clinic - \$97,482 (Expenditure Project Code: 321-51-506-561-0000-000-451- various); and the High School Health Centers (HSHC) - \$41,778 (Expenditure Budget Code: 321-51-506-560-0000-000-451- various). There are no matching funds required by the funder.

Spending of the referenced grant funds is subject to Council approval of the budget and the Annual Appropriations Ordinances. Depending on the timing of when grants are officially awarded and the amounts are determined, the grant budgets will be adjusted as part of the First Amendment to the FY 2020 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. This grant will fund the following services:

Essential Access Health is the administrator for California's Title X federal family planning funds to provide reproductive health services at the Ann Chandler Public Health Clinic and the High School Health Centers (Berkeley High School Health Center and Berkeley Technology Academy Health Center). Federal Title X Funds are given to a non-profit agency, Essential Access Health, and are then dispersed to local health jurisdictions throughout the State through a competitive grant process. The funds are used to support clinical reproductive health services, as well as individual and community health education and outreach activities.

## **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 committed to exploring opportunities for funding to support key initiatives to augment base funding resources. The Division is committed to providing essential 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 the City's mandates as a public health jurisdiction and local initiatives designed to address health inequities in Berkeley and improve the health of Berkeley residents. These competitive grants support the Department's mission and provide the City with funding to continue working to protect and improve the health of the community.

## ALTERNATIVE ACTIONS CONSIDERED

The Public Health Division assesses each funding source to ensure that it supports the City's mission and goals. The alternative action of not seeking any of these funding sources would result in not providing these public health services to the community.

## **CONTACT PERSON**

Janice Chin, Manager, Public Health Division, HHCS, (510) 981-5121

#### Attachments:

1. Resolution

## REVENUE GRANT: ESSENTIAL ACCESS HEALTH FOR CLINICAL REPRODUCTIVE HEALTH SERVICES AND HEALTH EDUCATION AND OUTREACH

WHEREAS, it is important to provide comprehensive clinical reproductive health services to individuals of reproductive age to plan their pregnancies and prevent and reduce sexually transmitted infections; and

WHEREAS, preconception/inter-conception care and education is a key part of family planning services; and

WHEREAS, adolescents require teen specific counseling and education; and

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services, through Title X funds, will provide reproductive health services and education at the Ann Chandler Public Health Clinic, Berkeley High School Health Center and Berkeley Technology Academy Health Center; and

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services seeks to eliminate health and educational inequities; and

WHEREAS, the projected amount of the grant is \$139,260; and

WHEREAS, the City of Berkeley should seek outside funding wherever possible to fund vital health services.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is hereby authorized to submit grant application to Essential Access Health for April 1, 2019 – March 30, 2020 to support clinical reproductive health services, as well as individual and community health education and outreach activities; to accept the grant funds; execute any resultant revenue agreements and amendments in line with the grant award, which may be larger or smaller than the projected award of \$139,260; and implement the projects and appropriation of funding for related expenses, subject to securing the grant. Budget Codes (Revenue): 321-51-506-561-0000-000-431110- and 321-51-506-560-0000-000-431110-; (Expenditure): 321-51-506-561-0000-000-451- various and 321-51-506-560-0000-000-451- various; CMS No. MZPL3. A record signature copy of said agreements and any amendments shall be on file in the office of the City Clerk.



CONSENT CALENDAR
May 14, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Savita Chaudhary, Director, Department of Information Technology

Subject: Purchase Order with Carahsoft Technology Corporation: Using General

Services Administration (GSA) Schedule for hardware, software, and services related to the Data Center Infrastructure Upgrade and Disaster Recovery

Implementation

#### RECOMMENDATION

Adopt a Resolution authorizing the City Manager to increase spending authority 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.

#### POLICY COMMITTEE RECOMMENDATION:

On April 25, 2019, the Budget and Finance Committee adopted the following action: M/S/C (Droste/Davila) to send the item to the full Council with a Positive Recommendation. Vote: Ayes – Davila, Droste; Noes – None; Abstain – None; Absent – Kesarwani.

## FISCAL IMPACTS OF RECOMMENDATION

Funding for this project in the amount of \$1,678,953 is available in the Department of Information Technology's Fiscal Year (FY) 2019 FUND\$ Replacement, Computer Replacement, Capital Improvement, General Fund, Employee Training Fund, and IT Cost Allocation. Spending for software maintenance in future years is subject to Council approval of the proposed citywide budget and annual appropriations ordinances.

### FY 2019: Summary

\$1,678,953	Total FY 2019 Hardware and Services	_
\$40,450	Total FY 2019 Professional Services	
\$1,638,503	Total FY 2019 Hardware	
Amount	Description	

## FY 2019: Hardware and Software

\$400,000	FUND\$ Replacement: 503-35-362-376-0000-000-412-664140-
\$571,000	Computer Replacement: 675-35-362-376-0000-000-473-664140-
\$365,860	Capital Improvement Fund: 501-35-362-376-0000-000-412-664140-
\$301,483	IT Cost Allocation Fund: 680-35-361-000-0000-000-473-664140-
\$1,638,503	Total FY19: Hardware and Software
FY 2019: Profes	sional Services
\$30,650	IT Cost Allocation Fund: 680-35-361-000-0000-000-472-612990-
\$9,800	Employee Training Fund: 146-35-361-000-0000-000-412-612990-
\$40,450	Total FY19: Implementation Services

## **CURRENT SITUATION AND ITS EFFECTS**

The City's current server and storage environment has very limited redundancy and disaster recovery (DR) in place, leaving daily operations and services vulnerable to a total outage or a significant interruption after a local disaster, such as an earthquake. Though the City can handle a single server failure, we cannot currently stay up and running when multiple locations are impacted (e.g., when 2180 Milvia and Public Safety are experiencing issues). There is also minimal physical redundancy, with the exception of some of our Public Safety systems. And, the existing platform: (i) lacks scalability, (ii) requires multiple levels of support to manage and (iii) has no onsite or offsite disaster recovery capability.

In addition to lacking DR, the current solution is setup in a 3-tier model (virtual environment, servers, and backend storage) – an outdated technology that requires high overhead and costly to maintain. It is time consuming to deploy new applications and it lacks the stability needed for our mission critical applications. Department of Information Technology (DoIT) staff estimates that standard maintenance and support of these environments takes up an average of 8 staff hours a week or 400 hours a year during working hours and approximately 40-50 hours of additional overtime per year. Vendor support for the 3-tier model is also a concern since each tier in the model has a different support supplier, contact mechanism, and fulfillment approach. This regularly results in delays as well as frequent escalations. Depending on the situation, multiple vendors may be involved to support issue resolution which results in support delays.

In contrast, Nutanix Hyper Converged Infrastructure, storage and disaster recovery solution will provide a simple and easy infrastructure that significantly reduces the DolT staff overhead. A Hyper-Converged Infrastructure (HCI) combines the 3-tiers from the other infrastructure model into a single one. That, in turn, gives us a single, "one-stop-shop" view, freeing us from procedural complexity for support and maintenance, and resulting in fewer and a lower likelihood of errors. The simplified infrastructure is also more efficient in its vendor support, as one support team supports the entire environment.

In terms of disaster recovery (DR), the new HCI solution (called "Xi Leap") will provide full redundancy between the data centers at City Hall and the Public Safety Building. It will also provide a secure offsite DR location so that, in the event of a major local disaster (e.g., an earthquake or mass fire), the City will be able to maintain daily operations uninterrupted. The contract further aids the City in being prepared, allowing us to test the HCI's DR capabilities every quarter. It is built secure, it provides data encryption and other cyber security controls by default, and its security is incident-tested. This is one of the core goals of the Cyber Resilience Plan.

In summary, some of the expected benefits of the solution are:

- 1. Reduces our datacenter footprint, avoiding costs tied to provisioning storage while dynamically expanding resources when and as needed
- 2. Incorporates a scalable infrastructure that simultaneously reduces deployment time from days to hours, improving resource allocation of DoIT staff
- 3. Reduces our server rack space, power and cooling requirements, producing power savings and reducing our carbon footprint
- 4. Achieves DolT operational and cost efficiencies along with improved application performance by leveraging software-defined technology the latest technology
- 5. Provides a single management console with high availability and improved failover while also creating disaster recovery (DR) capabilities
- 6. Allows both data centers to replicate between themselves with an increased capacity that is large enough to host both of them in the event one fails
- 7. Provides DR offsite in case both datacenters were to go down and we need to activate the EOC and the DR offsite
- 8. Increases datacenter, server and data security
- 9. Ensures and enhances the delivery of services to the community
- 10. Decreases standard maintenance and support delays and overall time to complete

Datacenter Infrastructure Upgrade, Disaster Recovery installation and Implementation is a Strategic Plan Priority Project, advancing our City's strategic goal to provide state-ofthe-art, well-maintained infrastructure, amenities, and facilities.

#### **BACKGROUND**

The Department of Information Technology (DoIT) supports the City's core technology 3-tier server and storage infrastructure and staff spends a great deal of time in supporting and maintaining our infrastructure – keeping it configured correctly, optimized and available 24X7. Historically we have purchased various best of the breed solutions to meet our individual project needs which lacks the flexibility and scalability needs for the future projects. The staff uses multiple consoles and interfaces to keep the systems operational and for ongoing monitoring.

Carahsoft Technology Corporation: Data Center Infrastructure Upgrade, Disaster Recovery Installation and Implementation

CONSENT CALENDAR May 14, 2019

The DoIT staff researched various 3-tier and hyper-converged storage technologies, with a priority towards finding a solution that would provide both local and off-site disaster recovery, and ideally with the same vendor to reduce the complexity of the solution, simplify datacenter operations while improving service delivery and to ensure seamless support in the event of a disaster, without increasing the cost of operations.

Nutanix has a single management dashboard for its hypervisor, server hardware, storage, and DR management. The current 3-tier systems have separate applications to manage the hypervisor, storage, server hardware and DR tools.

**Staff Time -** Currently it takes three separate maintenance windows to upgrade current 3-tier systems compared to one maintenance windows for Nutanix. Nutanix has the ability to do one button upgrades for all software and components. The staff time savings are estimated at 1/3 staff member (FTE) time which can be reallocated to the other infrastructure projects as identified in the City's Digital Strategic Plan (DSP) and Cyber Resilience efforts.

**Server Room Space** - The current 3-tier systems at the Civic Center Data Center (CCDC) uses 24U of rack space compared to 16U needed for the Nutanix servers or 33% less rack space thus resulting in power savings.

**Power and Cooling** - There are 20 existing systems at the CCDC compared to 8 needed for Nutanix. Each system uses 2 power cables. For instance, average usage of one server is 850 watts per hour with an average of 7446kWh (kilowatt hour) per year. The existing power consumption comes to 148,920 kWh/year compared to 59,568 kWh/year needed for the Nutanix systems or 60% less power requirement thus resulting in power savings and reducing carbon footprint. According to the U.S. Energy Information Administration

(https://www.eia.gov/electricity/monthly/epm\_table\_grapher.php?t=epmt\_5\_6\_a), as of December 2018 the average rate for electricity is 19.44 cents per kWh thus bringing the operational power costs down from \$28,950.05 to \$11,580.02 annually

Adding new hosts and clusters takes many hours and is very complex to integrate into existing environment. Issues with current controllers turning off and long support times cost the city staff hundreds of hours making sure the systems stayed redundant and online. We documented 6 incidents with high impact since 2015. We began to log these in 2015 after having multiple issues.

Current solution did not give a seamless way to failover during a data center outage and had no way to send our data to a remote provider without having the same infrastructure and storage systems which is not feasible financially to maintain twice the infrastructure.

Carahsoft Technology Corporation: Data Center Infrastructure Upgrade, Disaster Recovery Installation and Implementation

CONSENT CALENDAR May 14, 2019

Within the Nutanix solution we will have full encryption, local DR (DR between both CCDC and Public Safety Building (PSB) data centers), remote DR (to Nutanix East Coast Site), data compression and data deduplication all from the same provider.

Nutanix provides one call support for all components purchased. This includes the hardware, hypervisor, and software (Encryption, compression, DR (LEAP and Xi LEAP) and deduplication). During our research San Mateo County said "The support is excellent and Nutanix called them when a drive was failing and sent it out automatically". Our current vendor on the other hand waits for us to call to get support and fix, this has taken over 16 hours in few cases.

After comparing different options, including looking at the ease of support and maintenance, the continuity of support in the event of a disaster, and speaking with other local jurisdictions about their storage and disaster recovery solutions (BART, City of San Mateo, California Public Utilities Commission), the City intends to move forward with a Nutanix solution. Nutanix provides both local and offsite disaster recovery from a single vendor, and with a hyper-converged solution that simplifies support and maintenance.

# **ENVIRONMENTAL SUSTAINABILITY**

The Nutanix hyper-converged solution is a simplified and streamlined design compared to a typical 3-tier solution, reducing the 60% power consumption reduction for equipment and 50% reduction in hardware space required for both data centers, which has a direct reduction in power consumption and server room cooling requirements. This supports the reduction of carbon footprint and the goals of the City's Climate Action Plan.

## RATIONALE FOR RECOMMENDATION

Nutanix is an industry leader in the hyper-converged market, and have received high marks for customer service and support when compared with other hyper-converged and 3-tier vendors in the marketplace. Department of Information Technology (DoIT) staff consulted with BART, San Mateo County, and the California Public Utilities Commission, all of whom use the Nutanix solution. San Mateo County reported overall system stability and a reduction in support costs. BART reported a 50% reduction in support time for IT staff. Staff recommends the Nutanix hyper-converged solution as the solution best met the City's operational, technological, and fiscal requirements

## ALTERNATIVE ACTIONS CONSIDERED

DoIT staff researched multiple 3-tier and hyper-converged solutions. 3-tier solutions proved to have higher administrative and support costs, and require more staff time to support and maintain when compared with hyper-converged solutions. In the hyper-converged space, the Nutanix solution provided both local and offsite disaster recovery with a single vendor, which satisfies the two main requirements of providing both local and offsite disaster recovery, as well as reduced support and maintenance costs, and continuity of support in the event of a disaster. In addition the City would not yield better

Carahsoft Technology Corporation: Data Center Infrastructure Upgrade, Disaster Recovery Installation and Implementation

CONSENT CALENDAR May 14, 2019

pricing compared to what is achieved through Carahsoft Technology Corporation within the structure of the GSA agreement.

# **CONTACT PERSON**

Savita Chaudhary, Director, Department of Information Technology, 510-981-6541

# Attachments:

1: Resolution

PURCHASE ORDER: CARAHSOFT TECHNOLOGY CORPORATION USING STATE COOPERATIVE GENERAL SERVICES AGREEMENT FOR DATA CENTER INFRASTRUCTURE UPGRADED, DISASTER RECOVERY INSTALLATION AND IMPLEMENTATION

WHEREAS, the City of Berkeley's core infrastructure is 3-tier based and multiple vendor technologies are implemented. Nutanix Hyper Converged Infrastructure, storage and disaster recovery solution, will provide a hyper-converged, or "1-tier" infrastructure that will significantly reduce administration and support time for Department of Information Technology staff; and

WHEREAS, after comparing different options, including looking at the ease of support and maintenance, the continuity of support in the event of a disaster, and speaking with other local jurisdictions about their storage and disaster recovery solutions, the City intends to move forward with a Nutanix solution. Nutanix provides both local and offsite disaster recovery from a single vendor, and with a hyper-converged solution that simplifies support and maintenance; and

WHEREAS, by utilizing existing GSA pricing schedules, the City of Berkeley is able to take advantage of pre-negotiated prices, economies of scale, and increased efficiencies; and

WHEREAS, funding for this project in the amount of \$1,678,953 is available in the Department of Information Technology's Fiscal Year (FY) 2019 FUND\$ Replacement, Computer Replacement, Capital Improvement, General Fund, Employee Training Fund, and IT Cost Allocation, spending for software maintenance in future years is subject to Council approval of the proposed citywide budget and annual appropriations ordinances.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to approve purchase orders 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.



To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Savita Chaudhary, Director, Department of Information Technology

Subject: Contract No. 10934 Amendment: CBF Electric & Data for Wi-Fi Installation in

City Facilities

# RECOMMENDATION

Adopt a Resolution authorizing the City Manager to amend Contract No. 10934 with CBF Electric & Data (CBF) for Wi-Fi installation in City facilities, increasing the contract amount by \$50,015 for a total not-to-exceed amount of \$75,014 from July 2, 2018 to June 30, 2021.

## FISCAL IMPACTS OF RECOMMENDATION

Funds for the current fiscal year's professional services are available in the Department of Information Technology's Fiscal Year (FY) 2019 IT Cost Allocation Fund as itemized below. Funding for future years is subject to Council approval of the proposed city-wide budget and Annual Appropriation Ordinances:

FY 2019: Professional Services

\$24,980 Budget Code: 680-35-362-376-0000-000-472-613130-

(IT Cost Allocation, Enterprise Services, Professional Services)

FY 2020: Professional Services

\$25,035 Budget Code: 680-35-362-376-0000-000-472-613130-

(IT Cost Allocation, Enterprise Services, Professional Services)

\$50,015 Total FY 2019 and FY 2020: Professional Services for Wi-Fi Installation

# **CURRENT SITUATION AND ITS EFFECTS**

The City is continuing to establish wireless access (Wi-Fi) at all City facilities, both for use by City staff and for use by the community in City facilities that are open to the public. A portion of these wireless access points (WAPs) have been in place for 5 years and are due for replacement.

In addition, City staff will add additional WAPs to increase the City's Wi-Fi network in all City facilities. City Wi-Fi provides City network access to City-issued laptops, and also provides internet access on a guest network for use by community members in public

facilities, including the Finance Customer Service Center, the Permit Service Center, the Public Health Clinic, the Mental Health Clinic, and the North and South Berkeley Senior Centers. Moving forward the City plans to provide Wi-Fi access across all City locations.

The City has previously worked with CBF on other WAP installations. CBF provided reliable and efficient installation services that were completed on time and on budget. The City would like to continue to use CBF Electric & Data for the WAP installs and replacements scheduled for FY 2019 and FY 2020.

#### **BACKGROUND**

The City has provided wireless access for City staff since FY 2006, beginning with the Public Safety Building parking lot to assist with network connectivity for the Mobile Device Computers (MDCs) in the Police vehicles, as well as the Fire Stations. Shortly after implementation, the City setup Wi-Fi for the Marina berths in an effort to stay competitive and provide comparable services in comparison to other Bay Area marinas.

In FY 2014 the City expanded Wi-Fi access to City Hall, the Corp. Yard, and Live Oak Recreation Center. In FY 2015 and FY 2016, the City expanded Wi-Fi access to include Council Chambers, the Mental Health Clinic, the Public Safety Building, the Police Traffic Substation, and the Rent Board.

Recognizing the increasing demand and convenience of wireless access, in July of 2018 the City entered into a contract with CBF Electric & Data to install and/or replace 51 Wireless Access Points (WAPs) across 13 different City locations. Locations for this project included the Finance Customer Service Center, the Permit Service Center, the Public Health Clinic, the Mental Health Clinic, the Frances Albrier Recreation Center, the Shorebird Nature Center, and the North and South Berkeley Senior Centers.

#### **ENVIRONMENTAL SUSTAINABILITY**

As the City deploys advanced technology, and with the increasing demand from the community, this project will assist in providing community access to Wi-Fi at City locations. By providing remote access to data, operational efficiencies are increased for staff, and energy and global warming emissions are reduced by both staff and the community.

# RATIONALE FOR RECOMMENDATION

Staff selected CBF Electric & Data due to its competitive rates and quality of service. After an initial set of 51 installations at 13 City locations, the City was impressed with CBF's responsiveness, timeliness, and the quality of the installations completed.

# ALTERNATIVE ACTIONS CONSIDERED

Staff considered completing these installation services internally, but due to the high volume of existing work, staff do not currently have the capacity or the expertise to perform Wi-Fi installations at 13 City locations in the given timeline. CBF has extensive experience providing installation services for organizations similar in size, and has a

proven track record of completing projects on time and on budget, in addition to having responsive customer service.

# **CONTACT PERSON**

Savita Chaudhary, Director, Department of Information Technology, 510-981-6541

# Attachments:

1: Resolution

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# CONTRACT NO. 10934 AMENDMENT: CBF ELECTRIC & DATA FOR WI-FI INSTALLATION IN CITY FACILITIES

WHEREAS, the City has provided wireless access for City staff since 2006 and beginning in 2014 expanded Wi-Fi access to other City locations; and

WHEREAS, the City is continuing to establish wireless access (Wi-Fi) at all City facilities, both for use by City staff and for use by the community in City facilities that are open to the public, as well as replacing aging wireless equipment; and

WHEREAS, CBF Electric and Data has extensive experience providing installation services for organizations of similar size, and has a proven track record of completing projects on time and on budget, in addition to having responsive customer service; and

WHEREAS, funds for the current fiscal year's professional services are available in the Department of Information Technology's Fiscal Year (FY) 2019 IT Cost Allocation Fund, and funding for future years is subject to Council approval of the proposed city-wide budget and Annual Appropriation Ordinances.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to amend Contract No. 10934 with CBF Electric & Data for Wi-Fi installation in City Facilities, increasing the contract amount by \$50,015 for a total not-to-exceed amount of \$75,014 from July 2, 2018 to June 30, 2021.



To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Savita Chaudhary, Director, Department of Information Technology

Subject: Contract No. 9263B Amendment: SSP Data Products Inc. for Barracuda

Backup Solution with Hosted Cloud Storage

## RECOMMENDATION

Adopt a Resolution authorizing the City Manager to amend Contract No. 9263B with SSP Data Products Inc. for the City's Barracuda Backup Solution with hosted cloud storage, increasing the amount by \$54,520, for a total contract amount not to exceed \$300,692.24 for the term May 15, 2013 through June 30, 2020.

### FISCAL IMPACTS OF RECOMMENDATION

Funds for the additional software maintenance and support will be available in the Department of Information Technology's Fiscal Year (FY) 2020 Cost Allocation Fund as outlined below, and is subject to Council approval of the proposed citywide budget and Annual Appropriation Ordinance.

FY 2020: Software Maintenance Budget Code: 680-35-362-376-0000-000-472-613130-\$54,520 (IT Cost Allocation, Enterprise Services, Software Maintenance) Total FY 2020 Software Maintenance \$54.520

#### **CURRENT SITUATION AND ITS EFFECTS**

Currently, the Barracuda Backup Solution provides redundancy and encryption for approximately 18 terabytes (TB) of data to support the City's file, email, website, and database servers. This cloud-based system copies local disk backups to a secure, hosted location, and not only provides the redundancy of offsite tapes, but also automates the process and provides immediate access to those backups, thereby exponentially increasing efficiencies. Additionally, the Barracuda backup system provides secure encryption (256-bit AES), which meets or exceeds security requirements for the Health Insurance Portability and Accountability Act (HIPAA) and the Department of Justice (DOJ).

In FY 2020, the City will release a request for proposal (RFP) to review alternative backup solutions. With the FUND\$ replacement project and the large number of

technology initiatives in progress, there is an increased need for data backup and we have outgrown our current system. In the meantime, the City plans to renew with SSP Data and the Barracuda system for one year, through FY 2020.

#### **BACKGROUND**

Prior to 2013, the Department of Information Technology used a tape-based back-up solution, as was the industry standard. In May 2013, the City Manager executed a contract with SSP Data for a pilot project which utilized a hosted cloud storage model with SSP Data and the Barracuda backup system. Favorable pricing was offered under the General Services Agency (GSA) Federal Government Pricing Schedule 70 pricing. In June 2013, the Department of Information Technology implemented the system, and have since been satisfied with Barracuda's security, administrative tools, and the overall efficiency of the solution.

#### **ENVIRONMENTAL SUSTAINABILITY**

The implementation of Barracuda's backup solution eliminated the need for approximately 350 magnetic tape cartridges each year, who's manufacturing and recycling were not environmentally friendly to a standard that supported the City's Green IT goals. In addition, staff will no longer send backup tapes to and from offsite storage, saving transportation costs and reducing greenhouse gas emissions.

## RATIONALE FOR RECOMMENDATION

Though the City plans to release an RFP for a new backup solution in FY 2020, amending the contract with SSP Data will give the City time to make an informed decision on a new solution, and the time to implement a new solution while the existing solution is in place, to ensure continuity in the City's backup services.

#### ALTERNATIVE ACTIONS CONSIDERED

Staff considered not renewing support for the City's backup system, however not doing so would leave the City with no backup solution or encryption for the City's data.

### CONTACT PERSON

Savita Chaudhary, Director, Department of Information Technology, 981-6541

#### Attachments:

1: Resolution

# CONTRACT NO. 9263B AMENDMENT: SSP DATA FOR BARRACUDA BACKUP WITH CLOUD STORAGE

WHEREAS, in 2013, the Department of Information Technology utilized GSA pricing to move from a tape-based backup system to a hosted cloud storage model with SSP Data and the Barracuda backup system, and have since been satisfied with the tool's efficiency, security, administrative features; and

WHEREAS, the Barracuda backup system provides secure encryption (256-bit AES), which meets or exceeds security requirements for the Health Insurance Portability and Accountability Act (HIPAA) and the Department of Justice (DOJ); and

WHEREAS, with the FUND\$ Replacement Project and the large number of technology initiatives in progress, there is an increased need for data backup; and

WHEREAS, funds for the additional software maintenance and support will be available in the Department of Information Technology's Fiscal Year (FY) 2020 Cost Allocation Fund, and is subject to Council approval of the proposed citywide budget and Annual Appropriation Ordinance.

NOW THERFORE BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to amend Contract No. 9263B with SSP Data Products Inc., for a Barracuda Backup Solution with Hosted Cloud Storage, increasing the amount by \$54,520, for a total contract amount not to exceed \$300,692.24 for the term May 15, 2013 through June 30, 2020.



To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Savita Chaudhary, Director, Department of Information Technology

Subject: Contract No. 11012 Amendment: Granicus, Inc. for Video Streaming Services

### RECOMMENDATION

Adopt a Resolution authorizing the City Manager to amend Contract No. 11012 with Granicus, Inc., to continue providing live video streaming, on-demand archival video, podcasting, and web page subscription services, increasing the contract amount by \$156,966 for a total not-to-exceed amount of \$207,646 from July 1, 2017 to June 30, 2022.

## FISCAL IMPACTS OF RECOMMENDATION

Funds for the additional software maintenance and hardware will be available in the Department of Information Technology's Fiscal Year (FY) 2019-2022 Cost Allocation, Permit Service Center, and Rent Stabilization Board fund. Funding for future fiscal years is subject to Council approval of the proposed citywide budget and annual appropriation ordinances:

FY 2019: Software Maintenance for GovDelivery

\$13,356	Budget Code: 680-35-362-376-0000-000-472-613130- (IT Cost Allocation, Enterprise Applications, Software Maintenance)
\$4,500	FY 2020: Hardware (Encoder Appliance) Budget Code: 680-35-362-376-0000-000-472-613130- (IT Cost Allocation, Enterprise Applications, Software Maintenance)
	FY 2020-2022: Annual Maintenance
	\$101,100 IT: 680-35-362-376-0000-000-472-613130-
\$139,110	\$19,005 Planning: 621-35-363-380-0000-000-472-613130
	\$19,005 Rent Stabilization Board: 801-35-363-380-0000-000-412-613130

\$156,966 Total FY 2019-2022: Hardware and Software Maintenance Fees

## CURRENT SITUATION AND ITS EFFECTS

Video streaming City meetings is a Strategic Plan Priority Project, advancing our goal to be a customer-focused organization that provides excellent, timely, easily-accessible service and information to the community.

The City of Berkeley uses the Granicus MediaManager suite of hosted services to provide public access to live and on-demand archival video via the City website at <a href="http://www.CityOfBerkeley.info/IT/Online Video Page.aspx">http://www.CityOfBerkeley.info/IT/Online Video Page.aspx</a>. In addition, MediaManager hosts on-demand training videos for internal use by staff from all City departments. This cloud-based service provides unlimited audio and video streaming capacity, archival storage space, indefinite retention, podcasting, and system administration tools (such as video indexing, and synchronized digital documents) without requiring the City to own or maintain a video hosting infrastructure. This service has allowed the City to further strengthen City's efforts towards greater transparency, accountability, public information accessibility seven days a week.

In order to improve the quality of the online video streaming of City meetings, and to take advantage of the latest technologies associated with the streaming services, as part of this contract the City will upgrade the existing encoder. The current encoder is an analog encoder and is more than six years old. The City will need to purchase a new upgraded digital encoding appliance, which will allow the City to broadcast City meetings in high definition.

## **BACKGROUND**

Granicus provides video streaming and archiving services to more than 1,300 cities, towns, counties, and states across the US. In 2003, the City executed a contract with Granicus, Inc. for video streaming, indexing and archiving of City Council meetings and to host internal staff training videos. In January 2003, the City began video streaming and archiving City Council meetings. In January 2006, the City began video streaming and archiving Rent Stabilization Board meetings.

In May 2008, the City began video streaming and archiving Zoning Adjustment Board (ZAB) meetings. In October 2012, the City began video streaming and archiving meetings of the Successor Agency to the Berkeley Redevelopment Agency.

Throughout the past ten years, Granicus has worked with the Department of Information Technology and the City Clerk Department to provide excellent video streaming, storage, archiving, training, and technical support services for Council meetings, Rent Board meetings, commission workshops, and several other City of Berkeley programs.

In 2016 Granicus merged with GovDelivery, the only digital marketing platform built exclusively for public sector organizations. The City has used GovDelivery's web page subscription service for its public website since 2002.

#### **ENVIRONMENTAL SUSTAINABILITY**

Streaming City meetings online allows community members to watch these meetings remotely, which reduces greenhouse gas emissions associated with travel time to and from City Council chambers and other locations meetings are held.

## RATIONALE FOR RECOMMENDATION

Granicus continues to provide a reliable, efficient, and cost-effective method of providing video streaming service to members of the public and City staff. Additionally, streaming City meetings increases the number of community members who can access City meetings. With the merger of GovDelivery, Granicus now provides the only digital marketing platform built exclusively for public sector organizations.

## ALTERNATIVE ACTIONS CONSIDERED

Staff explored the possibility of hosting video streaming services in-house, however, the estimated cost of doing so (infrastructure, staff time, bandwidth, storage, and programming) exceeds the cost of contracting with Granicus for these services.

## **CONTACT PERSON**

Savita Chaudhary, Director, Department of Information Technology, 981-6525

#### Attachments:

1: Resolution

# CONTRACT NO. 11012 AMENDMENT: GRANICUS, INC. FOR VIDEO STREAMING SERVICES

WHEREAS, video streaming City meetings is a Strategic Plan Priority Project, advancing our goal to be a customer-focused organization that provides excellent, timely, easily-accessible service and information to the community; and

WHEREAS, Granicus provides video streaming and archiving services to more than 1,300 cities, towns, counties, and states across the US; and

WHEREAS, the City began using Granicus, Inc. for video streaming, indexing and archiving of City Council meetings and to host internal staff training videos and expanded these services in 2006 to include the Rent Stabilization Board and in 2008 to include the Zoning Adjustment Board; and

WHEREAS, Granicus merged with GovDelivery, who provides the web page subscription services to the City; and

WHEREAS, funds for the additional software maintenance and hardware will be available in the Department of Information Technology's Fiscal Year (FY) 2019-2022 Cost Allocation, Permit Service Center, and Rent Stabilization Board fund, funding for future fiscal years is subject to Council approval of the proposed citywide budget and annual appropriation ordinances.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to amend Contract No. 11012 with Granicus, Inc., for live video streaming, on-demand archival video, podcasting, and web page subscription services, increasing the contract amount by \$156,966 for a total not-to-exceed amount of \$207,646 from July 1, 2017 to June 30, 2022.



To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Savita Chaudhary, Director, Department of Information Technology

Subject: Contract No. 10734 Amendment: Towerstream, Inc. for Secondary Internet

for Redundancy and Load Balancing

## RECOMMENDATION

Adopt a Resolution authorizing the City Manager to amend the contract with Towerstream, Inc. for redundant secondary internet services, increasing the contract amount by \$133,128 for a total not-to-exceed amount of \$172,000 from October 3, 2017 to June 30, 2022.

# FISCAL IMPACTS OF RECOMMENDATION

Funding for the additional services in the amount of \$133,128 will be available in the Department of Information Technology's Cost Allocation fund as itemized below. Planned spending in future fiscal years (FY) are subject to Council approval of the proposed citywide budget and Annual Appropriation Ordinances:

FY 2020-2022: Annual Maintenance

\$133,128 Budget Code: 680-35-362-376-0000-000-472-613130-

(IT Cost Allocation, Enterprise Services, Software Maintenance)

\$133,128 Total FY 2020-2022 Software Maintenance

## **CURRENT SITUATION AND ITS EFFECTS**

In FY 2018, Towerstream was implemented as a secondary internet connection for the City. Before implementing Towerstream the City had only one internet connection servicing all City staff across over 40 different locations throughout Berkeley. The internet is the vital service for the City functions, enabling e-commerce, online research, customer interaction, data flow, sharing of files and much more. As the City uses more web-based tools and applications, the City's reliance on a stable internet connection is becoming increasingly critical for the daily functioning of the City's core operations. In addition, the speed and overall throughput of the City's internet connection is becoming increasingly important as well.

Moving forward, the City plans to implement load balancing technology so that both internet connections will equally share the load of all incoming and outgoing traffic to and

Contract Amendment: Towerstream, Inc. for Secondary Internet for Redundancy and Load Balancing

from the City network. This will ensure fast connectivity to any web-based tools or applications used by City staff for day to day operations and to serve the community members.

In addition, the City plans to increase the bandwidth of both internet connections to 1 Gigabyte (GB), so that if either of them go offline, the remaining internet connection will be large enough to support the demands of City staff. The resilient design of the network and the redundancy will improve the reliability of the internet connection and increase employee productivity. The delivery method is also scalable and bandwidth changes will be easier to turn-up as needs change.

The implementation of a secondary internet connection for the City is a Strategic Plan Priority Project, advancing our goal to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.

## **BACKGROUND**

In FY 2017, the AT&T internet connection served as the primary internet connection for all City staff with no redundancy in place. The speed of this connection was 250 Megabytes (MB). There were at least three instances where the AT&T internet connection was saturated and the end users were not able to access City web applications. While the time end users spend waiting on slow internet can seem minor, it adds up significantly over time.

In FY 2018, the City upgraded the AT&T internet bandwidth from 250 MB to 500 MB and deployed a Towerstream internet connection (500 MB) at the Corporation Yard to serve as a backup internet connection in the event that the primary internet connection, located at City Hall, ever went down. Department of Information Technology (DoIT) staff have successfully tested failing over to the Towerstream internet connection to demonstrate the redundancy of the new solution.

In addition, the City has setup Corporation Yard staff to use the Towerstream internet connection as their primary internet connection. The City has also implemented load balancing technology for incoming internet traffic, so that both internet connections are sharing the load of incoming traffic to the City network.

# **ENVIRONMENTAL SUSTAINABILITY**

Providing a fast and reliable internet connection for City staff allows City staff to perform more tasks from their offices, and allows Berkeley residents to use more and more online tools and services, reducing the need to physically come to City offices to conduct business, and reducing greenhouse gas emissions required for travel to and from their homes.

## RATIONALE FOR RECOMMENDATION

The City selected Towerstream over other internet service providers because of their wireless technology. The City's current internet connection runs through AT&T's fiber

Contract Amendment: Towerstream, Inc. for Secondary Internet for Redundancy and Load Balancing

network, and utilizing a wireless solution as a redundant backup solution made sense over acquiring a second fiber-based solution, where both fiber internet connections could be subject to damage or outages in the event of an earthquake.

In addition, the City installed the Towerstream internet connection in a different physical location (Corporation Yard) than the primary internet connection (City Hall), to provide additional physical redundancy and resilience in the event of a local disaster.

## ALTERNATIVE ACTIONS CONSIDERED

The City considered other fiber-based internet service providers, but given the location of Berkeley and it's vicinity to multiple earthquake fault lines, in particular the Hayward fault, Department of Information Technology staff decided to go with the wireless internet access solution over a fiber solution.

## **CONTACT PERSON**

Savita Chaudhary, Director, Department of Information Technology, 510-981-6541

#### Attachments:

1: Resolution

# CONTRACT NO. 10734 AMENDMENT: TOWERSTREAM, INC. FOR SECONDARY INTERENT FOR REDUNDANCY AND LOAD BALANCING

WHEREAS, the internet is the vital service for the City functions, enabling e-commerce, online research, customer interaction, data flow, sharing of files;

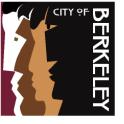
WHEREAS, the City is increasingly using web-based tools and applications to conduct City business; and

WHEREAS, the reliability of a fast and dependable internet connection is becoming increasingly important to conduct day to day business and provide essential services to the community; and

WHEREAS, in FY 2018, the City upgraded the AT&T internet bandwidth from 250 MB to 500 MB and deployed a Towerstream internet connection (500 MB) to serve as a backup internet connection in the event that the primary internet connection, located at City Hall, went down; and

WHEREAS, funding for the additional services in the amount of \$133,128 will be available in the Department of Information Technology's Cost Allocation fund as itemized below, planned spending in future fiscal years (FY) are subject to Council approval of the proposed city-wide budget and Annual Appropriation Ordinances.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to amend Contract No. 10734 with Towerstream, Inc. for redundant secondary internet services, increasing the contract amount by \$133,128 for a total not-to-exceed amount of \$172,000 from October 3, 2017 to June 30, 2022.



Office of the City Manager

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Scott Ferris, Director of Parks Recreation and Waterfront

Subject: Contract: Revolution Foods for Summer Food Service Program

### RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a one (1) year contract and any amendments with Revolution Foods to provide lunches and afternoon snacks to Berkeley youth for the City's Summer Food Service Program for a total amount not to exceed \$90,000, for the period of June 1, 2019 through May 31, 2020, with options to execute up to four (4) additional one-year extensions not to exceed \$90,000 each year, contingent upon the availability of State funding, for a total contract amount not to exceed \$450,000.

#### FISCAL IMPACTS OF RECOMMENDATION

Funds for the Summer Food Service Program (SFSP) are provided via a grant from the California Department of Education (CDE). The City will purchase food from Revolution Foods, using budgeted funds from Youth Lunch Fund (account code 319-52-543-570-1004-000-461-644110). The City will then request reimbursement from the CDE, and deposit revenues into Youth Lunch revenue code 319-52-543-570-1004-000-000-431810. The amount of actual expenditures will vary from year to year depending on number of youth enrolled in the summer lunch program. First year funding is available in the FY19 budget; and future years will be budgeted at the same level.

#### **CURRENT SITUATION AND ITS EFFECTS**

The City's annual Summer Food Service Program begins on June 17, 2019 and will provide approximately 400 free lunches and snacks per day to low-income youth for a ten-week period. A contract to provide these services must be in place in order for the City to submit its annual application for reimbursement to the California Department of Education Nutrition Services Division Summer Food Service Program, which is due no later than May 31 of each year. Staff recommends that Council authorize a contract with **Revolution Foods** to provide these services from FY 2019 up to FY 2023.

#### **BACKGROUND**

For the past 40 years, the City of Berkeley has sponsored the Summer Food Service Program, administered for the past 20 years by the California Department of Education

Nutrition Services Division. The Parks Recreation & Waterfront Department expects to contract in FY 2019 – FY 2020 for approximately 400 lunches and snacks per day during a 10-week summer program. The CDE reimburses the City for the cost of administering the program and preparing and delivering lunches and snacks through a Permanent Agreement with the City of Berkeley authorized by City Council on April 22, 2008 (Resolution No. 64,027-N.S.).

In March 2019, the City released a Request for Proposal (RFP Specification No. 19-11290-C) for a vendor to administer a Summer Food Services Program based on the state's requirements. The City received one (1) proposal. Based on the scoring criteria in the RFP and the City of Berkeley Food and Nutrition Policy requirement to serve nutritious food, the City determined that the proposal from Revolution Foods met the criteria contained in the RFP. In addition, the meal rates submitted by Revolution Foods are in compliance with the California Department of Education 2019 Reimbursement Rate.

## **ENVIRONMENTAL SUSTAINABILITY**

Revolution Foods is a certified Bay Area Green Business which takes measures to shrink its carbon footprint by conserving energy and water, minimizing waste, and preventing pollution. In addition, Revolution Foods is a certified B Corporation, meeting rigorous standards of social and environmental performance, accountability, and transparency.

## RATIONALE FOR RECOMMENDATION

The City of Berkeley Parks Recreation and Waterfront Department does not have facilities to prepare snacks and meals that would comply with the United States Department of Agriculture guidelines. Revolution Foods met the criteria described in the RFP, they received excellent references, their food was packaged correctly, and their cost was reasonable. Revolution Foods will provide prepared lunch and snacks that follow the CDE nutritional requirements, and therefore staff recommend approval of a contract for the Summer Food Service Program.

## **CONTACT PERSON**

Christina Erickson, Deputy Director, Parks, Recreation & Waterfront, 981-6703 Kim LeMay, Acting Recreation and Youth Services Manager, Parks Recreation and Waterfront Department, 510-981-6707

#### Attachments:

1: Resolution

#### CONTRACT: REVOLUTION FOODS FOR SUMMER FOOD SERVICE PROGRAM

WHEREAS, the City of Berkeley has sponsored the Summer Food Service Program for the past thirty-seven years; and

WHEREAS, the State of California Department of Education Nutrition Services Division Summer Food Service Program reimburses the City for the cost of preparing and delivering lunches and snacks for the summer lunch program through a Permanent Agreement with the City of Berkeley authorized by City Council on April 22, 2008 (Resolution No. 64,027-N.S.); and

WHEREAS, a contract with a vendor to provide these services must be in place in order for the City to submit its annual application for reimbursement to the California Department of Education Nutrition Services Division Summer Food Service Program in the Spring and; and

WHEREAS, a Request for Proposal (Specification No. 19-11290-C) was released on March 26, 2019 and one (1) proposal was submitted on April 9, 2019; and

WHEREAS, the City determined that the proposal from Revolution Foods met the criteria contained in the RFP; and

WHEREAS, the meal rates submitted by Revolution Foods are in compliance with the California Department of Education 2016 Reimbursement Rate; and

WHEREAS, FY19 funds are available in the Youth Lunch Fund (fund 319), and future years will be budgeted at the same level.

NOW THEREFORE BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is hereby authorized to execute a one-year contract and any amendments with Revolution Foods to provide lunches and afternoon snacks to Berkeley youth for the City's Summer Food Service Program for a total amount not to exceed \$90,000, for the period of June 1, 2019 through May 31, 2020, with options to execute up to four (4) additional one-year extensions not to exceed \$90,000 each year, contingent upon the availability of State funding, for a total contract amount not to exceed \$450,000. A record signature copy of said contract and any amendments to be on file in the Office of the City Clerk.



To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Scott Ferris, Director, Parks Recreation & Waterfront

Subject: Contract: Suarez & Munoz Construction, Inc. for Harrison Park – Gabe

Catalfo Fields Renovation

## RECOMMENDATION

## Adopt a Resolution:

- 1. Approving the plans and specifications for the Harrison Park Gabe Catalfo Fields Renovation Project, Specification No. 19-11285-C; and
- 2. Accepting the bid of the lowest responsive and responsible bidder, Suarez & Munoz Construction, Inc.; and
- 3. Authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project in accordance with the approved plans and specifications, with Suarez & Munoz Construction, Inc., for the Harrison Park Gabe Catalfo Fields Renovation project at 1100 Fourth Street, Berkeley, CA 94710, in an amount not to exceed \$531,300, which includes a contract amount of \$483,000 and a 10% contingency in the amount of \$48,300.

# FISCAL IMPACTS OF RECOMMENDATION

Funding is available in the FY 2019 budget in the Parks Tax and Capital Improvement Funds (138-52-545-000-0000-000-461-663110 and 501-52-545-000-0000-000-461-663110). No other funding is required and no other projects will be delayed due to this expenditure. The project number is PRWPK19001.

Suarez & Munoz Construction, Inc. (lowest bid)	. \$483,000
10% Contingency	\$48,300
Total construction cost	\$531,300

Parks Tax Fund FY 2019 (Fund 138-52-545-000-0000-000-461-663110) \$364,300 Capital Imprvmt.Fund FY 2019 (Fund 501-52-545-000-0000-000-461-663110) \$167,000 Total construction cost \$531,300

#### **CURRENT SITUATION AND ITS EFFECTS**

The existing fenced sport fields (Gabes Fields) at Harrison Park at 1100 Fourth Street, Berkeley, CA 94710 are in need of renovation. The project includes the complete

Contract: Suarez & Munoz Construction, Inc. for Harrison Park – Gabe Catalfo Fields Renovation

removal of existing turf for both athletic fields, soil grading, installation of improved drainage and irrigation, and new turfgrass sod and seed.

### **BACKGROUND**

The project was advertised for bids on Tuesday, April 2, 2019, and bids were opened on Tuesday, April 23, 2019. The City received two bids, from a low base bid of \$483,000 to a high base bid of \$509,000. Suarez & Munoz Construction, Inc. was the lowest responsive and responsible bidder. Staff conducted reference checks and received satisfactory feedback. Staff recommends that a contract for this project be awarded to Suarez & Munoz Construction, Inc.

The Living Wage Ordinance does not apply to this project since construction contracts are, pursuant to City policy, subject to State prevailing wage laws. The contractor will need to submit a Certification of Compliance for the Equal Benefits Ordinance.

## **ENVIRONMENTAL SUSTAINABILITY**

The project is a renovation of a developed urban site and therefore will not negatively affect natural habitat.

#### RATIONALE FOR RECOMMENDATION

The existing fenced sport fields at Harrison Park are well-used and overdue for renovation and rehabilitation. Grading inconsistencies, due to settling, and a combination of poor drainage and irrigation adjustments need to be addressed in order to improve field conditions for play. The City does not have the in-house labor or equipment resources to complete this park renovation project.

### ALTERNATIVE ACTIONS CONSIDERED

None

## **CONTACT PERSON**

Scott Ferris, Director, Parks Recreation & Waterfront, 981-6700 Nyles Gregory, Senior Landscape Gardener Supervisor, PRW, 981-6684

#### Attachments:

- 1: Resolution
- 2: Bid Results

# CONTRACT: SUAREZ & MUNOZ CONSTRUCTION, INC. FOR HARRISON PARK – GABE CATALFO FIELDS RENOVATION

WHEREAS, the sport fields at Harrison Park are in need of renovation; and

WHEREAS, the City has neither the labor nor the equipment necessary to undertake this project; and

WHEREAS, an invitation for bids was duly advertised on April 2, 2019, bids were opened on April 23, 2019, and the City received two bids; and

WHEREAS, Suarez & Munoz Construction, Inc. was determined to be the lowest responsive and responsible bidder, and references for Suarez & Munoz Construction, Inc. were provided and checked out satisfactorily; and

WHEREAS, funding is available in the FY 2019 budget in the Parks Tax and Capital Improvement Funds (138-52-545-000-000-461-663110 and 501-52-545-000-000-000-461-663110).

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Plans and Specification No. 19-11285-C for the Harrison Park – Gabe Catalfo Fields Renovation project are approved.

BE IT FURTHER RESOLVED that the construction contract is awarded to Suarez & Munoz Construction, Inc. as the lowest responsive and responsible bidder for their Base Bid of \$483,000 and total contract amount of \$531,300; and

BE IT FURTHER RESOLVED that the Council of the City of Berkeley authorizes the City Manager to execute a contract and any amendments, extensions, or change orders until completion of the project in accordance with the approved plans and specifications with Suarez & Munoz Construction, Inc. for the Harrison Park – Gabe Catalfo Fields Renovation project in an amount not to exceed \$531,300 which includes a contract amount of \$483,000 and a 10% contingency in the amount of \$48,300 for unforeseen circumstances. A record signature copy of the agreement and any amendments to be on file in the Office of the City Clerk.

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Office of the City Manager

CONSENT CALENDAR May 14, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Scott Ferris, Director, Parks Recreation &Waterfront

Subject: Waiver of Annual Marina Berth Fees for Non-Profits

## RECOMMENDATION

Adopt a Resolution:

- Affirming the determination by City staff and the Parks and Waterfront Commission that three non-profit organizations at the Berkeley Marina (Berkeley Racing Canoe Club, Cal Sailing Club, and The Pegasus Project) are in full compliance with all aspects of Resolution No. 66,544-N.S.; and
- 2. Approving the annual waiver of berth fees for the three groups for 2019.

#### FISCAL IMPACT

The table below provides the current value of the free berths at the Berkeley Marina for three non-profit organizations: Berkeley Racing Canoe Club ("Dragon Boats"), Cal Sailing Club, and The Pegasus Project. The total annual value of the current allotment of slips amounts to \$40,594. The Parks and Waterfront Commission and City staff affirm that the value of community service provided by these organizations in the amount of \$182,300 far exceeds the value of the berths they occupy at the Berkeley Marina.

# Marina Berth Fee Waivers - Non-profit organizations Calendar Year 2019

Organization / (Berth Slip Location)	Annual Berth Fees Waived	Annual Value of Community Service		
<ol> <li>Berkeley Racing Canoe Club (Dragon Boats) / Slip M001/002 inside ties (106'); Slip M102</li> </ol>	\$11,494	\$34,800		
2. Cal Sailing Club / Slips J360; J362; J364; J366; J368; J398 (25' ea)	\$20,112	\$65,000		
3. Pegasus Project / Slip K46 (54')	\$8,988	\$82,500		
Totals	\$40,594	\$182,300		

## **CURRENT SITUATION AND ITS EFFECTS**

Council Resolution No. 66,544-N.S. contains the criteria by which non-profit organizations at the Berkeley Marina receive a waiver of the annual berth fee. The Resolution requires that the Parks and Waterfront Commission review the applications of non-profit organizations in order

to affirm compliance with the Resolution, and that each group appears before the Parks and Waterfront Commission on an annual basis to report on its past year's activities, and provide financial statements. At a regular meeting on March 13, 2019, the Parks and Waterfront Commission made the following conclusions:

- 1. The Parks and Waterfront Commission reasserted that all three organizations have met with the Waterfront Manager, and have stated their commitment to continue to meet the condition of providing community service (see the Commission's motion in the BACKGROUND section below).
- 2. Waterfront staff has reviewed the non-discrimination policies for each organization and has also reviewed the staff report and finds that these organizations comply with the conditions of the Resolution regarding the promotion of cultural and ethnic diversity. Specifically, staff determined that the organizations comply with the non-discrimination criteria included in the Resolution as described as follows: "membership policy and practices; recruitment strategy; outreach to under-represented minorities; and Mission Statement." All three organizations have written policies that are consistently enforced that prohibit discrimination based on a person's race, color, religion, ethnicity, national origin, age, sex, sexual orientation, marital status, political affiliation, disability or medical condition. Accordingly, the Parks and Waterfront Commission finds that the Berkeley Racing Canoe Center ("Dragon Boats"), Cal Sailing Club, and The Pegasus Project are in specific compliance with the Resolution and recommends that the three organizations be provided waivers of berthing fees for an additional year.

## Review and Determination by City staff

The Waterfront Manager has reviewed the required annual reports and met with staff and members of the three non-profit organizations throughout the year. In addition, the three non-profit organizations have submitted annual reports detailing their activities. The Waterfront Manager has confirmed that the three non-profit organizations, The Berkeley Racing Canoe Club, Cal Sailing Club, and The Pegasus Project, fully comply with the criteria in the Resolution.

#### **BACKGROUND**

On March 4, 1997, Council adopted a resolution (since amended, currently Reso. No. 66,544-N.S.) that provides a policy or the free use of berths at the Berkeley Marina by non-profit organizations providing community services that meet specific criteria. The Berkeley Racing Canoe Club has received a waiver of the Marina Berth Fee since 2004 (Resolution No. 62,619-N.S.) The Cal Sailing Club has received a waiver of the Marina Berth Fee since 1999 (Resolution No. 59,986-N.S.) The Pegasus Project (initially of the Nautilus Institute) has received a waiver of the Marina Berth Fee since 2002 (Resolution No. 59,623-N.S.)

At its regular meeting of February 13, 2019, the Parks and Waterfront Commission took the following action: reviewed and affirmed compliance with Resolution No. 66,544, and recommended Council approval of the annual fee waivers for 2017 for the following two non-profits: a) Berkeley Racing Canoe Club, b) Cal Sailing Club, and c) the Pegasus Project: (M/S/C: McGrath/Wozniak/U): Ayes: Brostrom; Diehm; Fogel; Kawczynska; McGrath; McKay; Targ; Wozniak; Noes: None; Abstain: Kamen; Absent: None.

The annual application, the Annual application for waivers of berth fees 2019, the Annual Reports for 2018, and the By-laws for the three non-profits are available in the Parks and

Waterfront Commission Agenda Packet for the regular meeting of February 13, 2019, at the following link for Item 9:

 $\frac{https://www.cityofberkeley.info/uploadedFiles/Parks\_Rec\_Waterfront/Commissions/PWC\%20Agenda\%20-2002-13-2019.pdf$ 

## **ENVIRONMENTAL SUSTAINABILITY**

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

## **RATIONALE**

The three non-profit organizations, The Berkeley Racing Canoe Club, Cal Sailing Club, and The Pegasus Project, have provided community service to the Bay Area (in the amount of \$182,300) that exceeds the value of the berths they occupy at the Berkeley Marina (in the amount of \$40,594).

# **CONTACT**

Alexandra Endress, Waterfront Manager, 981-6737

#### Attachments:

1. Resolution

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

AFFIRMING THE DETERMINATION BY CITY STAFF AND THE PARKS AND WATERFRONT COMMISSION THAT THREE NON-PROFIT ORGANIZATIONS AT THE BERKELEY MARINA (BERKELEY RACING CANOE CENTER, CAL SAILING CLUB, AND THE PEGASUS PROJECT) ARE IN FULL COMPLIANCE WITH ALL ASPECTS OF RESOLUTION NO. 66,544-N.S.; AND APPROVING THE ANNUAL WAIVER OF BERTH FEES FOR THE THREE GROUPS FOR CALENDAR YEAR 2019

WHEREAS, in 2019, the three non-profit organizations (Berkeley Racing Canoe Center ("Dragon Boats"), Cal Sailing Club, and The Pegasus Project) submitted annual reports detailing their activities; and the Waterfront Manager has reviewed the required annual reports and met with staff and members of the three non-profit organizations throughout the year; and has confirmed that the three non-profit organizations fully comply with the criteria of Resolution No. 66,544-N.S. ("the Resolution"); and

WHEREAS, the three non-profit organizations, The Berkeley Racing Canoe Center, Cal Sailing Club, and The Pegasus Project, have provided community service to the Bay Area (\$182,300) that exceeds the value of the berths they occupy at the Berkeley Marina (\$40,594); and

WHEREAS, at its regular meeting on February 13, 2019, the Parks and Waterfront Commission reviewed the detailed analysis that determined that the three organizations have met and have stated their commitment to continue to meet, the condition of providing community service; and

WHEREAS, in addition, the Parks and Waterfront Commission reviewed the non-discrimination policies for the three organizations and also reviewed the staff reports and finds that these organizations fully comply with all the conditions of the Resolution, including the promotion of cultural and ethnic diversity; and

WHEREAS, specifically, staff determined that the organizations comply with the nondiscrimination criteria included in the Resolution as described as follows: "membership policy and practices; recruitment strategy; outreach to under-represented minorities; and Mission Statement." The organizations have written policies that are consistently enforced that prohibit discrimination based on a person's race, color, religion, ethnicity, national origin, age, sex, sexual orientation, marital status, political affiliation, disability or medical condition; and

WHEREAS, the Parks and Waterfront Commission finds that the three organizations are in specific compliance with the Resolution and recommends that the three organizations be provided with a fee waiver for 2019; and

WHEREAS, at its regular meeting of February 13, 2019, the Parks and Waterfront Commission took the following action: reviewed and affirmed compliance with Resolution No. 66,544, and recommended Council approval of the annual fee waivers for 2019 for the following two non-profits: a) Berkeley Racing Canoe Club, b) Cal Sailing Club, and c) the Pegasus Project: (M/S/C: McGrath/Wozniak/U): Ayes: Brostrom; Diehm; Fogel; Kawczynska; McGrath; McKay; Targ; Wozniak; Noes: None; Abstain: Kamen; Absent: None.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the applications from the Berkeley Racing Canoe Center ("Dragon Boats"), Cal Sailing Club, and The Pegasus Project for an annual waiver of Marina Berth fees covering 2019 are approved.



CONSENT CALENDAR
May 14, 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: Cratus, Inc. for FY2018 Measure M Low Impact Development

(LID) Woolsey Street Project

#### RECOMMENDATION

Adopt a Resolution approving plans and specifications for FY2018 Measure M Low Impact Development (LID) Woolsey Street Project, Specification No. 18-11183-C (Re-Issued); accepting the bid of Cratus, Inc. as the lowest responsive and responsible bidder; and authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project in accordance with the approved plans and specifications in an amount not to exceed \$2,908,377.

#### FISCAL IMPACTS OF RECOMMENDATION

Funding is available from the Capital Improvement Program budget. No other funding is required, and no other projects will be delayed due to this expenditure.

Total construction cost	\$2,908,377
10% Contingency	\$264,398
Low bid by Contractor	\$2,643,979

#### FY 2019 Funding:

Measure M Streets & Watershed GO Bond (506-54-623-675-3016)	\$2,908,377
Total construction cost	\$2,908,377

This contract has been assigned CMS No. GDYPJ.

#### CURRENT SITUATION AND ITS EFFECTS

This project was bid through the normal advertisement and competitive bidding process for public projects on two occasions. For the first occasion, a single bid was opened on July 24, 2018, almost double the \$1.5 million Engineer's Estimate. This single bid did not provide staff sufficient information to determine that the bid was responsive and reasonable for the scope of the work. Staff recommended, and council passed Resolution 68,566—N.S. (see Attachment 2) rejecting the bid and authorizing the project to be bid a second time. The second bid opening was performed on November 15, 2018 and no bids were received. On April 23, 2019 Council adopted Resolution No. 68,821-N.S. (see Attachment 3), accepting staff's report that no bids were received, and authorizing the

City Manager to negotiate in the open market with contractors for this project, in accordance with the City Charter Article XI, Public Works and supplies, Section 67(a.). Awarding the project through negotiating in the open market allows contractors to discuss with staff methods to reduce the challenges of installing the large underground cistern by shifting it to protect existing utilities, adjust the schedule, and provide acceptable traffic control.

Multiple contractors indicated they were very interested in having the opportunity to bid on the project. Staff solicited three bids from the contractors and received bids in the range of \$2,643,979 to \$3,673,036 (see Attachment 4). Cratus, Inc., of San Francisco, California, had the lowest bid, with a bid of \$2,643,979. Staff checked their references. and they were found to be satisfactory. Staff recommends a contract for this project be awarded to Cratus, Inc. The engineer's estimate for the project was \$1.5 million.

The FY2018 Measure M LID Woolsey Street Project is a Strategic Plan Priority Project, advancing the City's goal of being a global leader in addressing climate change, advancing environmental justice, and protecting the environment.

#### BACKGROUND

Measure M provides the City with funding for street repaving and installation of LID treatment and watershed improvements consistent with the Watershed Management Plan (WMP) adopted by Council in October 2012. The primary purpose of the LID improvements is treatment of polluted urban runoff and reduction of flooding. This project is for construction of a bio-swale and installation of a large underground cistern on Woolsey Street between Adeline Street and Tremont Street (see Attachment 5, Location Map).

The high demand for construction in the Bay Area has contractors operating at full capacity. Staff believes the conditions of high demand and a limited pool of qualified contractors have driven prices up and reduced contractors' interest in bidding on this unique project.

#### **ENVIRONMENTAL SUSTAINABILITY**

The project will help ease observed flooding in the neighborhood in the vicinity of Malcolm X Elementary School and treat urban runoff.

#### RATIONALE FOR RECOMMENDATION

The City put the FY2018 Measure M LID Woolsey Street Project, Specification No. 18-11183-C, out to bid twice and has not received a reasonable bid for the project. There is no indication that bidding the project for a third time will provide the City with an acceptable bid. The City does not possess the in-house labor or equipment resources necessary to construct the project.

#### ALTERNATIVE ACTIONS CONSIDERED

The City could choose not to award this project to Cratus, Inc. and publicly bid the project a third time. Staff concluded that a third advertisement for bid has a low probability of

CONSENT CALENDAR May 14, 2019

getting a lower bid than that submitted by Cratus, Inc., and this would delay expenditure of Measure M bond proceeds.

#### CONTACT PERSON

Nisha Patel, Manager of Engineering & City Engineer (510) 981-6406 Joe Enke, Supervising Civil Engineer (510) 981-6411 Danny Akagi, Associate Civil Engineer (510) 981-6394

#### Attachments:

- 1: Resolution
- 2: Resolution 68,566-N.S.
- 3: Resolution 68,821-N.S.
- 4: Abstract of Bids
- 5: Location Map

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

AWARD OF CONTRACT: CRATUS, INC. FOR THE FY2018 MEASURE M LOW IMPACT DEVELOPMENT (LID) WOOLSEY STREET PROJECT, SPECIFICATION 18-11183-C (RE-ISSUED)

WHEREAS, the FY2018 Measure M LID Woolsey Street Project is a Strategic Plan Priority Project, advancing the City's goal of being a global leader in addressing climate change, advancing environmental justice, and protecting the environment; and

WHEREAS, the FY2018 Measure M Low Impact Development (LID) Woolsey Street Project is part of the City's ongoing Clean Stormwater Capital Improvement Program to implement recommendations from the Watershed Management Plan; and

WHEREAS, the City has neither the labor nor the equipment necessary to undertake the FY2018 Measure M Low Impact Development (LID) Woolsey Street Project; and

WHEREAS, the FY2018 Measure M Low Impact Development (LID) Woolsey Street Project was previously and duly advertised (Specification No. 18-11183-C) resulting in a single bid received on June 7, 2018; and

WHEREAS, Council passed Resolution No. 68,566–N.S. on July 24, 2018 authorizing the City Manager to reject bids received on June 7, 2018 and direct staff to re-advertise the FY2018 Measure M Low Impact Development (LID) Woolsey Street Project; and

WHEREAS, the FY2018 Measure M Low Impact Development (LID) Woolsey Street Project was re-advertised (Specification No. 18-11183-C Re-Issued) and, upon closing of the bidding period on November 15, 2018, no bids were received; and

WHEREAS, Council passed Resolution No. 68,821-N.S. on April 23, 2019 accepting staff's report that no bids were received on November 15, 2018, and authorizing the City Manager to negotiate the project in the open market in accordance with the City Charter Article XI, Public Works and Supplies, Section 67(a.).; and

WHEREAS, the negotiating process produced three bids and Cratus, Inc. is the lowest responsive and responsible bidder; and funding is available in the current year budget in the Measure M Streets & Watershed GO Bond Fund 506, and the contract has been entered into the citywide contract database with CMS No. GDYPJ.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Plans and Specification No. 18-11183-C (Re-Issued) for the FY2018 Measure M Low Impact Development (LID) Woolsey Street Project are approved.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley authorizes the City Manager to execute a contract and any amendments, extensions or change orders, until

#### Page 5 of 10

completion of the project in accordance with the approved plans and specifications with Cratus, Inc. for the FY2018 Measure M Low Impact Development (LID) Woolsey Street Project in an amount not to exceed \$2,908,377, which includes a 10% contingency for unforeseen circumstances. A record signature copy of the said agreement and any amendments is to be on file in the Office of the City Clerk.

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#### RESOLUTION NO. 68,566±N.S.

REJECT BIDS AND DIRECT STAFF TO RE-ADVERTISE THE FY2018 MEASURE M LOW IMPACT DEVELOPMENT (LID) WOOLSEY STREET PROJECT

WHEREAS, the FY2018 Measure M Low Impact Development (LID) Woolsey Street Project (Project) is part of the City's ongoing Clean Stormwater Capital Improvement Program to implement recommendations from the Watershed Management Plan; and

WHEREAS, the City has neither the labor nor the equipment necessary to undertake this FY2018 Measure M Low Impact Development (LID) Woolsey Street Project; and

WHEREAS, an invitation for bids was duly advertised (Specification No. 18-11183-C), on which the sole bid received was from Pacific Infrastructure Construction, LLC, and as the bid exceeded the City's estimate and available budget for the Project; and

WHEREAS, staff have evaluated the bid received and determined it to be in the City's best interest to re-advertise the project.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the bid from Pacific Infrastructure Construction, LLC is rejected and the City Manager is authorized to re-bid the FY2018 Measure M Low Impact Development (LID) Woolsey Street Project, Specification No. 18-11183-C.

The foregoing Resolution was adopted by the Berkeley City Council on July 24, 2018 by the following vote:

Ayes:

Bartlett, Davila, Droste, Hahn, Harrison, Maio, Wengraf, Worthington and

Arrequin.

Noes:

None.

Absent:

None.

Attest:

Mark Numainville, City Clerk

#### RESOLUTION NO. 68,821-N.S.

AUTHORIZE NEGOTIATION IN THE OPEN MARKET FOR THE FY2018 MEASURE M LOW IMPACT DEVELOPMENT (LID) WOOLSEY STREET PROJECT, SPECIFICATION 18-11183-C

WHEREAS, the FY2018 Measure M LID Woolsey Street Project is a Strategic Plan Priority Project and advances the City's goal to create a resilient, safe, connected, and prepared city; and

WHEREAS, the FY2018 Measure M Low Impact Development (LID) Woolsey Street Project is part of the City's ongoing Clean Stormwater Capital Improvement Program to implement recommendations from the Watershed Management Plan; and

WHEREAS, the City has neither the labor nor the equipment necessary to undertake the FY2018 Measure M Low Impact Development (LID) Woolsey Street Project; and

WHEREAS, the FY2018 Measure M Low Impact Development (LID) Woolsey Street Project was previously and duly advertised (Specification No. 18-11183-C) resulting in a single bid received on June 7, 2018; and

WHEREAS, Council passed Resolution No. 68,566–N.S. on July 24, 2018 authorizing the City Manager to reject bids received on June 7, 2018 and direct staff to re-advertise the FY2018 Measure M Low Impact Development (LID) Woolsey Street Project; and

WHEREAS, the FY2018 Measure M Low Impact Development (LID) Woolsey Street Project was re-advertised and, upon closing of the bidding period on November 15, 2018, no bids were received; and

WHEREAS, staff is recommending Council authorize the City Manager to negotiate the project in the open market in accordance with the City Charter Article XI, Public Works and Supplies, Section 67(a.).

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council accepts staff's report that no bids were received for the FY2018 Measure M Low Impact (LID) Woolsey Street Project on November 15, 2018; and

BE IT FURTHER RESOLVED that the City Manager is authorized to negotiate in the open market with contractors for the FY2018 Measure M Low Impact Development (LID) Woolsey Street Project.

#### Page 8 of 10

The foregoing Resolution was adopted by the Berkeley City Council on April 23, 2019 by the following vote:

Ayes:

Bartlett, Davila, Droste, Hahn, Harrison, Kesarwani, Robinson, Wengraf,

and Arreguin.

Noes:

None.

Absent:

None.

Jesse Arreguin, Mayor

Attest:

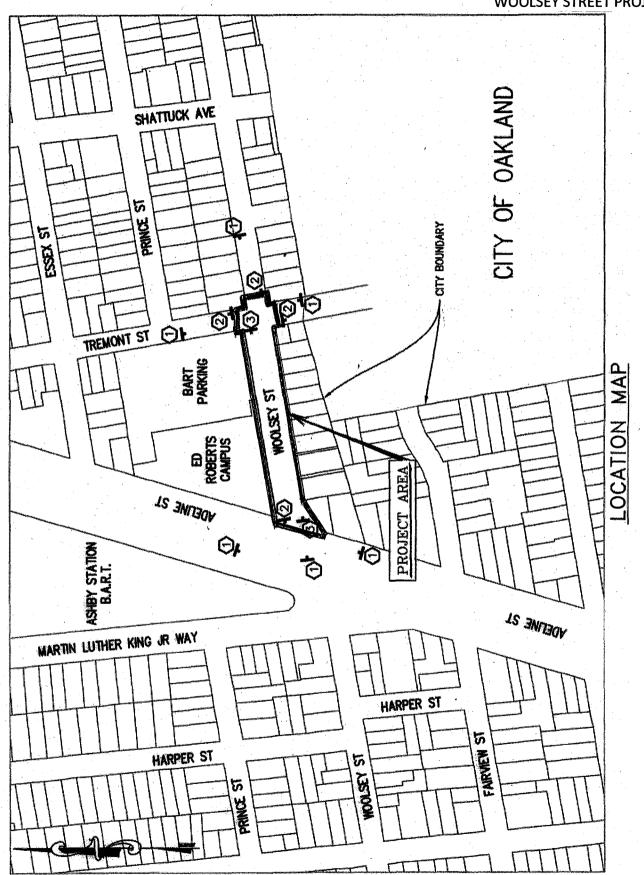
Mark Numainville, City Clerk

#### Page 9 of 10

## ATTACHMENT 4 ABSTRACT OF BIDS FY2018 MEASURE M LOW IMPACT DEVELOPMENT (LID) WOOLSEY STREET PROJECT

Bidders	Bid
Cratus, Inc.	\$2,643,979.00
Ghilotti Construction Company, Inc.	\$2,898,073.50
McGuire and Hester	\$3,673,036.00

# ATTACHMENT 5 FY 2018 MEASURE M LOW IMPACT DEVELOPMENT (LID) WOOLSEY STREET PROJECT





CONSENT CALENDAR May 14, 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: Municipal Maintenance Equipment, Inc. for Fifteen GO-4

Parking Enforcement Vehicles

#### RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a purchase order with Municipal Maintenance Equipment, Inc. in an amount not to exceed \$715,000 for fifteen GO-4 parking enforcement vehicles.

#### FISCAL IMPACTS OF RECOMMENDATION

The purchase price of fifteen (15) GO-4 parking enforcement vehicles will not exceed \$715,000 and includes freight, California Tire Fees, training, warranty and sales tax. Funding is available in the FY 2019 Equipment Replacement Fund (671-54-626-723-0000-000-473-664120).

#### **CURRENT SITUATION AND ITS EFFECTS**

This vehicle purchase will replace fifteen GO-4 parking enforcement vehicles currently in service that have reach the end of their service life. Assets are needed by the City's Parking Enforcement staff in their work patrolling residential, business, and parking permitted locations within the City of Berkeley to ensure adherence to local regulations and state vehicle code laws. Assets currently in use have reached the end of their lifecycle, and will be replaced with vehicles equipped with enhanced safety features to include chassis protected steel roll bar, and taller Cabs to reduce operator fatigue. Vehicles being replaced include the following:

Replacing Units:			New	
Equipment #	Year/Make	Model	Year	Make/Model
1401, 1402, 1403, 1405, 1406, 1407, 1411, 1579, 1580, 1581, 1582, 1588, 1590, 1593, 1594	2005- 2008/GO-4 Scooter	Interceptor IV	2019	GO-4 Scooter, Interceptor IV

Purchase Order: Municipal Maintenance Equipment, Inc. for Fifteen GO-4 Parking Enforcement Vehicles

This purchase will support the City's Strategic Plan Goal of being a global leader in addressing climate change, advancing environmental justice, and protecting the environment.

#### BACKGROUND

The City of Berkeley Police Department maintains a fleet of GO-4's parking enforcement vehicles. Throughout the year, the Department of Public Works purchases vehicles and equipment for City Departments paid through the Equipment Replacement fund. The expected lifespan of a Go-4 is seven years.

Westward Industries is the only manufacturer of these vehicles and the company has designated Municipal Maintenance Equipment, Inc. (MME) as its California and Northern Nevada exclusive authorized dealer for GO-4 sales, services and warranty repair. Failure to have service and warranty work performed by an authorized dealer voids any warranty offered by Westward Industries.

#### **ENVIRONMENTAL SUSTAINABILITY**

The Berkeley Police Traffic Division is actively testing two electric GO-4 parking enforcement vehicles for consideration in meeting strategic environmental goals. Currently, we are experiencing malfunctions with the test vehicles. Battery packs are losing charge frequently, thus impacting staff's ability to perform their duties on a consistent basis. The Fleet Maintenance Division staff continue to provide valuable input to the manufacturer in an effort to rectify performance issues and upgrade the product line.

The Traffic Division is negotiating relocating substation to 125 & 127 University Avenue, and have a tentative move in date of February 2020. Additionally, the division is in dialogue with Pacific Gas and Electric (PG&E) to participate in its fleet charging program and plans to initiate infrastructure upgrades to coincide with the relocation effort. Once the proper charging infrastructure has been put in place, and scooter performance issues are addressed; the division is expecting to replace all of its parking enforcement vehicles with electric models thereafter. This particular order will be powered by a fuel efficient 1.0 liter gasoline engine that averages 45 mpg, and meets all current state, federal, and local emissions regulations.

#### RATIONALE FOR RECOMMENDATION

Police Department parking enforcement vehicles must be replaced on a reasonable schedule to ensure Parking Enforcement Officers can safely, effectively and efficiently carry out their duties.

#### ALTERNATIVE ACTIONS CONSIDERED

None. Listed vehicles have reached the end of their useful life.

Purchase Order: Municipal Maintenance Equipment, Inc. for Fifteen GO-4 Parking Enforcement Vehicles

CONSENT CALENDAR May 14, 2019

#### **CONTACT PERSON**

Greg Ellington, Superintendent, Public Works Maintenance, (510) 981-6469

Attachments:

1: Resolution

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

### PURCHASE ORDER: MUNICIPAL MAINTENANCE EQUIPMENT, INC. FOR FIFTEEN GO-4 PARKING ENFORCEMENT VEHICLES

WHEREAS, fifteen GO-4 parking enforcement vehicles are needed by the Berkeley Police Department to replace existing vehicles that have reached the end of their useful life; and

WHEREAS, vehicles must be replaced on a reasonable schedule that allows city employees to efficiently and effectively carry out their duties; and

WHEREAS, the GO-4 parking enforcement vehicle is the preferred parking enforcement vehicle for many cities because of its maneuverability through city street, good visibility, ability to chalk mark vehicles easily and driver safety features; and

WHEREAS, Municipal Maintenance Equipment, Inc. is Westward Industries exclusive authorized dealer for California and Northern Nevada's GO-4 sales, service and warranty repairs, and failure to have service and warranty work performed by an authorized dealer voids any warranty by this manufacturer; and

WHEREAS, funds in the amount of \$715,000 are available in the FY 2019 Equipment Replacement Fund 671.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the requirement of City Charter Section 67(a) are waived because no other vendors or manufacturers are able to provide a three-wheeled parking enforcement vehicle; and

NOW THEREFORE, BE IT FURTHER RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a purchase order with Municipal Maintenance Equipment, Inc. for the purchase of fifteen GO-4 parking enforcement vehicles in an amount not to exceed \$715,000.



CONSENT CALENDAR May 14, 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: Declaration of Intent - FY 2020 Street Lighting Assessments

#### RECOMMENDATION

Adopt two Resolutions granting the City Manager the authority to approve the Engineer's Reports; set a public hearing to be held before the Council of the City of Berkeley at its June 11, 2019 meeting; and authorize the City Clerk to publish Notice of the Public Hearing for FY 2020 Levy of Assessments for Berkeley Street Lighting Assessment District No. 1982-1 and Street Lighting Assessment District 2018.

#### FISCAL IMPACTS OF RECOMMENDATION

Resolutions would conditionally approve, pending public hearing and final City Council approval thereafter, the continued levying of assessments in Fiscal Year (FY) 2020 for Berkeley Street Lighting Assessment District No. 1982-1 and Street Lighting Assessment District 2018, collectively referred to herein as the Districts.

The assessments are to be filed with the Alameda County Auditor and included on the County's assessment roll. After collection by the County the total amount of the assessment minus a county collection fee is paid to the City of Berkeley. The revenue is posted in the Street Light Assessment District Fund (Fund 142).

The City's Street Lighting Program in FY 2020 has projected expenditures in the amount of \$2,523,459. FY 2020 revenue from proposed street lighting assessment is estimated at \$1,918,446 resulting in a shortfall of approximately \$605,013. This deficit can be covered by the projected available fund balance in the Street Light Assessment District Fund. A summary of FY 2020 revenue, expenditures and fund balances for the assessment districts is shown in Table 1, below.

Table 1:

Estimated Beginning Balance (Fund 142)	\$ 860,733
Street Lighting Program Expenditures	\$ 2,523,459
Projected Assessments	
Street Light Assessment District 1982-1	\$ 1,394,780

Street Light Assessment District 2018	\$ 556,843
County Collection Fee (1.7%)	\$ (33,178)
Projected Net Assessments	\$ 1,918,446
Deficit	\$ (605,013)
Estimated End Balance (Fund 142)	\$ 255,720

Proposed assessment rates for the Districts are summarized in the following sections of this report.

#### Street Lighting Assessment District No. 1982-1

The proposed rates for Assessment District 1982-1 are incorporated into the Engineer's Report (Attachment 3) and reflect no changes to assessment rates in FY 2020. Accordingly, this action is exempt from the notice, protest, and hearing requirements of State Proposition 218 as set forth in Government Code Section 53753.5 (Article XIII D, Sec. 5). Any increase or change in formula for the assessments would make the annual assessment subject to procedures and approval process of Proposition 218 (Government Code Section 53750-53754). Table 2, below, details prior year and proposed FY 2020 assessment rates for this district:

Table 2:

Rate Category	Assessment 2018-2019		As	Proposed ssessment 019-2020	Unit
Residential and Institutional	\$	0.0108	\$	0.0108	BSF <sup>1</sup>
Industrial and Utility	\$	0.0216	\$	0.0216	BSF
Commercial	\$	0.0432	\$	0.0432	BSF

#### **Street Lighting Assessment District 2018**

The assessment for the 2018 District is subject to an annual adjustment equal to the annual change in the Bay Area Consumer Price Index (CPI), up to a maximum of 3% per year. The 4.5% CPI increase for the annual period ending on December 2018 exceeds the 3% threshold, therefore the proposed annual adjustment for the 2018 Assessment in FY 2020 is 3%. This adjustment is incorporated into the Engineer's Report (Attachment 4). As authorized by voters this adjustment may be calculated based upon the sum of the 2018 Assessment and the 1982 Assessment. The inclusion of the 1982 Assessment in the adjustment calculation for the 2018 Assessment results in effective rate increases of 10 to 11 percent depending on rate category. These rate increases and the methodology used in their calculation are in accordance with the

<sup>&</sup>lt;sup>1</sup> Building Square Footage (BSF)

voter approved measure; therefore the proposed adjustments are exempt from the notice, protest, and hearing requirements of State Proposition 218 as set forth in Government Code Section 53753.5 (Article XII D, Sec. 5). The table below details prior year and proposed FY 2020 assessment rates for this district. A detailed calculation of the annual adjustment and the corresponding rate increases are included in the Engineer's Report.

Table 3:

Assessment Rate Schedule									
Rate Category		sessment 018-2019	As	Proposed ssessment 019-2020	Unit				
Residential									
Single Family	\$	11.17	\$	12.33	parcel				
Multi-Family<5 units	\$	8.94	\$	9.86	unit				
Multi-Family 5 or more units	\$	6.70	\$	7.40	unit				
Condominium	\$	8.94	\$	9.86	parcel				
Mobile Home	\$	5.59	\$	6.16	unit				
Multiple SFR on parcel	\$	11.17	\$	12.33	unit				
Non-Residential									
General Commercial	\$	167.55	\$	184.88	acre				
Industrial / Warehouse	\$	16.76	\$	18.49	acre				
Auto Repair	\$	111.70	\$	123.25	acre				
Hotel / Motel / Boarding	\$	111.70	\$	123.25	acre				
Hospital	\$	69.81	\$	77.03	acre				
Retirement Home	\$	13.96	\$	15.41	acre				
School / Day Care	\$	25.13	\$	27.73	acre				
Medical / Dental / Vet	\$	139.63	\$	154.07	acre				
Church	\$	8.38	\$	9.24	acre				
Mortuary	\$	2.79	\$	3.08	acre				
Recreational	\$	27.93	\$	30.81	acre				
Parking / Transportation	\$	55.85	\$	61.63	acre				
Mini Storage	\$	8.38	\$	9.24	acre				
Office	\$	41.89	\$	46.22	acre				
Bank	\$	139.63	\$	154.07	acre				
Park / Open Space / Agriculture	\$	0.56	\$	0.62	acre				
Vacant	Not	assessed							

#### CURRENT SITUATION AND ITS EFFECTS

Historically, the Street Lighting Assessment District 1982-1 rates have failed to generate sufficient revenue to sustain operations of the City's Street Lighting Program (Program).

For a period beginning in FY 2006 the General Fund (011) subsidized the City's Street Light Assessment District Fund (142), but the subsidy was discontinued as part of a City-wide budget balancing measure in FY 2018, when the General Fund faced a deficit. Subsequently, in FY 2018 the City used available Street Light Assessment District Fund balance to cover the operating deficit of the Program. To establish financial sustainability for the Program and to avoid significant reductions in service levels in the future, the City moved forward with the formation of a new district in FY 2018, Street Lighting Assessment District 2018. This district was formed separately from the 1982 District leaving that district's structure and rates in place. Assessments for the 2018 District were first levied in FY 2019.

Allowable annual adjustments of the 2018 District assessment rates are expected to raise revenues over the coming years. Until these rates increase to a level which allows total revenues to fully cover operating expenses, the Street Lighting Fund will continue to incur a deficit, and will require continued use of fund balance or transfers in from other eligible funds to offset operating deficits.

#### **BACKGROUND**

The Berkeley Street Lighting Assessment District No. 1982-1 was established under the Landscaping and Lighting Act of 1972 (Streets and Highway Code Section 22620-22631) on July 27, 1982 (Resolution No. 51,449-N.S.)<sup>2</sup>. The Street Lighting Assessment District 2018 was established under the same Act on June 12, 2018 (Resolution No. 68,482-N.S.). The Landscaping and Lighting Act of 1972 requires the City Council to hold a public hearing each year to consider adoption of an annual budget and approve changes to the Engineer's Report, even if assessments are not being increased.

The City's Engineering Division has filed the FY 2020 Engineer's Reports for the assessment districts with the City Clerk. Copies of the Engineer's Reports with FY 2020 assessments will be on file as of April 26, 2019 at the main branch of the Berkeley Public Library and at the City Clerk's Office.

In accordance with the Landscaping and Lighting Act of 1972, the City Council sets a date for a public hearing, and authorizes publication of a notice at least ten days prior to the date of that hearing to allow owners of assessed properties within each district to make an oral or written protest against the annual levy. During the course of, or upon conclusion of the public hearing, City Council may order changes in any of the matters provided in the respective Engineer's Report, including changes in improvements;

<sup>&</sup>lt;sup>2</sup> State of California legislation (Streets & Highways §22500) allows local governmental agencies to form Landscape & Lighting Maintenance Districts. A 1972 Act Landscaping and Lighting District is a flexible tool used by local government agencies to pay for landscaping, lighting and other improvements and services in public areas. It is based on the concept of assessing only those properties that benefit from improvements financed, either directly, or indirectly through increased property values. <a href="http://www.californiataxdata.com/pdf/1972LLact.pdf">http://www.californiataxdata.com/pdf/1972LLact.pdf</a>

zones within the assessment district; and the proposed diagram, or the proposed assessment, as long as any proposed changes are less than the proposed annual levy.

The improvements to be made in these assessment districts are generally described as maintenance and/or servicing of existing and future public lighting facilities including: traffic signals; installation and construction of curbs, gutters, walls, sidewalks or paving; water, irrigation, or drainage related to operation of the public lighting facilities. The improvements and services provided support the Strategic Plan goals of creating a resilient, safe, connected, and prepared city and providing state-of-the-art, well-maintained infrastructure, amenities, and facilities.

#### **ENVIRONMENTAL SUSTAINABILITY**

The City exclusively uses LED (light emitting diode) street lighting. LED lights provide environmental benefits by reducing the level of greenhouse gases emitted; reducing level of toxic materials disposed; maximization of energy and energy cost savings; achieving the City's illumination standards; and minimizing administration costs and staff time for street light maintenance.

#### RATIONALE FOR RECOMMENDATION

The Landscaping and Lighting Act of 1972, under which the Districts were formed, requires a public hearing to be held each year during the course of a regular City Council Meeting to consider adoption of an annual budget and changes to the Engineer's Report. Failing to meet these requirements would prevent the City from collecting assessments for the Districts in FY 2020.

#### **CONTACT PERSON**

Phillip L. Harrington, Director, Department of Public Works, (510) 981-6303 Nisha Patel, Manager of Engineering/City Engineer, (510) 981-6406 Ricardo Salcedo, Assistant Civil Engineer, Public Works, (510) 981-6407

#### Attachments:

- 1: Resolution Declaration of Intent Street Lighting Assessment District 1982-1
- 2: Resolution Declaration of Intent Street Lighting Assessment District 2018
- 3: Engineer's Report Street Lighting Assessment District 1982-1
- 4: Engineer's Report Street Lighting Assessment District 2018
- 5: Notice of Public Hearing

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

## DECLARATION OF INTENT – ASSESSMENTS FOR FY 2020 STREET LIGHTING ASSESSMENT DISTRICT 1982-1

WHEREAS, on July 27, 1982, the Council of the City of Berkeley Adopted Resolution No. 51,449–N.S. that completed proceedings to form the Berkeley Street Lighting Assessment District No. 1982-1; and

WHEREAS, pursuant to Chapter III of the Landscaping and Lighting Act of 1972 Street and Highway Code Section 22620-22631, the Department of Public Works, Engineering Division, Engineer of Work for Berkeley Street Lighting Assessment District No. 1982-1, prepared and filed an annual report for levy of annual assessments for Fiscal Year 2020 with the City Clerk.

NOW THEREFORE, BE IT RESOLVED, the Council of the City of Berkeley approves the Engineer's Report, dated April 2019, on levy of assessments for FY 2020 for Berkeley Street Lighting Assessment District 1982-1. The area of land to be assessed is located in the City of Berkeley, Alameda County.

BE IT FURTHER RESOLVED, the Council of the City of Berkeley declares its intention to levy and collect assessments within the Berkeley Street Lighting Assessment District 1982-1 for FY 2020.

BE IT FURTHER RESOLVED, the City Clerk shall publish a notice at least ten (10) days prior to the date of the public hearing listing the date, hour, and place of the public hearing for annual levy and collection of assessments in accordance with Streets and Highway Code Sections 22625, 22626, 22552, and 22553 and Section 6061 of the Government Code.

BE IT FURTHER RESOLVED, improvements to be made in this assessment district are generally described as maintenance or servicing, or both, of existing and future public lighting facilities, including, but not limited to, traffic signals and the installation and construction of public lighting or the maintenance or servicing thereof, including but not limited to grading, clearing, removal of debris, installation and construction of curbs, gutters, walls, sidewalk or paving, or water or irrigation, drainage related to operation of the public lighting facilities.

BE IT FURTHER RESOLVED, the annual report for Fiscal Year 2020 for which assessments are to be levied and collected to pay the costs of the improvements described in the report prepared by the Department of Public Works, Engineering Division, in accordance with the Landscaping and Lighting Act of 1972 is filed with the Office of City Clerk. All interested persons are referred to that report for a full and detailed description of improvements, boundaries of the assessment district, and proposed assessments upon assessable lots and parcels of land within the assessment district.

#### Page 7 of 37

BE IT FURTHER RESOLVED, on Tuesday, June 11, 2019 the City Council will conduct a public hearing in the School District Board Room located at 1231 Addison Street, Berkeley, California.

#### **Page 8 of 37**

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

## DECLARATION OF INTENT – ASSESSMENTS FOR FY 2020 STREET LIGHTING ASSESSMENT DISTRICT 2018

WHEREAS, on June 12, 2018, the Council of the City of Berkeley Adopted Resolution No. 68,432–N.S. that completed proceedings to form the Street Lighting Assessment District 2018; and

WHEREAS, pursuant to Chapter III of the Landscaping and Lighting Act of 1972 Street and Highway Code Section 22620-22631, the Department of Public Works, Engineering Division, Engineer of Work for Street Lighting Assessment District 2018, prepared and filed an annual report for levy of annual assessments for Fiscal Year (FY) 2020 with the City Clerk.

NOW THEREFORE, BE IT RESOLVED, the Council of the City of Berkeley approves the Engineer's Report, dated April 2019, on levy of assessments for FY 2020 for Street Lighting Assessment District 2018. The area of land to be assessed is located in the City of Berkeley, Alameda County.

BE IT FURTHER RESOLVED, the proposed annual adjustments of assessments are in compliance with the provisions of Proposition 218 because adjustments are in accordance with adjustment formulas established when the assessment district was formed.

BE IT FURTHER RESOLVED, the Council of the City of Berkeley declares its intention to levy and collect assessments within the Street Lighting Assessment District 2018 for FY 2020.

BE IT FURTHER RESOLVED, the City Clerk shall publish a notice at least ten (10) days prior to the date of the public hearing listing the date, hour, and place of the public hearing for annual levy and collection of assessments in accordance with Streets and Highway Code Sections 22625, 22626, 22552, and 22553 and Section 6061 of the Government Code.

BE IT FURTHER RESOLVED, improvements to be made in this assessment district are generally described as maintenance or servicing, or both, of existing and future public lighting facilities, including, but not limited to, traffic signals and the installation and construction of public lighting or the maintenance or servicing thereof, including but not limited to grading, clearing, removal of debris, installation and construction of curbs, gutters, walls, sidewalk or paving, or water or irrigation, drainage related to operation of the public lighting facilities.

BE IT FURTHER RESOLVED, the annual report for Fiscal Year 2020 for which assessments are to be levied and collected to pay the costs of the improvements described in the report prepared by the Department of Public Works, Engineering Division, in accordance with the Landscaping and Lighting Act of 1972 is filed with the Office of City Clerk. All interested persons are referred to that report for a full and

#### **Page 9 of 37**

detailed description of improvements, boundaries of the assessment district, and proposed assessments upon assessable lots and parcels of land within the assessment district.

BE IT FURTHER RESOLVED, on Tuesday, June 11, 2019 the City Council will conduct a public hearing in the School District Board Room located at 1231 Addison Street, Berkeley, California.

#### **CITY OF BERKELEY**

## STREET LIGHTING ASSESSMENT DISTRICT 1982-1

### **ENGINEER'S REPORT**

on the Levy of an Assessment for Fiscal Year 2020

**April 2019** 

Prepared by

NISHA PATEL, PE CITY OF BERKELEY DEPARTMENT OF PUBLIC WORKS ENGINEERING DIVISION

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#### **BACKGROUND**

By its Resolution 51,230 N.S., adopted April 6, 1982, the Berkeley City Council initiated proceedings under the provisions of Division 15, Part 2, of the California Streets and Highways Code, entitled "Landscaping and Lighting Act of 1972". The required public hearing was held on July 20, 1982, at which time the Council ordered the improvements and the formation of the assessment district, and confirmed the diagram and assessment. The district so formed was designated the "City of Berkeley Street Lighting Assessment District 1982-1". Assessments were levied for the 1983 through 2019 fiscal years.

This report was prepared and filed pursuant to Division 15, Part 2, of the California Streets and Highway Code Section 2250, and is exempt from Government Code Section 53753 since the proposed assessment for FY 2020 will not be increased.

#### PLANS AND SPECIFICATIONS

The plans and specifications for this assessment district were prepared and filed with the Engineer's Report for the 1983 fiscal year, which plans and specifications are incorporated herein by this reference thereto.

#### **METHODOLOGY**

The benefit to individual parcels within the Assessment District was established in 1982 based on the median light intensity a parcel receives. Parcel's Land Use Code (LUC) is used to categorize the parcels. The assessment is calculated by multiplying the building square footage on the parcel times the rate of its category. The rate structure has three categories: 1) Residential and Institutional, 2) Industrial, 3) Commercial. An industrial area has twice the median light intensity of a residential area and a commercial area has four times the median light intensity; therefore, the rates are two and four times higher, respectively, than the residential rate. The rates are:

Residential and Institutional Solution Square Footage Industrial and Utility Solution Square Footage Solution Square Footage

#### **ESTIMATE OF COSTS**

The improvements to be made in this assessment district are generally described as the maintenance or servicing, or both, of existing and future public lighting facilities, including, but not limited to, traffic signals and the installation and construction of public lighting or the maintenance or servicing thereof, including but not limited to grading, clearing, removal of debris, installation and construction of curbs, gutters, walls, sidewalk or paving, or water or irrigation, drainage or electrical facilities.

A summary budget for fiscal year 2020 for the maintenance of the improvements is provided below. A more detailed breakdown of costs is included as an appendix.

Table 1- FY 2020 Budget Summary

Estimated Beginning Balance Street Lighting Fund (142)	\$	860,733
Costs		
Personnel Costs	\$	923,594
Non-Personnel Costs		
Supplies, etc	\$	99,21
Debt Service		370,45
PG&E Electric Costs	\$\$\$\$\$\$\$\$	350,64
Infrastructure/Streets	\$	· (
Deferred Capital Maintenance	\$	416,60
Indirect Costs	\$	112,97
Operating Transfer Out	\$	12,12
Internal Services	\$	237,85
Subtotal Non-Personnel Costs	\$	1,599,86
Total Costs	\$	2,523,45
Assessments		
Street Light Assessment District 1982-1	\$	1,394,78
Street Light Assessment District 2018	\$	556,84
County Collection Fee (1.7%)	\$	(33,178
Net Assessment	\$	1,918,44
Deficit	\$	(605,013
Estimated End Balance	•	055.70
Street Lighting Fund (142)	\$	255,72

#### **DIAGRAM**

The diagram for this assessment district was prepared and filed with the Engineer's Report for the 1983 fiscal year.

#### ASSESSMENT

Except as described below, the assessments to be made against the assessable lots and parcels of land within this assessment district are contained in the "2020 Assessment Roll" for this district, which roll is filed herewith and incorporated herein by this reference thereto.

Said assessment roll filed herewith is based on data contained in the City's 2019 Library Tax tape and the County Assessor's 2019 maps. In the event that data contained in the 2019 Library Tax tape and 2019 maps, when issued, conflict therewith, assessments to be made against the affected parcels for this 2020 Fiscal Year shall be based upon the revised data contained in said 2020 tape and 2020 maps.

Dated:, 2019	
	Nisha Patel, RCE 72491 Engineer of Work
Filed in the office of the City Clerk of the	e City of Berkeley, Alameda County, California
this day of	_, 2019
	Mark Numainville City Clerk
Filed in the office of the County Auditor	-Controller of Alameda County, California,
this day of	_, 2019.
	Melissa Wilk County Auditor-Controller

#### **DETAIL OF STREET LIGHTING COSTS IN FY 2020**

	Personnel	Supplies, etc	Debt Service	PGE Electric	Infrastructure/ Streets	Deferred Capital/ Maintenance	Indirect Costs	Operating Transfer Out	Internal Services		TOTALS
Customer Service - 311									\$ 30,483.00	\$	30,483.00
Revenue Collection	\$ 18,654.00						\$ 2,205.00			\$	20,859.00
Financial Admin Services								\$ 364.00		\$	364.00
Corp Yard Administration								\$ 1,091.00		\$	1,091.00
General Engineering								\$ 121.00		\$	121.00
Communication System Maintenance		\$ 1,000.00								\$	1,000.00
Street Lighting Maintenance	\$904,940.00	\$ 85,471.00	\$370,451.00	\$342,493.00		\$ 416,608.00	\$110,766.00	\$ 10,544.00	\$191,238.00	\$2,	,432,511.00
Traffic Signal Maintenance										\$	-
Corp Yard Maintenance		\$ 12,740.00		\$ 8,154.00					\$ 16,136.00	\$	37,030.00
TOTALS	\$923,594.00	\$ 99,211.00	\$370,451.00	\$350,647.00	\$ -	\$ 416,608.00	\$112,971.00	\$ 12,120.00	\$237,857.00	\$2,	,523,459.00

#### CITY OF BERKELEY

## STREET LIGHTING ASSESSMENT DISTRICT 1982-1

FY 2020 Assessment Roll Listed by Assessor's Parcel Number

#### **April 2019**

Engineer's Report with Full Listing of Assessments by Assessor's Parcel Number is available at the following locations on or after April 11, 2019:

- City Clerk's Office, 2180 Milvia Street, Berkeley, CA 94704
- Main Berkeley Library, Reference Desk, 2090 Kittredge Avenue, Berkeley, CA 94704
- Public Works Engineering Division, 1947 Center Street, 4th Floor, Berkeley, CA 94704

#### Prepared by

NISHA PATEL, PE CITY OF BERKELEY DEPARTMENT OF PUBLIC WORKS ENGINEERING DIVISION

#### CITY OF BERKELEY

## STREET LIGHTING ASSESSMENT DISTRICT 1982-1

FY 2020 Assessment Roll Listed by Street Address

#### April 2019

Engineer's Report with Full Assessments Roll by Street Address is available at the following locations on or after April 11, 2019:

- City Clerk's Office, 2180 Milvia Street, Berkeley, CA 94704
- Main Berkeley Library, Reference Desk, 2090 Kittredge Avenue, Berkeley, CA 94704
- Public Works Engineering Division, 1947 Center Street, 4th Floor, Berkeley, CA 94704

Prepared by

NISHA PATEL, PE CITY OF BERKELEY DEPARTMENT OF PUBLIC WORKS ENGINEERING DIVISION

# CITY OF BERKELEY ASSESSMENT DISTRICT NO. 1982-1 FY 2020 ASSESSMENT SUMMARY

Туре	Rate	Assessment
Residential*	0.0108	\$729,633.54
Commercial	0.0432	\$501,135.00
Industrial**	0.0216	\$164,011.58
Total		\$1,394,780.12

- \* Includes Institutional and No Rate
- \*\* includes Utility

#### **CITY OF BERKELEY**

### STREET LIGHTING ASSESSMENT DISTRICT 2018

### **ENGINEER'S REPORT**

on the Levy of an Assessment for Fiscal Year 2020

April 2019

Prepared by

NISHA PATEL, PE CITY OF BERKELEY DEPARTMENT OF PUBLIC WORKS ENGINEERING DIVISION

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#### INTRODUCTION

The City of Berkeley ("City") provides maintenance and servicing of certain publicly-owned streetlights throughout the City. In order to fund the installation, maintenance and operation (the "Services") of these improvements ("Improvements"), the City formed a city-wide streetlight assessment district in 1982. The district so formed was designated the "City of Berkeley Street Lighting Assessment District 1982-1" (SLAD 1982-1) and assessments have been levied for the 1983 through 2019 fiscal years.

The Street Lighting Assessment District 1982-1 rates have never been increased above their initial rates and historically have failed to generate sufficient revenue to sustain operations of the City's Street Lighting Program (Program). For a period beginning in FY 2006 the General Fund (011) subsidized the City's Street Lighting Fund (142), but the subsidy was discontinued as part of a City-wide budget balancing measure in FY 2018, when the General Fund faced a deficit. Subsequently, in FY 2018 the City used available Street Lighting Fund balance to cover the operating deficit of the Program.

To establish financial sustainability for the Streetlight Fund and avoid significant reductions in service levels, the City moved forward with the formation a new district, Street Lighting Assessment District 2018 ("SLAD 2018" or "District"). The District would be formed separately and leave the 1982 assessment structure in place. By Resolution 68,333 N.S., adopted February 13, 2018, the Berkeley City Council initiated proceedings for the formation of the District pursuant to the provisions of Division 15, Part 2, of the California Streets and Highways Code, entitled "Landscaping and Lighting Act of 1972" (Act). Balloting procedures in accordance with Proposition 218 (Articles XIII C and XIII D of the California Constitution) and pertinent statues, were adopted by Resolution 68,376-N.S. Following tabulation of returned ballots and confirmation of voter approval, Council adopted Resolution 68,482-N.S., dated June 12, 2018, accepting the ballot tabulation results, formally establishing the District, and ordering that assessments be levied for Fiscal Year (FY) 2019.

#### PLANS AND SPECIFICATIONS

The work and Improvements proposed to be undertaken by the City and the cost paid from the levy of the annual assessment provide special benefit to assessor parcels within the District. Consistent with the Act, the Improvements are generally described as follows:

- The installation, maintenance, and servicing of local streetlights in close proximity to certain lots and parcels which provide a direct special benefit to such lots or parcels.
- The installation, maintenance, and servicing of peripheral streetlight structures which provide a special benefit to all the assessable parcels within the District whether or not such parcels are in close proximity to such lighting.
- The installation or construction of public lighting facilities, or the acquisition of any new improvements.

Plans and Specifications for the Improvements for the District are voluminous and are not bound in this Report but by this reference are incorporated and made a part of this Report. The Plans and Specifications are on file in the office of the Public Works Director where they are available for public inspection.

Article XIII D of the California Constitution defines "maintenance and servicing expenses" as, "the cost of rent, repair, replacement, rehabilitation, fuel, power, electrical current, care and supervision necessary to properly operate and maintain a permanent public improvement". The Improvement funding includes, but is not limited to, the removal, repair, replacement or relocation of light standards, poles, bulbs, fixtures and appurtenances, electrical energy, supplies, engineering and incidental costs relating to the maintenance and servicing of the local lighting improvements benefiting the parcels within the District.

The Improvements to be maintained and serviced within the District are to be part of the local streetlight system of the City of Berkeley that confers special benefit to the District's parcels. The specific location of local streetlight Improvements within the City can be found in the Streetlight Condition Assessment by Tanko Lighting, which is on file in the office of the Director of Public Works, where it is available for public inspection.

## FISCAL YEAR 2020 BUDGET

A summary budget for FY 2020 for the maintenance of the Improvements is provided below as Table 1.

Table 1- FY 2020 Budget Summary

Estimated Beginning Balance Street Lighting Fund (142)	\$	860,733
Costs		
Personnel Costs	\$	923,594
Non-Personnel Costs		
Supplies, etc	\$	99,211
Debt Service		370,451
PG&E Electric Costs	\$ \$ \$ \$ \$ \$ \$	350,647
Infrastructure/Streets	\$	0
Deferred Capital Maintenance	\$	416,608
Indirect Costs	\$	112,971
Operating Transfer Out	\$	12,120
Internal Services	\$	237,857
Subtotal Non-Personnel Costs	\$	1,599,865
Total Costs	\$	2,523,459
Assessments		
Street Light Assessment District 1982-1	\$	1,394,780
Street Light Assessment District 2018	\$	556,843
County Collection Fee (1.7%)	\$	(33,178)
Net Assessment	\$	1,918,446
Deficit	\$	(605,013)
Estimated End Balance Street Lighting Fund (142)	\$	255,720

#### METHOD OF ASSESSMENT

This section of the Engineer's Report includes an explanation of the benefits derived from the installation, maintenance and servicing of the Improvements throughout the District and the Assessment methodology used to apportion the total Assessment to properties within the District.

The District consists of all assessor parcels within the boundaries as defined by the Assessment Diagram and the parcels identified by the Assessor Parcel Numbers listed with the levy roll included with this Report. The parcel list includes all assessable privately and publicly owned parcels within the boundaries. The method used for apportioning the Assessment is based on the proportional special benefits to be derived by the properties in the District over and above general benefits conferred on real property or to the public at large. The apportionment of special benefit is a two-step process: the first step is to identify the types of special benefit arising from the Improvements and the second step is to allocate the Assessments to property based on the estimated relative special benefit for each type of property.

#### **DISCUSSION OF BENEFIT**

In summary, the Assessments can only be levied based on the special benefit to property. This benefit is received by property over and above any general benefits. Moreover, such benefit is not based on any one property owner's use of the Improvements or a property owner's specific demographic status. With reference to the requirements for Assessments, Section 22573 of the Act states:

The net amount to be assessed upon lands within an assessment district may be apportioned by any formula or method which fairly distributes the net amount among all assessable lots or parcels in proportion to the estimated benefits to be received by each such lot or parcel from the improvements.

Proposition 218, as codified in Article XIIID of the California Constitution, has confirmed that Assessments must be based on the special benefit to property:

No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel.

#### **SPECIAL BENEFIT**

Streetlighting is an optional improvement, not required by state or federal law, that is an enhancement over and above requisite infrastructure, and thus is a special benefit. The majority of the benefits of the streetlights are received by the benefited property, with a small portion of the benefits received by the general public on major streets

only. This portion received by the general public is captured and quantified in the following section.

## Improved Visibility and Safety

Well maintained, effective street lighting provides special benefit to proximate parcels, within range of the light, because it allows for safer and improved use of the property in the evenings, early morning, and at night. Street lighting provides special benefit because it increases neighborhood safety and, at least indirectly, reduces the likelihood of crime on the proximate parcels. Over time, the Improvements continue to confer a particular and distinct special benefit upon parcels within the District because of the nature of the Improvements. The proper maintenance of the streetlights and appurtenant facilities increases visibility and local human presence and, in many situations, helps reduce property-related crimes, especially vandalism, against assessed properties in the District.

## Improved Access, Navigation, and Traffic Safety

Well maintained, effective street lighting enhances ingress, egress and accessibility of all forms to the assessed parcels in the evening, early morning, and at night by increasing visibility. Improved visibility also helps prevent local automobile, bicycle, and pedestrian traffic accidents related to the assessed parcels. This benefit includes a reduction in accidents during non-daylight hours.

#### **Improved Community Character and Vitality**

Well maintained, effective street lighting promotes evening and nighttime social interaction of residents and customers of businesses and industry. This creates a positive atmosphere and enhanced community image in the evening and at night for the assessed parcels.

All of the above-mentioned items also contribute to a specific enhancement to each of the parcels within the District. The proximate street lights make each parcel safer, more visible, more accessible, more useful, more valuable and more desirable; and this further strengthens the basis of these Assessments.

#### **GENERAL VERSUS SPECIAL BENEFIT**

The proceeds from the Assessments are used to fund the described Improvements and increased levels of maintenance to the other City facilities that serve and benefit the properties in the District. In absence of the Street Lighting Assessment District 2018, such Improvements would not be properly maintained. Therefore, the District's purpose is to ensure that the necessary and beneficial public facilities for property in the District are properly maintained, operated and repaired over time. The Assessments will ensure that street lighting and associated improvements within and adjacent to the District are functional, well maintained and effective. These public resources directly benefit the property in the District and will confer distinct and special benefits to the properties within the District.

The Improvements and Services are specifically designed, located and created to provide additional and improved resources for property inside the District and not the public at large although the Improvements maintained by the Services may be available to the general public. Other properties that are outside the District do not enjoy the unique proximity and other special benefit factors described previously. These Improvements and Services are of special benefit to properties located within the District because they provide a direct advantage to properties in the District that would not be provided in the absence of the Assessments. Any general benefits to surrounding properties outside of the Assessment District, if any, are collateral and conferred concomitantly.

#### **QUANTIFICATION OF GENERAL BENEFIT**

Although the analysis used to support these assessments concludes that the benefits are solely special, as described above, consideration is made for the suggestion that a portion of the benefits are general. General benefits cannot be funded by these assessments. The funding for general benefits must come from other sources.

The maintenance and servicing of these Improvements is also partially funded, directly and indirectly, from other sources, including the City of Berkeley, Alameda County, and the State of California. This funding comes in the form of grants, development fees, special programs, and general funds, as well as direct maintenance and servicing of facilities (e.g. curbs, gutters, streets, drainage systems, etc.). This funding from other sources more than compensates for general benefits, if any, received by the properties within the Assessment District.

A detailed calculation of general benefits and of the current benefit contribution from the City is included in the Engineer's Report for Fiscal Year 2018-19.

#### METHOD OF ASSESSMENT

The method used for apportioning the Assessment is based on the proportional special benefits to be received by the properties in the District over and above general benefits conferred on real property or to the public at large. The special benefit factors considered are as follows:

- Improved visibility and safety
- Improved access, navigation and traffic safety
- Improved community character and vitality

Traffic generated to and from a particular parcel is used as the basis to quantify the special benefits received by each parcel. This is used because the amount of traffic generated by a parcel is directly proportional to the relative quantity of benefits it receives. The calculations, described in detail in the Fiscal Year 2018-2019 Engineer's Report, arrive at single-family equivalent ("SFE") rates for each category of parcel. The SFE rate for each rate category is a relative measure of the special benefit received

by each parcel category. It is based on average daily trips<sup>1</sup> adjusted by a darkness factor which accounts for non-operational hours of non-residential parcels. Each rate category is assigned an SFE rate using the following formula.

$$\frac{ADT \ x \ Darkness \ Factor}{ADT \ for \ SFR} = \ SFE \ Rate$$

#### Where:

- ADT = Average Daily Trips for each parcel category
- ADT for SFR = ADT for single-family residential, which is used as a baseline figure for SFE rate
- SFE Rate = SFEs per unit shown (parcel, [living] units, or acre)

The results of these calculations are summarized in Table 2.

Table 2 - Single-Family Equivalent Rates

		Darkness	Adj	SFE	
Rate Category	ADT	Factor	ADT	Rate	Unit
Residential					
Single Family	10	1	10	1.00	parcel
Multi-Family<5 units	8	1	8	0.80	unit
Multi-Family 5 or more units	6	1	6	0.60	unit
Condominium	8	1	8	0.80	parcel
Mobile Home	5	1	5	0.50	unit
Multiple SFR on parcel	10	1	10	1.00	unit
Non-Residential					
General Commercial	600	0.25	150	15.00	acre
Industrial / Warehouse	60	0.25	15	1.50	acre
Auto Repair	400	0.25	100	10.00	acre
Hotel / Motel / Boarding	200	0.5	100	10.00	acre
Hospital	250	0.25	62.5	6.25	acre
Retirement Home	50	0.25	12.5	1.25	acre
School / Day Care	90	0.25	22.5	2.25	acre
Medical / Dental / Vet	500	0.25	125	12.50	acre
Church	30	0.25	7.5	0.75	acre
Mortuary	10	0.25	2.5	0.25	acre
Recreational	100	0.25	25	2.50	acre
Parking / Transportation	200	0.25	50	5.00	acre
Mini Storage	30	0.25	7.5	0.75	acre
Office	300	0.125	37.5	3.75	acre
Bank	1000	0.125	125	12.50	acre
Park / Open Space / Agriculture	2	0.25	0.5	0.05	acre
Vacant		no	ot assess	sed	

<sup>&</sup>lt;sup>1</sup> Average trip generation rates used for Assessment calculation are based on trip generation rates published by the San Diego Association of Governments.

The SFE rates derived in Table 2 are then applied to each individual parcel according to its rate category and the number of units or the lot acreage as applicable. For large, multi-family parcels with more than 100 units, the trip generation tends to increase less with additional units because of the density and number of residents who use public transportation or non-motorized modes of transportation. There, the units in excess of 100 are computed at one-tenth the rate. Similarly, with non-residential parcels in excess of five acres, the trip generation tends to increase less with size. There, acres (or portions thereof) are also computed at one-tenth the rate. A summary of these calculations is shown in Table 3.

Table 3 – Summary of SFEs by Category

			Parcels	
	SFE	No. of	or Units	
Rate Category	Rate	Parcels	or Acres	SFEs
Residential				
Single Family	1.00	17,509	17,509	17,509.000
Multi-Family<5 units	0.80	3,412	9,040	7,232.000
Multi-Family 5 or more units*	0.60	1,445	23,969	12,200.880
Condominium	0.80	2,415	2,415	1,932.000
Mobile Home	0.50	3	3	1.500
Multiple SFR on parcel	1.00	669	1,406	1,406.000
Non-Residential				
General Commercial*	15.00	784	184.45	2,766.750
Industrial / Warehouse*	1.50	397	257.27	345.621
Auto Repair	10.00	121	28.65	286.500
Hotel / Motel / Boarding	10.00	49	17.79	177.900
Hospital	6.25	9	13.15	82.188
Retirement Home	1.25	1	0.29	0.363
School / Day Care*	2.25	107	180.78	331.790
Medical / Dental / Vet	12.50	105	15.75	196.875
Church	0.75	106	41.55	31.163
Mortuary	0.25	1	0.11	0.028
Recreational*	2.50	31	54.92	81.455
Parking / Transportation	5.00	123	44.11	220.550
Mini Storage	0.75	8	7.51	5.633
Office*	3.75	227	79.73	292.676
Bank	12.50	18	5.70	71.250
Park / Open Space / Agriculture*	0.05	93	206.17	6.718
Vacant		r	not assessed	
TOTALS				45,178.837

<sup>\*</sup> Categories where some parcels are over the size threshold (100 units for MFR and 5 acres for non-residential) and excess units are charged at reduced rates.

To arrive at the Assessment amount for a single-family equivalent (SFE), the total amount of Assessments to be collected must be divided by the total SFEs. The calculation is represented by the following formula;

$$\frac{Total \ Assessments \ to \ be \ Collected}{Total \ SFEs} = Assessment \ per \ SFE$$

Per the Annual Assessment Increase section of this report, an increase of 3%, based upon the sum of the 1982 and 2018 assessments is permitted for FY 2020. In FY 2019, the total assessments collected were \$500,000 for the 2018 assessment and \$1,394,780 for the 1982 assessment. Using this information, the calculation above can be rewritten as follows:

$$\frac{2018 \, Assmt \, in \, FY \, 19 + (1982 \, Assmt \, in \, FY 19 + 2018 \, Assmt \, in \, FY 19) \times (\% \, Increase)}{Total \, SFEs}$$

$$= Assmt \, per \, SFE$$

Or, substituting numbers from the analysis:

$$\frac{\$500,000 + (\$1,394,780 + \$500,000) \times (0.03)}{45,178.837} = \$12.33 \ per \ SFE$$

Table 4 - Assessment Rate Schedule

	As	sessment		oposed sessment	
Rate Category	20	18-2019	20	19-2020	Unit
Residential					
Single Family	\$	11.17	\$	12.33	parcel
Multi-Family<5 units	\$	8.94	\$	9.86	unit
Multi-Family 5 or more units	\$	6.70	\$	7.40	unit
Condominium	\$	8.94	\$	9.86	parcel
Mobile Home	\$	5.59	\$	6.16	unit
Multiple SFR on parcel	\$	11.17	\$	12.33	unit
Non-Residential					
General Commercial	\$	167.55	\$	184.88	acre
Industrial / Warehouse	\$	16.76	\$	18.49	acre
Auto Repair	\$	111.70	\$	123.25	acre
Hotel / Motel / Boarding	\$	111.70	\$	123.25	acre
Hospital	\$ \$	69.81	\$	77.03	acre
Retirement Home	\$	13.96	\$	15.41	acre
School / Day Care	\$	25.13	\$	27.73	acre
Medical / Dental / Vet	\$ \$	139.63	\$	154.07	acre
Church		8.38	\$	9.24	acre
Mortuary	\$	2.79	\$	3.08	acre
Recreational	\$	27.93	\$	30.81	acre
Parking / Transportation	\$	55.85	\$	61.63	acre
Mini Storage	\$	8.38	\$	9.24	acre
Office	\$	41.89	\$	46.22	acre
Bank	\$	139.63	\$	154.07	acre
Park / Open Space / Agriculture	\$	0.56	\$	0.62	acre
Vacant	No	ot assessed	1		

#### ANNUAL ASSESSMENT INCREASE

The District assessment is subject to an annual adjustment tied to the San Francisco-Oakland-Hayward Consumer Price Index-U as of December of each succeeding year ("CPI"), with a maximum annual adjustment not to exceed 3%. The maximum authorized rate is equal to the maximum rate in the first fiscal year the Assessment was approved adjusted annually by the lower of either 3% or the increase in the CPI. In order for the City's dedicated Streetlight Fund revenue sources to satisfy cost requirements into the future, the annual adjustment for each property may be calculated based upon the sum of the SLAD 1982-1 assessment and the SLAD 2018 assessment.

For the Period of December 2017 to December 2018, the CPI increased by 4.5% which exceeds the maximum annual adjustment. For Fiscal Year 2020 assessments, the annual adjustment is limited to 3%.

#### **DURATION OF ASSESSMENT**

The assessments may be continued every year after their formation, so long as the public Improvements need to be maintained and improved and the City requires funding from the assessments for these Improvements in the District. Assessments can continue to be levied annually after the City Council approves an annually updated Engineer's Report, budget for the Assessment, Improvements to be provided and other specifics of the Assessment. In addition, the City Council must hold an annual public hearing to continue the Assessment.

#### APPEALS AND INTERPRETATION

Any property owner who feels that the Assessment levied on the subject property is in error as a result of incorrect information being used to apply the foregoing method of assessment, may file a written appeal with the City of Berkeley Public Works department. Any such appeal is limited to correction of an assessment during the then current or, if before July 1, the upcoming fiscal year. Upon the filing of any such appeal, the City of Berkeley City Engineer or his or her designee will promptly review the appeal and any information provided by the property owner. If the City Engineer or his or her designee finds that the assessment should be modified, the appropriate changes shall be made to the assessment roll. If any such changes are approved after the assessment roll has been filed with the County for collection, the City Engineer or his or her designee is authorized to refund to the property owner the amount of any approved reduction. Any dispute over the decision of the City Engineer or her or his designee shall be referred to the Public Works Director and the decision of the Public Works Director shall be final.

#### **ASSESSMENT STATEMENT**

The amount to be paid for the Improvements and the expense incidental thereto to be paid by the City of Berkeley Street Lighting Assessment District 2018 for the fiscal year 2020 are generally as listed in Table 1.

As required by the Act, an Assessment Diagram is hereto attached and made a part hereof showing the exterior boundaries of the City of Berkeley Streetlight Assessment District 2018. The distinctive number of each parcel or lot of land in the City of Berkeley Streetlight Assessment District 2018 is its Assessor Parcel Number appearing on the Assessment Roll.

And I do hereby assess and apportion the net amount of the cost and expenses of the Improvements, including the costs and expenses incident thereto, upon the parcels and lots of land within the City of Berkeley Street Lighting Assessment District 2018, in accordance with the special benefits to be received by each parcel or lot, from the Improvements, and more particularly set forth in the cost estimate and method of assessment hereto attached and by reference made a part hereof.

The Assessments are made upon the parcels or lots of land within the City of Berkeley Street Lighting Assessment District 2018 in proportion to the special benefits to be received by the parcels or lots of land from the Improvements.

Each parcel or lot of land is described in the Assessment Roll by reference to its parcel number as shown on the Assessor's Maps of the County of Alameda for the fiscal year 2018. For a more particular description of said property, reference is hereby made to the deeds and maps on file and of record in the office of the County Recorder of the County.

I hereby place opposite the Assessor Parcel Number for each parcel or lot within the Assessment Roll, the amount of the assessment for the fiscal year 2020 for each parcel or lot of land within the City of Berkeley Street Lighting Assessment District 2018.

Dated:, 2019	
	Nisha Patel, RCE 72491 Engineer of Work

Filed in the office of the City Clerk of	the City of Berkeley, Alameda County, California,
this day of	, 2019
	Mark Numainville City Clerk
	litor-Controller of Alameda County, California, this
day of	_, 2019.
	Melissa Wilk County Auditor-Controller

## **DIAGRAM**

The boundaries of the City of Berkeley Streetlight Maintenance Assessment Districts and Annexations are displayed on the Assessment Diagram below.

ASSESSMENT DIAGRAM Street Lighting Assessment District 2018 City of Berkeley FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF BERKELEY, COUNTY OF ALAMEDA, CALIFORNIA, THIS OF , 2018. CITY OF BERKELEY, COUNTY OF ALAMEDA, CALIFORNIA THIS \_\_\_\_\_DAY OF 2018. RECORDED IN THE OFFICE OF THE CITY CLERK OF THE AN ASSESSMENT WAS CONFIRMED AND LEVIED BY THE CITY COUNCIL OF THE CITY OF BERKELEY, COUNTY OF ALAMEDA ON THE LOTS, PIECES AND PARCELS OF LAND ON THIS ASSESSMENT DIAGRAM ON THE DAY OF 2018 FOR THE FISCAL YEAR 2018-19 AND SAID ASSESSMENT DIAGRAM AND THE ASSESSMENT OLIGORAM AND THE ASSESSMENT OLIGORAM AND THE ASSESSMENT OLIFOR THE COUNTY OF ALAMEDA ON THE DAY OF 2018 FOR THE COUNTY AUDITOR OF THE COUNTY OF ALAMEDA ON THE DAY OF 2018. SEEPERINGE IS HEREBY MADE TO SAID RECORDED ASSESSMENT ROLL FOR THE CANCEL MOUNT OF EACH ASSESSMENT ROLL FOR THE CANCEL AND THE ASSESSMENT TOLL FOR THE EXACT AMOUNT OF EACH ASSESSMENT ROLL FOR THE EXACT AMOUNT OF EACH ASSESSMENT LEVIED AGAINST EACH PARCEL OF LAND U.C. Berkeley Campus CITY CLERK San Francisco Bay **Ashby Avenue** REFERENCE IS HEREBY MADE TO THE MAPS AND DEEDS OF RECORD IN THE OFFICE OF THE ASSESSOR OF THE OF RECORD IN THE OFFICE OF THE ASSESSOR OF THE 
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DESCRIPTION OF THE LINES AND DIMENSIONS OF ANY 
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FOR ALL DETAILS CONCERNING THE LINES AND 
DIMENSIONS OF SUCH PARCELS EACH PARCEL IS 
IDENTIFIED IN SAID MAPS BY ITS DISTINCTIVE ASSESSOR'S 
PARCEL IS MEMBERS. PREPARED BY SCI CONSULTING GROUP 4745 MANGELS BOULEVARD FAIRFIELD, CA 94534 707-430-4300 PARCEL NUMBER

Figure 1 - Assessment Diagram

#### CITY OF BERKELEY

# STREET LIGHTING ASSESSMENT DISTRICT 2018

FY 2020 Assessment Roll Listed by Assessor's Parcel Number

## **April 2019**

Engineer's Report with Full Listing of Assessments by Assessor's Parcel Number is available at the following locations on or after April 11, 2019:

- City Clerk's Office, 2180 Milvia Street, Berkeley, CA 94704
- Main Berkeley Library, Reference Desk, 2090 Kittredge Avenue, Berkeley, CA 94704
- Public Works Engineering Division, 1947 Center Street, 4th Floor, Berkeley, CA 94704

## Prepared by

NISHA PATEL, PE CITY OF BERKELEY DEPARTMENT OF PUBLIC WORKS ENGINEERING DIVISION

#### CITY OF BERKELEY

# STREET LIGHTING ASSESSMENT DISTRICT 2018

FY 2020 Assessment Roll Listed by Street Address

## April 2019

Engineer's Report with Full Assessments Roll by Street Address is available at the following locations on or after April 11, 2019:

- City Clerk's Office, 2180 Milvia Street, Berkeley, CA 94704
- Main Berkeley Library, Reference Desk, 2090 Kittredge Avenue, Berkeley, CA 94704
- Public Works Engineering Division, 1947 Center Street, 4th Floor, Berkeley, CA 94704

## Prepared by

NISHA PATEL, PE CITY OF BERKELEY DEPARTMENT OF PUBLIC WORKS ENGINEERING DIVISION

# NOTICE OF PUBLIC HEARING BERKELEY CITY COUNCIL

## STREET LIGHTING ASSESSMENTS

## **Street Lighting Assessment District 2018:**

In accordance with the voter-approved measure, Street Lighting Assessment District 2018 is subject to an annual assessment adjustment equal to the annual change in the Bay Area Consumer Price Index (CPI), up to a maximum of 3%. The 4.5% CPI increase for the annual period ending December 2018 exceeds the 3% threshold, therefore the proposed annual assessment adjustment for the 2018 District in Fiscal Year (FY) 2020 is limited to 3%. As authorized by voters, the adjustment may be calculated based upon the sum of the 2018 District assessment and the Berkeley Street Lighting Assessment District 1982-1 assessment. The inclusion of the 1982 District assessment in the adjustment calculation for the 2018 District results in effective rate increases of 10% to 11% depending on the rate category. Detailed calculations of the annual adjustment and the corresponding rate increases are included in the Street Lighting Assessment District 2018 Engineer's Report for FY 2020<sup>1</sup>. The proposed assessment rates are summarized below:

	Assessment	Proposed Assessment	
Rate Category	2018-2019	2019-2020	Unit
Residential			
Single Family	\$ 11.17	\$ 12.33	parcel
Multi-Family<5 units	\$ 8.94	\$ 9.86	unit
Multi-Family 5 or more units	\$ 6.70	\$ 7.40	unit
Condominium	\$ 8.94	\$ 9.86	parcel
Mobile Home	\$ 5.59	\$ 6.16	unit
Multiple SFR on parcel	\$ 11.17	\$ 12.33	unit
Non-Residential			
General Commercial	\$ 167.55	\$ 184.88	acre
Industrial / Warehouse	\$ 16.76	\$ 18.49	acre
Auto Repair	\$ 111.70	\$ 123.25	acre
Hotel / Motel / Boarding	\$ 111.70	\$ 123.25	acre
Hospital	\$ 69.81	\$ 77.03	acre
Retirement Home	\$ 13.96	\$ 15.41	acre
School / Day Care	\$ 25.13	\$ 27.73	acre
Medical / Dental / Vet	\$ 139.63	\$ 154.07	acre
Church	\$ 8.38	\$ 9.24	acre
Mortuary	\$ 2.79	\$ 3.08	acre
Recreational	\$ 27.93	\$ 30.81	acre
Parking / Transportation	\$ 55.85	\$ 61.63	acre
Mini Storage	\$ 8.38	\$ 9.24	acre
Office	\$ 41.89	\$ 46.22	acre
Bank	\$ 139.63	\$ 154.07	acre
Park / Open Space / Agriculture	\$ 0.56	\$ 0.62	acre
Vacant	Not assessed		

<sup>&</sup>lt;sup>1</sup> Copies of the Engineer's Report are on file at the main branch of the Berkeley Public Library and at the City Clerk's Office.

Assessments under the 2018 District are generally determined by the number of parcels, units or acres, as applicable to each parcel category, and the associated rate category.

#### **Berkeley Street Lighting Assessment District 1982-1:**

The Department of Public Works is proposing no increase in FY 2020 for Street Lighting Assessment District 1982-1 rates. The existing assessment rates are:

	As	sessment	
Rate Category		Rate	Unit
Residential and Institutional	\$	0.0108	Bldg. Sf
Industrial	\$	0.0216	Bldg. Sf
Commercial	\$	0.0432	Bldg. Sf

Assessments under this district are determined by building square footage and rates.

#### **Public Hearing Information**

The hearing will be held on, June 11, 2019 at 6:00 p.m. in the City Council Chambers at 2134 Martin Luther King, Jr. Way.

A copy of the agenda material for this hearing will be available on the City's website at www.ci.berkeley.ca.us as of May 31, 2019.

Written comments should be mailed or delivered directly to the <u>City Clerk, 2180 Milvia Street, Berkeley, CA 94704</u>, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet. Comments received no later than Tuesday, June 4, 2019 will be included in Council agenda packets. Comments received thereafter will be submitted to Council as supplemental communications at the meeting. For further information, call Mark Numainville, City Clerk, (510) 981-6900. FAX: (510) 981-6901. TDD: (510) 981-6903.

FY 2020 Assessment Rolls for both street lighting districts will be available at the City Clerk's Office 2180 Milvia Street, 1st Floor, and at the main Public Library, 2090 Kittredge Street.

For further information, please contact Nisha Patel at (510) 981-6406 or Phil Harrington, Director of Public Works at (510) 981-6303

Published: On or before May 28, 2019

City Clerk shall publish a notice at least 10 days prior to the date of the public hearing with the date, hour, and place of the public hearing for annual levy and collection of assessments in accordance with Streets and Highway Code Sections 22625, 22626, 22552, and 22553 and Section 6061 of the Government Code.

I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way, as well as on the City's website, on May 28, 2018.

Mark Numainville, City Clerk



CONSENT CALENDAR May 14, 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: Contracts: On-Call Construction and Project Management Services:

Ghirardelli Associates, Inc., Park Engineering, Inc., and Quincy

Engineering, Inc.

#### RECOMMENDATION

Adopt three Resolutions authorizing the City Manager to execute contracts and any amendments with the following firms for on-call construction and project management services for capital improvement projects, each for a period of July 1, 2019 through June 30, 2022:

- 1. Ghirardelli Associates, Inc. for an amount not to exceed \$1,000,000.
- 2. Park Engineering, Inc. for an amount not to exceed \$1,000,000.
- 3. Quincy Engineering, Inc. for an amount not to exceed \$1,000,000.

## FISCAL IMPACTS OF RECOMMENDATION

Funding for the on-call contracts in FY 2020 through FY 2022 is subject to appropriation in future fiscal years' capital improvement budget and will be identified as projects arise.

The CMS numbers assigned to these contracts are:

CONSULTANT	CMS NO.
Ghirardelli Associates, Inc.	UQLBL
Park Engineering, Inc.	ACLZ6
Quincy Engineering, Inc.	DXRX1

### **CURRENT SITUATION AND ITS EFFECTS**

Requests for Qualifications (RFQ) were issued on March 23, 2018 (Specification No. 18-1173-C) seeking qualified firms or individuals to provide on-call construction management and project management (CM/PM) services for capital improvement projects, including but not limited to the following Strategic Plan Projects: Bicycle and Pedestrian Infrastructure Improvements; Measure M LID Woolsey Street Project; Berkeley Rose Garden Drainage; 2<sup>nd</sup> Street, Monterey Avenue, Ward Street, Hopkins Street, and Bancroft Way and Major Improvements to Downtown Berkeley Infrastructure and Amenities (Milvia Bikeway).

CONSENT CALENDAR May 14, 2019

On April 24, 2018, the City received 25 proposals from construction and project management firms, which were evaluated by a review panel. Ghirardelli Associates, Inc., Park Engineering, Inc., and Quincy Engineering, Inc. have particular expertise in CM/PM support for roadway, drainage, and transportation projects, and were determined to be the best qualified to meet the City's needs for these types of projects.

The provided services will support the Strategic Plan goals of creating a resilient, safe, connected, and prepared city and providing state-of-the-art, well-maintained infrastructure, amenities, and facilities.

#### **BACKGROUND**

Over the next several years, the Engineering and Transportation Divisions of the Public Works Department are experiencing significantly increased workloads from on-going capital projects including Phase 1 T1 projects. These Divisions will be unable to complete this work within schedule without assistance, due to a shortage of project delivery staff.

The City has used CM/PM consultants in the past to supplement City staff. These CM/PM services may cover all project phases including planning, design, and construction management services during construction. The consultant may serve as the City's project manager during planning and design or serve as the construction manager during construction.

#### ENVIRONMENTAL SUSTAINABILITY

There are no anticipated negative environmental effects of this action. The execution of these contracts will help ensure successful completion of several ongoing capital improvement projects including complete streets projects which facilitate walking and cycling as alternatives to driving, which in turn promotes environmental sustainability.

#### RATIONALE FOR RECOMMENDATION

Ghirardelli Associates, Inc., Park Engineering, Inc., and Quincy Engineering, Inc. have particular expertise in CM/PM support for roadway, drainage, and transportation projects. They were the top three ranked firms for these types of projects and are the best qualified to meet the City's needs.

City staff recommends awarding a contract to all three consultants to get the best value for the City, because it will distribute the anticipated workload, create an alternative source for services, and secure more competitive proposals.

## ALTERNATIVE ACTIONS CONSIDERED

No alternative actions were considered. The City needs assistance from project and construction management services firms to complete required work on-time. CM/PM support will be critical to complete time-sensitive T1 funded and grant-funded design projects and ongoing capital construction projects within the established time frame.

## **CONTACT PERSON**

Phillip L. Harrington, Director, Public Works (510) 981-6303 Nisha Patel, Manager of Engineering & City Engineer (510) 981-6406 Joe Enke, Supervising Civil Engineer (510) 981-6411

## Page 3 of 6

Contracts: On-Call Construction and Project Management Services

CONSENT CALENDAR May 14, 2019

## Attachments:

1: Resolution: Contract with Ghirardelli Associates, Inc.

2: Resolution: Contract with Park Engineering, Inc.3: Resolution: Contract with Quincy Engineering, Inc.

#### **RESOLUTION NO.:-N.S.**

CONTRACT: GHIRARDELLI ASSOCIATES, INC. FOR ON-CALL CONSTRUCTION AND PROJECT MANAGEMENT (CM/PM) SERVICES FOR CAPITAL IMPROVEMENT PROJECTS

WHEREAS, on March 23, 2018 the City released a Request for Qualifications (Specification No. 18-11173-C) seeking firms or individuals to provide on-call CM/PM services for capital improvement projects; and

WHEREAS, on April 24, 2018, the City received 25 submissions, which were reviewed and rated; and

WHEREAS, the submission from Ghirardelli Associates, Inc. has been found to be fully qualified and responsive to the City's request; and

WHEREAS, funding will be identified and requested for appropriation as projects arise, and the contract has been entered into the citywide contract database and assigned CMS No. UQLBL.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to approve a contract and any amendments with Ghirardelli Associates, Inc. for on-call construction and project management services for capital improvement projects for the contract period of July 1, 2019 through June 30, 2022 in an amount not to exceed \$1,000,000. A record signature copy of said contract and any amendments to be on file in the Office of the City Clerk.

#### **RESOLUTION NO.:-N.S.**

CONTRACT: PARK ENGINEERING, INC. FOR ON-CALL CONSTRUCTION AND PROJECT MANAGEMENT (CM/PM) SERVICES FOR CAPITAL IMPROVEMENT PROJECTS

WHEREAS, on March 23, 2018 the City released a Request for Qualifications (Specification No. 18-11173-C) seeking firms or individuals to provide on-call architectural design services for capital improvement projects; and

WHEREAS, on April 24, 2018, the City received 25 submissions, which were reviewed and rated; and

WHEREAS, the submission from Park Engineering, Inc. has been found to be fully qualified and responsive to the City's request; and

WHEREAS, funding will be identified and requested for appropriation as projects arise, and the contract has been entered into the citywide contract database and assigned CMS No. ACLZ6.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to approve a contract and any amendments with Park Engineering, Inc. for on-call project and construction management services for capital improvement projects for the contract period of July 1, 2019 through June 30, 2022 in an amount not to exceed \$1,000,000. A record signature copy of said contract and any amendments to be on file in the Office of the City Clerk.

#### **RESOLUTION NO.:-N.S.**

CONTRACT: QUINCY ENGINEERING, INC. FOR ON-CALL CONSTRUCTION AND PROJECT MANAGEMENT (CM/PM) SERVICES FOR CAPITAL IMPROVEMENT PROJECTS

WHEREAS, on March 23, 2018 the City released a Request for Qualifications (Specification No. 18-11173-C) seeking firms or individuals to provide on-call architectural design services for capital improvement projects; and

WHEREAS, on April 24, 2018, the City received 25 submissions, which were reviewed and rated; and

WHEREAS, the submission from Quincy Engineering, Inc. has been found to be fully qualified and responsive to the City's request; and

WHEREAS, funding will be identified and requested for appropriation as projects arise, and the contract has been entered into the citywide contract database and assigned CMS No. DXRX1.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to approve a contract and any amendments with Quincy Engineering, Inc. for on-call project and construction management services for capital improvement projects for the contract period of July 1, 2019 through June 30, 2022 in an amount not to exceed \$1,000,000. A record signature copy of said contract and any amendments to be on file in the Office of the City Clerk.



CONSENT CALENDAR MAY 14, 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: Amendment to Grant Funding Agreement for Gilman Railroad Pedestrian

Crossing Safety Project, Specification No. 18-11244-C

## RECOMMENDATION

Adopt a Resolution accepting an amendment to the grant funding agreement between the City and the California Department of Transportation, Service Contract No. 75LX291, for the Gilman Railroad Pedestrian Crossing Safety Project to increase the amount from \$310,500 to \$473,000 and revise the expiration date from December 19, 2019 to December 31, 2020 and authorizing the City Manager to execute said amendment and any other associated necessary agreement.

#### FISCAL IMPACTS OF RECOMMENDATION

The increase of \$162,500 in grant funding is subject to appropriation in the FY 2020 budget in the Caltrans Fund (Fund 344). It will be added to the Gilman St/Railroad Pedestrian Crossing Safety project budget (344-54-622-668-0000-000-431-665110). The grant reimbursement will be deposited into revenue account 344-54-622-668-0000-000-000-000-483110.

## **CURRENT SITUATION AND ITS EFFECTS**

This is the first of two related Council Reports pertaining to the Project, and both are scheduled for the same Council meeting in the following sequential order:

- Acceptance of Amendment to Grant Funding Agreement. This is necessary to secure the remaining construction funds for the Project.
- Contract Award for Construction Contract. This is required to enter into a construction contract with a contractor to perform the work of this Project.

The City and Caltrans currently have an executed funding agreement under Service Contract No. 75LX291 in the amount of \$310,500 for the construction of concrete sidewalk infill along Gilman Street at the Third Street railroad crossing. The amount of the funding agreement was established several years ago, prior to the start of the design phase. Since that time, detailed design has occurred culminating in a final design, and construction costs have escalated.

The project was bid on April 16, 2019, and the City received the lowest responsible responsive bid in the amount of \$328,464. That amount, plus a 15% contingency for unforeseen circumstances during construction, as well as to estimates for construction management, results in a total reimbursable construction cost of \$473,000, which exceeds the amount of the original funding agreement.

As a result, the City and Caltrans intend to execute an amendment to the Service Contract, which will increase the award from Caltrans to match the estimated construction cost and will extend the duration of the award to match the estimated construction schedule. This Council Report requests that Council accept an amendment to the funding agreement to increase the amount from \$310,500 to \$473,000 and authorize the City Manager to execute this amendment. Council's acceptance of this amendment will allow for the separate but related Council authorization to execute a contract for the construction of this Project.

The Gilman Railroad Pedestrian Crossing Safety Project is a Strategic Plan Priority Project, advancing our goal to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.

## **BACKGROUND**

The sidewalks along Gilman Street at the Third Street railroad crossing end approximately 150 feet short of the boundaries of the crossing at the northeast, northwest, southeast, and southwest quadrants. Pedestrians traveling along Gilman Street must traverse an uneven, unpaved area to continue across the railroad tracks.

In May 2014, at the request of Union Pacific Railroad (UPRR), City staff met with Caltrans and UPRR staff at the Gilman Street/Third Street railroad intersection to evaluate potential pedestrian safety improvements. This evaluation led to a series of recommendations, including improved railroad crossing signals, improved street signage, and completion of the sidewalk along Gilman Street at this intersection. UPRR will install improved railroad crossing signals. The City has already installed improved street signage and intends to construct sections of concrete sidewalk to fill in existing gaps adjacent to the railroad tracks at this intersection.

On June 28, 2016, Council authorized the City Manager to accept an award of \$310,500 from Caltrans for design and construction of concrete sidewalk infill at the four quadrants described above. The award was formalized under Service Contract No. 75LX291, executed on February 28, 2017 between the City and Caltrans in the amount of \$310,500 for the construction of this Project.

As described above, the total estimated construction cost exceeds the funding amount. City staff have discussed this discrepancy with Caltrans, and as a result, the City and Caltrans intend to execute said amendment to the Service Contract.

## **ENVIRONMENTAL SUSTAINABILITY**

In addition to improving pedestrian safety, completion of this Project is expected to reduce the amount of airborne road dust particles that currently result from foot traffic as pedestrians traverse the existing unpaved area.

## RATIONALE FOR RECOMMENDATION

The City has a policy to infill sidewalk gaps. Further, the City has an opportunity to utilize a no-local-match-required Caltrans monetary award to complete the sidewalks at this railroad crossing.

## ALTERNATIVE ACTIONS CONSIDERED

None. The amendment will increase the amount of funding for 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

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

ACCEPT AN AMENDMENT TO THE GRANT FUNDING AGREEMENT (SERVICE CONTRACT NO. 75LX291 WITH THE CALIFORNIA DEPARTMENT OF TRANSPORTATION) TO INCREASE FUNDING TO \$473,000 AND EXTEND THE EXPIRATION DATE TO DECEMBER 31, 2020 FOR THE GILMAN RAILROAD PEDESTRIAN CROSSING SAFETY PROJECT

WHEREAS, the Gilman Railroad Pedestrian Crossing Safety Project will fill in gaps in the existing sidewalk along Gilman Street at the Third Street railroad crossing, in keeping with a City policy to fill in sidewalk gaps; and

WHEREAS, the City and the California Department of Transportation have executed Service Contract No. 75LX291, in which the California Department of Transportation agrees to reimburse the City of Berkeley up to \$310,500 for the construction of this Project; and

WHEREAS, the total estimated project cost is anticipated to exceed the amount of the aforementioned Service Contract; and

WHEREAS, the City and the California Department of Transportation intend to execute an amendment to the aforementioned Service Contract to increase the amount of funding to \$473,000 to cover the total estimated construction cost and extend the expiration date to December 21, 2020 to match the estimated construction schedule; and

WHEREAS, funding is subject to appropriation in the FY 2020 budget in the Caltrans Fund (Fund 344) and the grant reimbursement will be deposited into revenue account in the Caltrans Fund (Fund 344); and

WHEREAS, the contract has been entered into the Citywide contract database with Contract Management System (CMS) No. W4JZE.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the amendment to Service Contract No. 75LX291 between the City of Berkeley and the California Department of Transportation to increase grant funding to \$473,000 and extend the grant expiration date to December 31, 2020 has been accepted and that the City Manager is authorized to execute said amendment and any other associated necessary agreements.



CONSENT CALENDAR
May 14, 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: ERA Construction Inc. for Gilman Railroad Pedestrian Crossing

Safety Project, Specification No. 18-11244-C

#### RECOMMENDATION

Adopt a Resolution:

- 1. Approving the plans and specifications for the Gilman Railroad Pedestrian Crossing Safety Project ("Project"), Specification No. 18-11244-C;
- 2. Accepting the bid of the lowest responsible bidder, ERA Construction Inc.; and
- Authorizing the City Manager to execute a contract and any amendments, extensions, or change orders with ERA Construction Inc. until completion of the Project in accordance with the approved plans and specifications, in an amount not to exceed \$377,764.

#### FISCAL IMPACTS OF RECOMMENDATION

Funding of \$377,734 is available in the FY 2019 budget in the Caltrans Grant Fund (344-54-622-668-0000-000-431-665110) and in the Measure BB – Local Street and Road Fund (134-54-622-668-0000-000-431-665110).

Total NTE construction	\$ 377,764
15% contingency	\$ 49,300
Low bid by ERA Construction Inc.	\$ 328,464

The Contract Management System ("CMS") No. for the contract is AAX6X.

## **CURRENT SITUATION AND ITS EFFECTS**

This is the second of two related Council Reports pertaining to the Project, and both are scheduled for the same Council meeting in the following sequential order:

- Acceptance of Amendment to Grant Funding Agreement. This is necessary to secure the remaining construction funds for the Project.
- Contract Award for Construction Contract. This is required to enter into a construction contract with a contractor to perform the work of this Project.

On April 16, 2019, eight bids were opened for the Project, with bids ranging from \$328,464 to \$478,908.50. The low bidder was ERA Construction Inc. at \$96,536 below the Engineer's Estimate of \$425,000. Staff has verified that ERA Construction Inc. is the lowest responsive and responsible bidder, in accordance with the Public Contract Code.

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. ERA Construction Inc. has submitted a Certification of Compliance with the Equal Benefits Ordinance. The Community Workforce Agreement (CWA) does not apply because the construction cost of this Project is below the \$500,000 threshold for CWA eligibility.

The Gilman Railroad Pedestrian Crossing Safety Project is a Strategic Plan Priority Project, advancing our goal to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.

#### BACKGROUND

The sidewalks along Gilman Street at the Third Street railroad crossing end approximately 150 feet short of the boundaries of the crossing at the northeast, northwest, southeast, and southwest quadrants. Pedestrians traveling along Gilman Street must traverse an uneven, unpaved area to continue across the railroad tracks.

In May 2014, at the request of Union Pacific Railroad (UPRR), City staff met with Caltrans and UPRR staff at the Gilman Street/Third Street railroad intersection to evaluate potential pedestrian safety improvements. This evaluation led to a series of recommendations, including improved railroad crossing signals, improved street signage, and completion of the sidewalk along Gilman Street at this intersection. UPRR will install improved railroad crossing signals. The City has already installed improved street signage and intends to construct sections of concrete sidewalk to fill in existing gaps adjacent to the railroad tracks at this intersection under the contract with ERA Construction Inc.

On June 28, 2016, Council authorized the City Manager to accept an award of \$310,500 from Caltrans for the construction of concrete sidewalk infill at the four quadrants described above at the Gilman Street/Third Street railroad crossing. Service Contract No. 75LX291 was executed on February 28, 2017, between the City and Caltrans in the amount of \$310,500 for the construction of this Project.

Since that time, detailed design has occurred culminating in a final design, and construction costs have escalated. The total estimated construction cost is anticipated to exceed the original funding amount. City staff have recently discussed this discrepancy with Caltrans, and as a result, the City and Caltrans intend to execute an amendment to the Service Contract, which will increase the award from Caltrans to match the estimated construction cost. Pending Council's acceptance of the amendment

to the Service Contract, which is detailed in a separate Council Report, this Council Report requests authorization for the City Manager to execute a contract and any amendments, extensions, and/or change orders with ERA Construction Inc. until completion of the project in accordance with approved plans and specifications, in an amount not to exceed \$377.764 as specified in the amended funding agreement.

## **ENVIRONMENTAL SUSTAINABILITY**

In addition to improving pedestrian safety, completion of this Project is expected to reduce the amount of airborne road dust particles that currently result from foot traffic as pedestrians traverse the existing unpaved area.

#### RATIONALE FOR RECOMMENDATION

The City has a policy to infill sidewalk gaps, and this Project will be funded by a Caltrans monetary award that requires no local matching funds.

#### ALTERNATIVE ACTIONS CONSIDERED

The City may reject the construction bids; however this alternative action would result in the City having to use its own funds to infill the concrete sidewalk gap at this location as part of its ongoing sidewalk completion program.

#### 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: Abstract of Bids

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

# CONTRACT: ERA CONSTRUCTION INC. FOR GILMAN RAILROAD PEDESTRIAN CROSSING SAFETY PROJECT

WHEREAS, the Gilman Railroad Pedestrian Crossing Safety Project will fill in gaps in the existing sidewalk along Gilman Street at the Third Street railroad crossing, in keeping with a City policy to fill in sidewalk gaps; and

WHEREAS, the City and the California Department of Transportation have executed Service Contract No. 75LX291, in which the California Department of Transportation agrees to reimburse the City of Berkeley up to \$310,500 for the construction of this Project; and

WHEREAS, the Council of the City of Berkeley has accepted an amendment to the aforementioned Service Contract to increase the amount of funding to \$473,000 and extend the expiration date to December 31, 2020; and

WHEREAS, an invitation for bids was duly advertised and ERA Construction Inc. was the lowest responsive and responsible bidder; and

WHEREAS, funding is available in the FY 2019 budget in the Caltrans Grant Fund (Fund 344) and in the Measure BB – Local Street and Road Fund (Fund 134); and

WHEREAS, the contract has been entered into the Citywide contract database with Contract Management System (CMS) No. AAX6X, 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. 18-11244-C for the Gilman Railroad Pedestrian Crossing Safety Project are approved.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley accepts the bid of the lowest responsive and responsible bidder, ERA Construction Inc.

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 ERA Construction Inc. for the Gilman Railroad Pedestrian Crossing Safety Project, in an amount not to exceed \$377,764, which includes a 15% contingency for unforeseen circumstances. A record signature copy of said agreement and any amendments to be on file in the Office of the City Clerk.

## Page 5 of 7

# ATTACHMENT 2 CITY OF BERKELEY ABSTRACT OF BIDS

For: Gilman Railroad Pedestrian Crossing Safety Project

Spec. No. 18-11244-C Bid Opening: April 16, 2019, 2:00 PM

			T	ERA Construction Inc.		Sposoto Engi	incoring Inc	California Llighway Car	activation Crown Inc	Gruendl Inc. DBA Ray's Electric			
Itom	Est.				San Pablo, CA		Sposeto Engineering Inc. Livermore, CA		California Highway Construction Group, Inc. Concord, CA		Oakland, CA		
Item No.	Qty	Unit	Description		Jnit Price	DIO,	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
110.	Qly		TRAFFIC CONTROL			Φ							
2	1			\$	32,000.00 3,872.00		32,000.00	\$118,000.00	\$118,000.00	\$22,905.50	\$22,905.50	\$60,000.00	\$60,000.00
3	1	LS	CONSTRUCTION AREA SIGNS	\$	·		3,872.00	\$4,700.00	\$4,700.00	\$3,575.00	\$3,575.00	\$6,000.00	\$6,000.00
4	1	LS	WATER POLLUTION CONTROL	\$	4,480.00		4,480.00	\$10,000.00	\$10,000.00	\$4,550.00	\$4,550.00	\$8,000.00	\$8,000.00
	1	LS	CONSTRUCTION STAKING	\$	7,680.00		7,680.00	\$4,000.00	\$4,000.00	\$10,000.00	\$10,000.00	\$10,000.00	\$10,000.00
5	1	LS	MOBILIZATION/DEMOBILIZATION (7%)	\$	13,747.20	\$	13,747.20	\$29,800.00	\$29,800.00	\$26,000.00	\$26,000.00	\$27,000.00	\$27,000.00
6.1	000		SITE CLEARING & GRUBBING	\$	13,056.00		13,056.00	\$41,000.00	\$41,000.00	\$17,500.00	\$17,500.00	\$10,000.00	\$10,000.00
6.2	300		REMOVE CURB	\$		\$	3,456.00	\$24.00	\$7,200.00	\$15.50	\$4,650.00	\$10.00	\$3,000.00
6.3	687		REMOVE CONCRETE DRIVEWAY	\$	12.80	\$	8,793.60	\$12.00	\$8,244.00	\$6.50	\$4,465.50	\$11.00	\$7,557.00
6.4	137		REMOVE CONCRETE SIDEWALK	\$	14.08		1,928.96	\$12.00	\$1,644.00	\$10.00	\$1,370.00	\$11.00	\$1,507.00
6.5	3,112		REMOVE AC BASE AND SURFACING	\$		\$		\$12.00	\$37,344.00	\$5.50	\$17,116.00	\$12.00	\$37,344.00
6.6	1	LS	REMOVE RAILROAD TIES	\$	5,760.00	\$	5,760.00	\$1,200.00	\$1,200.00	\$5,500.00	\$5,500.00	\$5,000.00	\$5,000.00
0.7	0.040	0=	REMOVE AND REPLACE CONCRETE		47.00	•	50,000,40	<b>#</b> 40.00	000 004 00	<b>**</b>	<b>#</b> 00.050.00	<b>407.00</b>	<b>#</b> 00.000.00
6.7	3,348	SF	SIDEWALK	\$	17.92	\$	59,996.16	\$18.00	\$60,264.00	\$24.00	\$80,352.00	\$27.00	\$90,396.00
	070	05	REMOVE AND REPLACE CONCRETE	_	00.40	Φ.	10 110 00	<b>#</b> 40.00	Φο οοο οο	<b>#07.00</b>	<b>#</b> 40.040.00	<b>#</b> 00.00	<b>#</b> 44 400 00
6.8	370		DRIVEWAY	\$	28.16		10,419.20	\$18.00	\$6,660.00	\$27.60	\$10,212.00	\$30.00	\$11,100.00
6.9	2		RELOCATE ROADSIDE SIGN	\$	704.00		1,408.00	\$250.00	\$500.00	\$300.00	\$600.00	\$400.00	\$800.00
6.10	2		REPLACE MONUMENT	\$	3,840.00		7,680.00	\$8,500.00	\$17,000.00	\$2,500.00	\$5,000.00	\$6,500.00	\$13,000.00
6.11	1	EA	ADJUST UTILITY BOX TO GRADE	\$	2,304.00	\$	2,304.00	\$450.00	\$450.00	\$270.00	\$270.00	\$1,000.00	\$1,000.00
6.12	1	EA	ADJUST SD JUNCTION BOX TO GRADE	\$	3,200.00	\$	3,200.00	\$950.00	\$950.00	\$700.00	\$700.00	\$1,500.00	\$1,500.00
7	1,787	SF	CONCRETE SIDEWALK	\$	13.44	\$	24,017.28	\$14.00	\$25,018.00	\$22.00	\$39,314.00	\$20.00	\$35,740.00
8	294	LF	CURB AND GUTTER (TYPE A2-6)	\$	57.60	\$	16,934.40	\$86.00	\$25,284.00	\$98.00	\$28,812.00	\$67.00	\$19,698.00
9	19	LF	2' CONCRETE CURB AND GUTTER	\$	96.00	\$	1,824.00	\$86.00	\$1,634.00	\$127.00	\$2,413.00	\$67.00	\$1,273.00
10	82	LF	CONCRETE ROLLED CURB	\$	70.40	\$	5,772.80	\$83.00	\$6,806.00	\$130.00	\$10,660.00	\$70.00	\$5,740.00
11	31	LF	CONCRETE RATAINING CURB	\$	83.20	\$	2,579.20	\$40.00	\$1,240.00	\$162.00	\$5,022.00	\$67.00	\$2,077.00
12	4	LF	CURB TRANSITION	\$	320.00	\$	1,280.00	\$110.00	\$440.00	\$125.00	\$500.00	\$70.00	\$280.00
			PORTLAND CEMENT CONCRETE										
13	64	SF	(PCC) PAD	\$	64.00	\$	4,096.00	\$56.00	\$3,584.00	\$35.00	\$2,240.00	\$30.00	\$1,920.00
14	125	SF	DETECTABLE WARNING SURFACE	\$	38.40	\$	4,800.00	\$56.00	\$7,000.00	\$30.00	\$3,750.00	\$40.00	\$5,000.00
15	293	SF	DECOMPOSED GRANITE	\$	16.64	\$	4,875.52	\$12.00	\$3,516.00	\$10.00	\$2,930.00	\$30.00	\$8,790.00
16	65	TON	HOT MIX ASPHALT (TYPE A)	\$	320.00	\$	20,800.00	\$526.00	\$34,190.00	\$745.00	\$48,425.00	\$330.00	\$21,450.00
			DRAINAGE INLET (TYPE G-1) WITH				·	·		·	•	·	
17	1	EA	PCC APRON `	\$	3,840.00	\$	3,840.00	\$4,800.00	\$4,800.00	\$12,500.00	\$12,500.00	\$7,500.00	\$7,500.00
18	14	LF	12" HDPE STORM DRAIN PIPE	\$	320.00		4,480.00	\$290.00	\$4,060.00	\$200.00	\$2,800.00	\$250.00	\$3,500.00
19	2		PEDESTRIAN BARRICADE	\$	4,480.00	_	8,960.00	\$2,350.00	\$4,700.00	\$1,300.00	\$2,600.00	\$1,500.00	\$3,000.00
20	123		PAVEMENT STRIPING (WHITE)	\$	51.20		6,297.60	\$31.00	\$3,813.00	\$20.00	\$2,460.00	\$25.00	\$3,075.00
21	65		PAVEMENT MARKINGS (WHITE)	\$	51.20			\$37.00	\$2,405.00	\$30.00	\$1,950.00	\$30.00	\$1,950.00
22	174		CURB PAINT	\$	12.80		2,227.20	\$6.25	\$1,087.50	\$17.00	\$2,958.00	\$10.00	\$1,740.00
23	1		ROADSIDE SIGN	\$	704.00		704.00	\$375.00	\$375.00	\$400.00	\$400.00	\$500.00	\$500.00
	•		Total Price of Rid	_		\$		·	\$ 478 908 50	·	\$ 384 500 00	<b>\$353.30</b>	\$ 416.437.00

Total Price of Bid \$ 328,464.00 \$ 478,908.50 \$ 384,500.00 \$ 416,437.00

## Page 6 of 7

# ATTACHMENT 2 CITY OF BERKELEY ABSTRACT OF BIDS

For: Gilman Railroad Pedestrian Crossing Safety Project Spec. No. 18-11244-C Bid Opening: April 16, 2019, 2:00 PM

				R&S Construction Management Inc.		Kerex Engin	eering, Inc.	Mark Lee & Yong Kay, Ind	c. DBA Bay Construction	RK Engineering Inc.			
Item	Est.			San Fr	anciso	co, CA	Pleasant	Hill, CA	Oaklar	nd, CA			
No.	Qty	Unit	Description	Unit Price		Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	
1	1	LS	TRAFFIC CONTROL	\$ 86,000.0	) \$	86,000.00	\$40,000.00	\$40,000.00	\$90,000.00	\$90,000.00	\$68,000.00	\$68,000.00	
2	1	LS	CONSTRUCTION AREA SIGNS	\$ 500.0	) \$	500.00	\$5,000.00	\$5,000.00	\$5,000.00	\$5,000.00	\$3,000.00	\$3,000.00	
3	1	LS	WATER POLLUTION CONTROL	\$ 1,000.0	) \$	1,000.00	\$2,500.00	\$2,500.00	\$4,000.00	\$4,000.00	\$10,000.00	\$10,000.00	
4	1	LS	CONSTRUCTION STAKING	\$ 2,000.0	) \$	2,000.00	\$10,000.00	\$10,000.00	\$10,000.00	\$10,000.00	\$8,000.00	\$8,000.00	
5	1	LS	MOBILIZATION/DEMOBILIZATION (7%)	\$ 25,500.0	) \$	25,500.00	\$30,000.00	\$30,000.00	\$28,000.00	\$28,000.00	\$10,000.00	\$10,000.00	
6.1	1	LS	SITE CLEARING & GRUBBING	\$ 20,000.0	) \$	20,000.00	\$55,000.00	\$55,000.00	\$5,000.00	\$5,000.00	\$10,000.00	\$10,000.00	
6.2	300	LF	REMOVE CURB	\$ 15.0	) \$	4,500.00	\$10.00	\$3,000.00	\$20.00	\$6,000.00	\$15.00	\$4,500.00	
6.3	687	SF	REMOVE CONCRETE DRIVEWAY	\$ 8.0	) \$	5,496.00	\$10.00	\$6,870.00	\$7.00	\$4,809.00	\$6.00	\$4,122.00	
6.4	137	SF	REMOVE CONCRETE SIDEWALK	\$ 8.0	) \$	1,096.00	\$10.00	\$1,370.00	\$5.00	\$685.00	\$6.00	\$822.00	
6.5	3,112	SF	REMOVE AC BASE AND SURFACING	\$ 8.0	) \$	24,896.00	\$5.00	\$15,560.00	\$5.00	\$15,560.00	\$7.00	\$21,784.00	
6.6	1	LS	REMOVE RAILROAD TIES	\$ 10,000.0	) \$	10,000.00	\$15,000.00	\$15,000.00	\$1,000.00	\$1,000.00	\$1,500.00	\$1,500.00	
			REMOVE AND REPLACE CONCRETE										
6.7	3,348		SIDEWALK	\$ 20.0	) \$	66,960.00	\$23.00	\$77,004.00	\$30.00	\$100,440.00	\$20.00	\$66,960.00	
			REMOVE AND REPLACE CONCRETE										
6.8	370		DRIVEWAY	\$ 25.0	_	9,250.00	\$35.00	\$12,950.00	\$40.00	\$14,800.00	\$24.00	\$8,880.00	
6.9	2		RELOCATE ROADSIDE SIGN	\$ 500.0		1,000.00	\$500.00	\$1,000.00	\$200.00	\$400.00	\$725.00	\$1,450.00	
6.10	2		REPLACE MONUMENT	\$ 2,750.0		5,500.00	\$2,500.00	\$5,000.00	\$2,400.00	\$4,800.00	\$1,000.00	\$2,000.00	
6.11	1		ADJUST UTILITY BOX TO GRADE	\$ 800.0	) \$	800.00	\$500.00	\$500.00	\$600.00	\$600.00	\$700.00	\$700.00	
6.40			ADJUST SD JUNCTION BOX TO	Φ 00000		0.000.00	<b>#</b> 500.00	<b>#</b> 500.00	<b>#4.000.00</b>	Ф4 000 00	<b>#</b> 000 00	Фооо оо	
6.12	1 707		GRADE	\$ 2,000.0		2,000.00	\$500.00	\$500.00	\$1,000.00	\$1,000.00	\$900.00	\$900.00	
7	1,787		CONCRETE SIDEWALK	\$ 16.0		28,592.00	\$20.00	\$35,740.00	\$40.00	\$71,480.00	\$16.00	\$28,592.00	
8	294		CURB AND GUTTER (TYPE A2-6)	\$ 100.0		29,400.00	\$75.00	\$22,050.00	\$106.00	\$31,164.00	\$90.00	\$26,460.00	
9	19		2' CONCRETE CURB AND GUTTER	\$ 100.0		1,900.00	\$150.00	\$2,850.00	\$100.00	\$1,900.00	\$115.00	\$2,185.00	
10	82		CONCRETE ROLLED CURB	\$ 90.0		7,380.00	\$150.00	\$12,300.00	\$100.00	\$8,200.00	\$118.00	\$9,676.00	
11	31		CONCRETE RETAINING CURB	\$ 90.0		2,790.00	\$175.00	\$5,425.00	\$50.00	\$1,550.00	\$160.00	\$4,960.00	
12	4		CURB TRANSITION	\$ 90.0	) \$	360.00	\$500.00	\$2,000.00	\$100.00	\$400.00	\$100.00	\$400.00	
13	64		PORTLAND CEMENT CONCRETE (PCC) PAD	\$ 50.0		3,200.00	\$50.00	\$3,200.00	\$30.00	\$1,920.00	\$115.00	\$7,360.00	
14	125		DETECTABLE WARNING SURFACE	\$ 50.0 \$ 150.0		18,750.00	\$20.00	\$2,500.00	\$20.00	\$2,500.00	\$45.00	\$5,625.00	
15	293		DECOMPOSED GRANITE	\$ 50.0		14,650.00	\$20.00	\$5,860.00	\$20.00 \$15.00	\$4,395.00	\$14.00	\$4,102.00	
16			HOT MIX ASPHALT (TYPE A)	\$ 400.0		26,000.00	\$700.00	\$45,500.00	\$400.00	\$26,000.00	\$350.00	\$22,750.00	
'0	00		DRAINAGE INLET (TYPE G-1) WITH	Ψ 400.0	Ψ	20,000.00	φ/00.00	φ43,500.00	φ400.00	ΨΖΟ,ΟΟΟ.ΟΟ	φ350.00	ΨΖΖ,1 30.00	
17	1		PCC APRON	\$ 5,000.0	2 (	5,000.00	\$5,500.00	\$5,500.00	\$7,700.00	\$7,700.00	\$6,000.00	\$6,000.00	
18	14	LF	12" HDPE STORM DRAIN PIPE	\$ 500.0		7,000.00	\$500.00	\$7,000.00	\$300.00	\$4,200.00	\$500.00	\$7,000.00	
19	2		PEDESTRIAN BARRICADE	\$ 1,200.0		2,400.00	\$1,500.00	\$3,000.00	\$1,900.00	\$3,800.00	\$3,000.00	\$6,000.00	
20	123		PAVEMENT STRIPING (WHITE)	\$ 52.0		6,396.00	\$40.00	\$4,920.00	\$24.00	\$2,952.00	\$40.00	\$4,920.00	
21	65		PAVEMENT MARKINGS (WHITE)	\$ 52.0		3,380.00	\$40.00	\$2,600.00	\$29.00	\$1,885.00	\$40.00	\$2,600.00	
22	174		CURB PAINT		) \$	1,218.00	\$50.00	\$8,700.00	\$5.00	\$870.00	\$10.00	\$1,740.00	
23	1		ROADSIDE SIGN	\$ 1,250.0		1,250.00	\$500.00	\$500.00	\$300.00	\$300.00	\$1,200.00	\$1,200.00	
	•		Total Price of Rid	,		426.464.00	· ·	¢ 450,000,00		¢ 402.240.00	+ - ,=	+ -,=	

Total Price of Bid \$ 426,164.00 \$ 450,899.00 \$ 463,310.00 \$ 364,188.00

For: Gilman Railroad Pedestrian Crossing Safety Project

Verified by: Kenneth Jung

Submitted by: Kenneth Jung

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ATTACHMENT 2 CITY OF BERKELEY ABSTRACT OF BIDS

Spec. No. 18-11244-C Bid Opening: April 16, 2019, 2:00 PM

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CONSENT CALENDAR May 14, 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 Eleven Ford Police Interceptor

Utility

## RECOMMENDATION

Adopt a Resolution satisfying requirements of City Charter Article XI Section 67.2 allowing the City to participate in Sourcewell contract bid procedures, and authorizing the City Manager to execute a purchase order for eleven model year 2020 Ford Police Interceptor Utility with National Auto Fleet Group in an amount not to exceed \$770,000.

#### FISCAL IMPACTS OF RECOMMENDATION

The purchase of eleven (11) Ford Police Interceptor Utility will not exceed \$770,000 and includes CA tire fees, and sales tax. Funding for the purchase of these vehicles is available in the FY 2019 Baseline Budget Fund for Equipment Replacement (671-54-626-723-0000-000-473-664120).

#### **CURRENT SITUATION AND ITS EFFECTS**

New purchase will replace eleven existing patrol vehicles that have reached the end of their useful life. They are needed by the City's Police Department Patrol Division in their work to provide public safety services in Berkeley. Three of the vehicles will be equipped with hybrid drive systems. Furthermore, vehicles have additional safety features including blind spot monitoring and curtain airbags. Vehicles being replaced include the following:

Replacing Units			New	
Vehicle #	Year/Make	Model	Year	Make/Model
1545, 1546, 1713 1734, 1740, 1745	2004-2011	Crown Victoria	2020	Ford Police Interceptor
1746, 1747, 1748 1749, 1754				Utility

This purchase will support the City's Strategic Plan Goal of being a global leader in addressing climate change, advancing environmental justice, and protecting the environment.

Purchase Order: National Auto Fleet Group for Eleven Ford Police Interceptor Utility

## **BACKGROUND**

Throughout the year, each City Department pays its proportionate share into the Equipment Replacement Fund, and those funds are utilized to replace equipment at the end of its useful life. If a purchase request exceeds \$25,000, the Department of Finance General Services Division solicits bids or "piggyback" off competitively bid contracts to ensure City departments receive the best pricing.

The City of Berkeley has been a no-cost member of Sourcewell¹ (formerly National Joint Powers Alliance) a municipal contracting agency operating under the legislative authority of Minnesota Statue 123A.21. The original 1978 statue was revised in 1995 to allow government clients to better meet their specific needs through participation in a service cooperative, rather than paying the higher cost associated with individual procurement. Sourcewell allows participating municipal agencies to leverage the benefits of cooperative purchasing and reduces procurement costs. Sourcewell serves all educational, government, and non-profit agencies nationwide, and offers cooperatively contracted products, equipment and service opportunities to government entities throughout the U.S.

All Sourcewell contracts have been competitively solicited nationwide. On October 21, 2016 Sourcewell released Request for Proposal No. 120716 for Vehicles, Cars, Vans, SUV's and Light Trucks with Related Equipment Accessories, and Services. The solicitation was released for approximately forty-eight days and four 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. 120716-NAF.

## **ENVIRONMENTAL SUSTAINABILITY**

Three of the new vehicles will be powered by a 3.3L V6 Direct-Injection Hybrid System which is being offered by the Ford Motor Company for the first time this year in its Police Interceptor Model. Two of the vehicles will be tested for use as a fully marked Berkeley Police Patrol Unit while the third vehicle will be tested for use in the Investigations Division of the Berkeley Police Department. Eight of the new vehicles will be powered by gasoline engines that meet all current state, federal and local emissions regulations. After the testing of the hybrid vehicles is completed and deemed successful, the Police Department anticipates replacing its entire patrol fleet with hybrid vehicles.

## RATIONALE FOR RECOMMENDATION

All City vehicles are due for replacement at the end of their recognized economic lives. City departments that utilize fleet vehicles pay into the equipment replacement fund, which fully funds vehicle replacement as they reach the end of their lifecycle.

<sup>&</sup>lt;sup>1</sup> <u>https://www.sourcewell-mn.gov/</u>

Purchase Order: National Auto Fleet Group for Eleven Ford Police Interceptor Utility

CONSENT CALENDAR May 14, 2019

#### ALTERNATIVE ACTIONS CONSIDERED

None. Listed vehicles have reached the end of their useful life.

#### **CONTACT PERSON**

Greg Ellington, Superintendent, Public Works Maintenance, (510) 981-6469

#### Attachments:

1: Resolution

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

## PURCHASE ORDER: NATIONAL AUTO FLEET GROUP FOR ELEVEN FORD POLICE INTERCEPTOR UTILITY

WHEREAS, eleven Ford Police Interceptor Utility are needed by the City of Berkeley Police Department in their work to provide public safety services in Berkeley; and

WHEREAS, vehicles 1545, 1546, 1713 1734, 1740, 1745, 1746, 1747, 1748 1749, and 1754 being 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 and effectively carry out their duties; and

WHEREAS, City Charter XI Section 67.2 allows the City to purchase goods without undergoing a competitive bid process if the City uses pricing obtained by another entity through competitive bid process; and

WHEREAS, on October 21, 2016 Sourcewell released Request for Proposal No. 120716 for Vehicles, Cars, Vans, SUV's and Light Trucks with Related Equipment, Accessories, and Services. The solicitation was released for approximately forth-eight days and four 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. 120716-NAF; and

WHEREAS, Sourcewell contract bid procedures satisfy the procurement requirement of the City of Berkeley; and

WHEREAS, funds in the amount of \$770,000 are available in the FY 2019 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 eleven Ford Police Interceptor Utility with National Auto Fleet Group in an amount not to exceed \$770,000.



CONSENT CALENDAR May 14, 2019

To: Honorable Mayor and Members of the City Council

From: Board of Library Trustees

Submitted by: Elliot Warren, Acting Director of Library Services, Acting as Secretary,

**Board of Library Trustees** 

SUBJECT: Board of Library Trustees Reappointment: Diane Davenport

#### **RECOMMENDATION**

Adopt a Resolution Approving the Reappointment of Diane Davenport to the Board of Library Trustees ("BOLT") for a second term of four years commencing May 16, 2019.

#### FISCAL IMPACTS OF RECOMMENDATION

None.

#### **BACKGROUND**

The Board of Library Trustees consists of five members appointed by the City Council upon recommendation of the Board of Library Trustees. Board members are appointed for terms of four-years, serve without compensation, and must be Berkeley residents. Trustee Davenport is currently serving as a result of her appointment to the board by City Council resolution 67,900-N.S. on April 4, 2017 to complete her first term of office which ends on May 15, 2019. The practice of the board has been to support trustees expressing an interest in serving a second term of office by putting forward a recommendation to the City Council in advance of the terms expiration to ensure continuity and a full complement of board members in order to conduct business. At its April 3, 2019 regular meeting, the board adopted Resolution #19-016 to appoint Diane Davenport to a second term: M/S/C (Hunt/Roth); Ayes – Trustees Davenport, Hahn Hunt and Roth. Noes: None; Abstentions: None: Absent: Trustee Selawsky.

#### **CURRENT SITUATION AND ITS EFFECTS**

Trustee Davenport's first term will end on May 15, 2019 and she is eligible for a second term that would end on May 15, 2023. Trustee Davenport is currently serving as President of the Board and is a member in good standing.

#### CONTACT PERSON

Elliot Warren, Acting Director, Library Services, 981-6195

#### Attachments:

- 1. Resolution
- 2. BOLT Resolution

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

# RE-APPOINTMENT OF DIANE DAVENPORT AS A MEMBER OF THE LIBRARY BOARD OF TRUSTEES

WHEREAS, membership of the Board of Library Trustees is composed of five appointments by the City Council, including one appointment of a current council member; and

WHEREAS, Diane Davenport was appointed to a first term as a 'Trustee" on April 4, 2017 to complete the term of office for a previous trustee, which ends on May 15, 2019; and

WHEREAS, at its April 3, 2019 meeting, the Board of Library Trustees recommended that Diane Davenport be reappointed to a second term on the Library Board by Resolution #19-016.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that Diane Davenport be reappointed to the Board of Library trustees for a second term beginning May 16, 2019 and ending May 15, 2023.

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#### Page 3 of 3

### BOARD OF LIBRARY TRUSTEES RESOLUTION NO: 19-016

WHEREAS, Trustee Diane Davenport's first term as trustee will end on May 15, 2019; and

WHEREAS, Trustee Davenport is eligible for a second term for a duration of four years, which will end on May 15, 2023; and

WHEREAS, Trustee Davenport is currently serving as President of the Board of Library Trustees;

NOW, THEREFORE, BE IT RESOLVED by the Board of Library Trustees of the City of Berkeley to recommend that the City Council of the City of Berkeley reappoint Trustee Diane Davenport for a four-year second term beginning on May 16, 2019 and ending on May 15, 2023.

ADOPTED by the Board of Library Trustees of the City of Berkeley at a regular meeting held on April 3, 2109 by the following vote:

AYES:

Trustees Davenport, Hahn, Hunt & Roth

NOES:

None

ABSENT:

Trustee Davenport

**ABSTENTIONS:** 

None

Diane Davennort President

Plane Davenport, Fresident

Elliot Warren, Acting Director of Library Services Serving as Secretary to the Board of Library Trustee



CONSENT CALENDAR May 14, 2019

To: Honorable Mayor and Members of the City Council

From: Community Health Commission

Submitted by: May Simpson, Chairperson, Community Health Commission

Subject: Declaring every 3<sup>rd</sup> Sunday in May to be Postpartum Justice Day in the City of

Berkeley

#### RECOMMENDATION

Adopt a resolution declaring every third Sunday in May to be Postpartum Justice Day in the City of Berkeley to support and encourage the needed work to achieve equity and justice in maternal health.

#### FISCAL IMPACTS OF RECOMMENDATION

None.

#### **CURRENT SITUATION AND ITS EFFECTS**

#### **Postpartum realities in the United States**

- 1. There has been a 25% increase in maternal deaths in the US in the past 20 years.
- Racial disparity in maternal deaths is historical and has persisted. 2006-2015, a black mother in NY City has a 12 times higher risk of maternal death compared to a white mother.
- 3. Top four causes of maternal death: cardiovascular diseases, other medical conditions, infection, and hemorrhage.
- 4. 1970-2012, Caesarean-section rates increased 6 times; Caesarean delivery was associated with a 3.01-fold increase in the risk of maternal death compared with vaginal delivery.
- 5. For every maternal death, there are 60-70 maternal near-deaths.
- 6. 70%-80% of new mothers will experience the baby blues.
- 7. US is the only industrialized country without a national paid maternity leave policy.
- 8. Nearly 1 in 4 mothers return to work within 2 weeks of giving birth.
- 9. 54.9% of women (ages 15-44) had given birth but the postpartum experience is nearly invisible in the US culture.
- 10. Modern day gynecology was founded on inhumane experimentation on enslaved black women.

Declaring every 3<sup>rd</sup> Sunday in May to be Postpartum Justice Day in the City of Berkeley

#### BACKGROUND

Based on available data and studies on the root causes of Black and indigenous maternal health disparities, the definition of Postpartum Justice has only recently been formulated:

Postpartum Justice is the set of values forming the foundation of postpartum care that is fair and equitable. It is free from sexism, racism and a health care system that is based on profit. Postpartum Justice recognizes society's collective responsibility for all parents of new babies. It distills the postpartum wisdom of the past and transforms it to serve the future.

Much needs to be done to mitigate and rectify the inequities. There is a growing movement in postpartum justice (including the formation of black doula collectives to statewide projects to advance equities). The first steps for the City of Berkeley to take are to recognize the crisis, to declare a need to address the inequities and to give the campaign a battle cry: Postpartum Justice. Declaring the Sunday after Mother's Day to be Postpartum Justice Day will call attention to the City of Berkeley's intention to honor the vulnerable period of time after giving birth in the lives of parents of new babies.

The Community Health Commission passed the following motion at the March 28, 2019 meeting:

M/S/C (Smart/Rosales): adoption of a resolution declaring every 3<sup>rd</sup> Sunday in May to be Postpartum Justice Day in the City of Berkeley.

**Ayes:** Webber, Speich, Futoran, Carter, Smart, Spigner, Rojas-Cheatham, Simpson, Rosales, Katz; **Noes**: None; **Absent from vote**: Engelman, Le.

#### **ENVIRONMENTAL SUSTAINABILITY**

There are no identified environmental impacts with this agreement.

#### RATIONALE FOR RECOMMENDATION

United States as a nation has long identified the elimination of health disparities as its number one national public health goal. The City of Berkeley is a partner in this effort.

One of the most glaring examples of disparities in this past decade is the maternal mortality rates of black and indigenous communities. Furthermore, these rates continue to climb while much of the rest of the world is experiencing a decline.

The City of Berkeley should stand in the forefront to fight and to call attention to injustice.

#### ALTERNATIVE ACTIONS CONSIDERED

- Home visits for all Berkeley families with newborns.
- Paid doula services for all low-income birthing people.
- Establish a city-wide policy of providing 6 weeks to 6 months of paid family leave.

#### **CITY MANAGER**

The City Manager concurs with the content and recommendations of the Commission's Report.

The resolution aligns with the City of Berkeley's Strategic Plan with the goal of championing and demonstrating social and racial equity. In addition, it aligns with the City of Berkeley Public Health Division's goal to decrease disparities and inequities in Berkeley.

#### **CONTACT PERSON**

Roberto A. Terrones, MPH, Commission Secretary, (510) 981-5324

#### Attachments:

1: Resolution

Exhibit A: References

Exhibit B: Healthy People 2020

Exhibit C: Health inequities in the black communities in the city of Berkeley

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

#### DECLARING EVERY THIRD SUNDAY IN MAY TO BE POSTPARTUM JUSTICE DAY

WHEREAS, the United States has identified the elimination of health disparities as its number one public health goal in its Healthy People 2020 policy declaration; and

WHEREAS, the City of Berkeley is a partner in this effort; and

WHEREAS, maternal mortality continues to impact black and indigenous communities disproportionately; and

WHEREAS, racial disparities in pregnancy outcomes are historical and persistent in the U.S. as well as in California; and Black women are almost 4 times more likely to die in childbirth compared to white women regardless of economic and social status; and

WHEREAS, according to the Center for Disease Control, between 2000 and 2014, while other industrialized nations have continually improved their birth outcomes, in the U.S., there has been a 26.6% increase in birth-related deaths; and

WHEREAS, for every birth-related death there are also 60-70 birthing people who suffer serious complications which can result in long term and life altering health changes; and

WHEREAS, postpartum care is a critical period for new parents and their children and proper attention can ensure well-being and long-term positive health outcomes; and

WHEREAS, the US is the only industrialized country without a national paid maternity leave policy; and nearly 1 in 4 new moms in the US return to work within 2 weeks of giving birth; and

WHEREAS, the term postpartum period refers to the six weeks after childbirth; and

WHEREAS, postpartum justice is the set of values forming the foundation of postpartum care that is fair and equitable; and it is free of sexism, racism, homophobia, transphobia, and not based on a healthcare system that is profit-driven;

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it will declare every third Sunday in May to be "Postpartum Justice Day" in the City of Berkeley to promote and to support the nation's Healthy People 2020 objective to eliminate health disparities and specifically to address the maternal health crisis in the United States.

#### **Exhibits**

Exhibit A: References

Exhibit B: Healthy People 2020

Exhibit C: Health inequities in the black communities in the city of Berkeley

#### References

- 1. Williams DR and Mohammed SA. (2013). Racism and Health, I: Pathways and Scientific Evidence. *American Behavioral Scientist*, 57 (8), 1152-1173.
- 2. Lu MC. Reducing Maternal Mortality in the United States. *JAMA*. 2018;320(12):1237–1238.
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#### What are the national health goals of the United States?

Healthy People 2020

"During the past 2 decades, 1 of *Healthy People's* overarching goals has focused on disparities. In *Healthy People 2000*, it was to reduce health disparities among Americans. In *Healthy People 2010*, it was to eliminate, not just reduce, health disparities. In *Healthy People 2020*, that goal was expanded even further: to achieve health equity, eliminate disparities, and improve the health of all groups.

Healthy People 2020 defines health equity as the "attainment of the highest level of health for all people. Having health equity requires valuing everyone equally with focused and ongoing societal efforts to address avoidable inequalities, historical and contemporary injustices, and the elimination of health and health care disparities." 5

Healthy People 2020 defines a health disparity as "a particular type of health difference that is closely linked with social, economic, and/or environmental disadvantage. Health disparities adversely affect groups of people who have systematically experienced greater obstacles to health based on their racial or ethnic group; religion; socioeconomic status; gender; age; mental health; cognitive, sensory, or physical disability; sexual orientation or gender identity; geographic location; or other characteristics historically linked to discrimination or exclusion."6

Over the years, efforts to eliminate disparities and achieve health equity have focused primarily on diseases or illnesses and on health care services. However, the absence of disease does not automatically equate to good health.

Powerful, complex relationships exist between health and biology, genetics, and individual behavior, and between health and health services, socioeconomic status, the physical environment, discrimination, racism, literacy levels, and legislative policies. These factors, which influence an individual's or population's health, are known as determinants of health.

For all Americans, other influences on health include the availability of and access to: A high-quality education

- Nutritious food
- Decent and safe housing
- Affordable, reliable public transportation
- Culturally sensitive health care providers
- Health insurance
- Clean water and non-polluted air

Throughout the next decade, *Healthy People 2020* will assess health disparities in the U.S. population by tracking rates of illness, death, chronic conditions, behaviors, and other types of outcomes in relation to demographic factors including:

Race and ethnicity

- Gender
- Sexual identity and orientation
- Disability status or special health care needs
- Geographic location (rural and urban)

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# HEALTH INEQUITIES IN BERKELEY - City of Berkeley Health Status Summary Report 2018:

(No maternal mortality data were cited in the City of Berkeley Health Status Summary Report.)

Chapter 1: Sociodemographic Characteristics & Social Determinants of Health	Chapter 2: Pregnancy & Birth	Chapter 3: Child & Adolescent Health	Chapter 4: Adult Health	Chapter 5: Life Expectancy & Mortality
Families headed by a White householder earn 3.4 times more than African American families, 1.9 times more than Latino families, and 1.4 times more than Asian families.	The risk of an African American mother having a LBW baby is 2.5 times higher than the risk for White mothers.	African American children (under 18) are 7 times more likely, Latino children are 5 times more likely, and Asian children are 2 times more likely than White children to live in poverty.	African Americans are 3 times more likely than Whites to be hospitalized	African Americans are 2.3 times more likely to die in a given year from any condition compared to Whites.
The proportion of families living in poverty is 8 times higher among African American families, 5 times higher among Latin families and 3 times higher among Asian families, compared to White families.	The risk of an African American mother having a premature baby is 2 times higher than the risk for White mothers.	African American high school students are 1.4 times more likely than White students to drop out of high school.	Americans are 34 times more likely than Whites to be	African Americans are 2.0 times more likely than Whites to die of cardiovascular disease.
African Americans are 2.8 times less likely, Latinos are 1.6 times less likely and Asian children are 1.1 times less likely than Whites to have a bachelor's degree or higher.	The teen birth rate among African Americans is 9 times higher, and among Latinas is 3 times higher than the rate among White teens.	The asthma hospitalization rates for children under 5 for African American children is 10 times higher, and for Latino children is 2.8 times higher than the rate among White children.	African American women are 1.5 times more likely than Whites to be diagnosed with breast cancer.	African Americans are 1.8 times more likely than Whites to die of cancer.

CONSENT CALENDAR May 14, 2019

To: Honorable Mayor and Members of the City Council

From: Disaster and Fire Safety Commission

Submitted by: Gradiva Couzin, Chair, Disaster and Fire Safety Commission

Subject: Recommendation to Install an Outdoor Public Warning System (Sirens) and

Incorporate It Into a Holistic Emergency Alerting Plan

#### RECOMMENDATION

We recommend that City of Berkeley immediately begin the process to purchase, install, and maintain an outdoor public warning system (sirens) as a supplement to other alert and warning technologies within our boundaries and coordinated with abutting jurisdictions and Alameda County.

This installation should be accompanied by the following:

- ongoing outreach and education so that the public will understand the meaning of the sirens and what to do when they hear a siren
- development of a holistic alert protocol, incorporating sirens as an additional option among the available suite of alerting methods
- staff training and drills on alerting procedures
- development of a testing and maintenance plan that will ensure the system is fully operational while avoiding unnecessary or excessive noise pollution in the City
- outreach to deaf and hard of hearing residents to encourage them to opt-in for alerting that meets their communication needs. This may include distributing weather radios or other in-home devices with accessibility options for people with disabilities.

This recommendation does not specify the number, type, or location of sirens; City staff should determine the most cost-effective system that achieves the goals described in this recommendation. This may include either mobile or fixed-location sirens.

#### FISCAL IMPACTS OF RECOMMENDATION

Exact costs and staff time are to be determined. However, the two estimates below give a ballpark sense of the possible cost of this installation:

- Example 1: The cost of a 23-siren system in Berkeley was estimated at \$801,000 in 2004 (\$1.1 million in 2018 dollars), with an additional \$100,000 (\$132k in 2018 dollars) for public outreach and 0.5 FTE staff member time for 6 months to support the installation process.
- Example 2: A siren proposal in Sonoma County was recently estimated at \$850,000 for design and installation of 20 sirens.

#### **CURRENT SITUATION AND ITS EFFECTS**

On March 27, 2019, at the Regular meeting of the Disaster and Fire Safety Commission, the commission passed a motion to recommend that the City immediately begin the process to purchase, install, and maintain an outdoor public warning system (sirens) as a supplement to other alert and warning technologies within our boundaries and coordinated with abutting jurisdictions and Alameda County. M/S: Flasher, Degenkolb; Vote: 8 Ayes: Degenkolb, Flasher, Simmons, Stein, Bailey, Couzin, Grimes, Dean; 0 Noes; 0 Absent; 0 Abstain.

Berkeley faces a serious threat from a wildland-urban interface (WUI) fire that has increased for many reasons, including the growth of fuel that is happening as a result of recent rains. Based on recent experiences in the 2017 North Bay fires and the 2018 Camp Fire, it is clear that a wildfire in Berkeley would spread very quickly, expanding at many miles per hour and requiring a rapid evacuation of a large number of residents. This is especially likely in the designated Hazardous Fire Zones in the hills, but an intense and fast-moving fire threatens the entire City of Berkeley, including the flats.

Significant efforts are underway to address this increasing threat, including City staff's creation of a draft Wildfire Evacuation Plan and other wildfire safety efforts.

The City of Berkeley currently has several available alerting options that it can use in a wildfire emergency (see Attachment A) but does not have a citywide system of emergency sirens.

Recent wildfires in Northern and Southern California have shown that existing alerting systems and processes have not been sufficient. These wildfires have had tragic outcomes, with a disproportionate number of deaths of seniors and people with disabilities. Some of these locations have since initiated plans to install outdoor public warning systems (sirens).

#### **BACKGROUND**

Berkeley has considered using sirens for many years. In 2004, the City commissioned a study exploring installing emergency sirens, which included testing sirens and designing a possible layout of sirens.

In November, 2004, Bill Greulich, Emergency Services Manager at the time, recommended against installation of fixed sirens. He instead recommended exploring mobile sirens or weather radios. See Attachment B, "Alerting and warning system project update and recommendations for further action." However, in the 15 years since that discussion, neither of the suggested alternatives (mobile sirens and mass distribution of weather radios) has materialized.

Since that time, wildfires have become an increasing hazard in California due to the effects of climate change, including: increased frequency and severity of drought, tree mortality, bark beetle infestation, warmer spring and summer temperatures, and longer and more intense dry seasons. California experienced the deadliest and most destructive wildfires in its history in 2017

and 2018.¹ Fires are bigger, faster, and more intense; firefighters in the 2018 Camp Fire reported that they had never seen a fire move so quickly.² The length of wildfire season has expanded to be nearly year-round.³ With the continuing effects of climate change, scientists suggest that fires will continue to be a worsening threat.⁴

Also, in the years since the 2004 decision, smartphone technology has emerged, and while this has been an important addition to alerting options, it has not fully met the alerting needs or expectations of the public. A California Office of Emergency Services (Cal OES) Assessment Report on the Sonoma County wildfires of October 2017<sup>5</sup> concluded that public expectations for local government alert and warning services are higher than what is currently being offered. People expect to be adequately alerted, even if they have never taken any action to "opt-in" for warnings.

At this time, the City is reviewing and re-evaluating all of its emergency notification options following the 2017 and 2018 wildfires. Berkeley Fire Department has been considering the idea of installing sirens for at least a year, since January 2018.

#### ENVIRONMENTAL SUSTAINABILITY

Installing sirens will have an environmental impact due to the construction and maintenance required. They also create noise pollution that can be highly annoying for residents. Poles can be wood, concrete or steel. Sirens can be AC or battery-powered with solar-powered battery back-up as an option.

#### RATIONALE FOR RECOMMENDATION

The tragedies of the 2018 Camp Fire and the 2017 North Bay fires show the extreme danger that fast-moving wildfire events pose for both residents and responders. The objective of this Commission is to assist policy makers, responders, and residents in achieving the ultimate goal of a smooth-running, extremely fast, safe and effective evacuation with no loss of life.

Currently, Berkeley has several systems available to alert residents of an emergency. See Attachment A, "Alerting Systems Available for Berkeley Emergencies (February 2019)".

Each of Berkeley's currently-available alert systems will reach some but not all residents, and most of these systems are only available to people who have opted-in before an emergency, or who are actively seeking information about an emergency – not people who are simply going about their lives.

<sup>&</sup>lt;sup>1</sup> http://www.fire.ca.gov/downloads/45-Day%20Report-FINAL.pdf

<sup>&</sup>lt;sup>2</sup> https://www.nationalgeographic.com/environment/2018/11/how-california-fire-catastrophe-unfolded/

<sup>3</sup> https://www.nature.com/articles/ncomms8537

<sup>&</sup>lt;sup>4</sup> https://www.theguardian.com/environment/2018/aug/07/california-wildfires-megafires-future-climate-change

<sup>&</sup>lt;sup>5</sup> https://sonomacounty.ca.gov/Public-Safety/Emergency-Notification-for-Sonoma-Complex-Fires-2017/

As an additional concern, failure rates can be high with any one system. In Sonoma County in the 2017 North Bay fires, only 51% of the 290,000 emergency alert calls reached a human or answering machine<sup>6</sup>. Camp Fire failure rates for alerts reportedly ranged from 25% to 94%.<sup>7</sup>

Due to various failures and limitations of emergency alerting, many survivors after the 2017 North Bay fires and the 2018 Camp Fire were left wondering why they did not receive any alert at all. These experiences and tragic outcomes strengthen the importance of redundancy through multiple alert methods.

A modern outdoor siren system, designed to blanket all of Berkeley in sound, would provide an additional layer of coverage where other systems may fail. Sirens can also provide redundancy if other communication channels are disabled due to power outage or cell tower disruption.

Here are several questions and answers about this siren recommendation:

When will sirens be activated? Currently, City staff determine what type of alerts to send out based on the level of danger, how localized the danger is, and how imminent the danger is. Sirens should be incorporated into a holistic plan for warnings and alerts so that they have the best chance of filling any gaps to alert people when there is a serious or life-threatening hazard, including wildfires, chemical spills, or other hazards.

Modern sirens allow for multiple tones, so they can be used for more than one message. In addition to wildfire and other hazard alerting, sirens could potentially be integrated with future earthquake early warning systems, which is already done in Mexico City, to provide a warning before earthquake shaking hits.<sup>8</sup>

This recommendation does not specify the exact criteria for determining when to activate a siren alert; the option of activating sirens should be incorporated into the City's alerting protocol based on the best professional judgement of City staff, and in accordance with appropriate state or federal guidelines.

Any alert or warning technology is only as good as the planning, training, and situational awareness that allows responders to use it well. We recommend that activation criteria and procedures be fully and clearly documented in writing, trained, and tested by City staff on a regular basis:

- Criteria for activating alerts
- Who is authorized to decide to activate an alert
- Content of alerts (message template), as applicable
- Technical operation of the alerting system

<sup>&</sup>lt;sup>6</sup> https://abc7news.com/sonoma-county-tests-emergency-phone-calls-in-wake-of-north-bay-fires/4208459/

<sup>&</sup>lt;sup>7</sup> https://www.mercurynews.com/2018/12/16/camp-fire-created-a-black-hole-of-communication/

<sup>&</sup>lt;sup>8</sup> https://eos.org/features/lessons-from-mexicos-earthquake-early-warning-system

Will people hear them indoors? Outdoor public warning systems are generally considered to be for alerting people who are outdoors, not indoors. However, "practical experience and the results of tests by the Federal Emergency Management Agency (FEMA) and others have shown that siren sounds are quite effective for alerting large populations—including those indoors"

According to a 2006 FEMA technical bulletin, despite the limitations in sound getting inside buildings, "an outdoor [public alert system] can reasonably be expected to alert *some* people inside buildings" and "a properly designed outdoor [public alert system] may also awaken sleeping members of the public in residential areas." This bulletin reports that the likelihood of a person being awakened from sleep by an outdoor siren ranges from 17% - 52%, depending on the person's age and the loudness of the sirens.

Consistent with this research, past events also show that sirens are often heard indoors. For example, in the deadly 2011 Joplin, MO tornado, sirens "could generally be heard indoors" although unfortunately many residents did not take action based on the sirens<sup>11</sup>. Recent siren malfunctions in 2017 and 2018 (in Dallas and Memphis) resulted in a large number of complaints about people being awakened or kept awake by the sirens.<sup>12</sup> And many West Berkeley residents can attest to being awakened from sleep by Bayer plant sirens.

Clearly, the City can't rely on sirens to alert everyone who is indoors, especially if people are asleep. Sirens may only reach half or a quarter of this population; because of this, sirens should be just one layer in multiple alerting methods that are used. The most effective emergency alerting combines multiple methods, both outdoor and indoor.<sup>13</sup>

We recommend that the selection of tones and frequencies be made to maximize the chance of the siren being audible indoors, as described here: "lower frequency components should be included for better coverage, including components between 225 Hz and 355 Hz for transmission through windows (Mahn 2013)." <sup>14</sup>

Will they be confusing? An ongoing public information campaign is an important part of any outdoor public warning system, so that people know what action to take when they hear a siren. Additionally, siren testing should be designed to help the public be aware of sirens and their meaning. Testing should take place at the same time of day and week (e.g. at noon on Tuesdays) to avoid any confusion, and silent testing should be used when possible.

<sup>9</sup> https://asa.scitation.org/doi/10.1121/1.2024832

<sup>10</sup> https://www.midstatecomm.com/PDF/FEMA guide.pdf

<sup>&</sup>lt;sup>11</sup> https://www.nist.gov/sites/default/files/documents/2017/05/09/NCSTACmtgDec2013KuligowskiJoplin.pdf

<sup>12</sup> http://www.wmcactionnews5.com/2018/11/01/tornado-sirens-falsely-sound-nd-straight-morning/,

https://www.nytimes.com/2017/04/08/us/dallas-emergency-sirens-hacking.html

<sup>&</sup>lt;sup>13</sup>https://www.researchgate.net/profile/John\_Sorensen7/publication/327226171\_Rogers\_and\_Sorensen\_1988\_Diffusion\_of\_Emerg\_Warn/links/5b816d40299bf1d5a7270825/Rogers-and-Sorensen-1988-Diffusion-of-Emerg-Warn.pdf

<sup>&</sup>lt;sup>14</sup> https://nvlpubs.nist.gov/nistpubs/TechnicalNotes/NIST.TN.1950.pdf

Here are examples of siren testing programs in locations near Berkeley:

- San Francisco, which has had a siren system in place for many years, tests their system every Tuesday at noon using a single tone for 15 seconds. In an actual emergency, the sound will cycle repeatedly for 5 minutes.<sup>15</sup>
- Oakland and UC Berkeley test on the first Wednesday of every month at the same time, using a slow wail for 90 seconds. This is explained to the public as not only testing the system, but "enhancing public awareness" so that if something different from the usual day, time, or tone is heard, the public should turn on radios, computers, phones or TV for more information. Three different tones are used in case of an actual emergency: A 3-minute slight wail means shelter in place, a slow wail means a tsunami, and a fast wail means a fire. 16
- Richmond, which is on the Contra Costa County system, tests on the first Wednesday of every month at 11:00 am for less than 3 minutes, and every Wednesday at 11:00 am using a barely audible sound (known as a "growl test")<sup>17</sup>. There are also two systems in place controlled by the Chevron Refinery.

The typical action that people should take when they hear an emergency siren is to seek more information through other channels, which may include the radio or internet, in order to learn what they need to do next. It's very important that people get a consistent message from all of these channels, so planning for that output should be included in the holistic alerting plan.

Here are two examples of this process not working well:

- In the 2011 Joplin, MO tornado, sirens prompted people to look for more information, but they got conflicting information from different sources, which led to public confusion and is considered a major contributor to why people didn't take action and get to safety.<sup>18</sup>
- Another example of poorly-managed public information for outdoor public warnings is the Bayer plant in West Berkeley. Bayer alarms occasionally go off and are concerning to neighbors, but there is minimal information available online, and Bayer doesn't answer a support line after hours.

City of Berkeley would need to do a better job and provide extensive support and education, not only when the system is installed but also on an ongoing basis afterwards, and every time the sirens are activated.

**Are they accessible and ADA compliant?** A negative feature of sirens is that, like other audible alerts, they are not accessible to people who are deaf or hard of hearing.

Berkeley's emergency alerting must use a combination of notification methods that can reach all residents. The public outreach campaign should include a very extensive program to reach all

<sup>&</sup>lt;sup>15</sup> https://sfdem.org/tuesday-noon-siren

<sup>&</sup>lt;sup>16</sup> http://www2.oaklandnet.com/oakca1/groups/fire/documents/webcontent/oak063278.pdf

<sup>&</sup>lt;sup>17</sup> https://www.ci.richmond.ca.us/331/Community-Warning-System

<sup>&</sup>lt;sup>18</sup> https://www.nist.gov/sites/default/files/documents/2017/05/09/NCSTACmtgDec2013KuligowskiJoplin.pdf

disabled residents and encourage them to opt-in for alerting that meets their communication needs. This may include distributing weather radios or other in-home devices with strobe light or vibration options as an alternative to siren alerting for people who are deaf or hard of hearing.

We believe that despite this limitation, sirens could help deaf and hard of hearing residents. In emergencies, many people learn about the danger from a neighbor, not directly from official alerts. This is described in the 2018 Camp Fire:

"Some learned about the looming wildfire from neighbors knocking on their doors. Or frantic cellphone calls from friends. Others just looked out their windows and saw the smoke and flames, or heard the chaos of neighbors hustling up children and pets and scrambling to get out.

Matthew White was sound asleep when the fire began raging around his home in Paradise, Calif., the morning of Nov. 8. But somehow he heard his cellphone ring.

It was a friend of his shouting on the other end of the line: "Get the hell up and get the hell out! Paradise is on fire!" ".19

The way this helps is analogous to the concept of "herd immunity" or "community immunity" that helps explain how vaccines make communities safer: blanketing the area with a siren will allow a larger percentage of people to get informed and to inform neighbors, and this will improve the level of protection for all, including vulnerable neighbors who may not hear the sirens.

Will they work in a power outage? Outdoor warning sirens can have backup batteries, which can be recharged using solar panels to ensure that they will work during a power outage. They can be controlled by a radio signal from a safe location.<sup>20</sup> Sirens may burn down in a fire, but they will at least be able to provide warning until the fire reaches their location.

What other communities in California have sirens? Many communities near Berkeley have sirens, including the City of Oakland and UC Berkeley as well as Contra Costa County, as noted above. Oakland's sirens were installed as a result of the 1991 Tunnel fire. Lake County installed sirens following the deadly Valley Fire in 2015. Sonoma County is considering installing sirens following the deadly North Bay fires of 2017 Mill Valley is exploring the use of mobile sirens. Berkeley now has the opportunity to install sirens before, rather than after, a disaster occurs.

Will people take them seriously? The decision-making process for people to decide to take action in an emergency is complicated and varies from person to person. Studies show that people look for confirmation from more than one source before they take action.<sup>21</sup> Sirens can reinforce other messages about imminent danger.

<sup>&</sup>lt;sup>19</sup> https://www.nytimes.com/2018/11/21/us/paradise-fires-emergency-alerts.html

<sup>&</sup>lt;sup>20</sup> https://www.dhs.gov/sites/default/files/publications/Outdoor-Sirens-MSR\_0315-508.pdf

<sup>&</sup>lt;sup>21</sup> https://www.osti.gov/servlets/purl/6137387

Although conventional wisdom may worry about a "cry wolf" or "warning fatigue" effect from too many warnings, research about these effects is mixed.<sup>22</sup> Ensuring the credibility of the sirens and avoiding a "cry wolf" effect should be considered when choosing a siren system and testing plan.

**Can't the city go door-to-door instead?** If there is a fire moving at the scale and speed of recent California wildfires, responders will not have enough time to alert a large portion of the population by going door-to-door. The City will be balancing its resources between fighting the fire, clearing the roads, and knocking on doors. According to Berkeley's draft Evacuation Plan:

"Community members should <u>not</u> expect door-to-door notifications or assistance from emergency responders during evacuation."

What is the best siren system? This recommendation does not specify a specific siren brand or system. A 2015 FEMA survey of available siren systems<sup>23</sup> shows that there are many features that can be varied in different systems, including:

- Price
- Number and location of sirens
- Static or mobile sirens
- Materials (concrete, wood, or metal poles)
- Type of sounds (wailing, beeping, voice)
- Power backup
- Methods of activation (in-person, radio, wired, wireless)
- Testing options (low-volume and silent testing)

We recommend that Berkeley select a system that provides the most cost-effective solution to meet the goals described in this recommendation: providing reliable coverage for the maximum number of Berkeley households possible, while offering enough flexibility of controls so that sirens can be effectively integrated into a complete alerting protocol.

#### ALTERNATIVE ACTIONS CONSIDERED

Several interrelated recommendations were made to City Council in 2017 and 2018 addressing fire safety and community disaster preparedness. These recommendations included many possible actions covering a broad range of preparedness and hazard mitigation activities. Progress is already being made on some of these priorities.

Sirens should be part of a suite of emergency alerting options; other options could also be enhanced in addition to this one:

• Berkeley could forgo installing sirens, and focus on improving existing protocols to get the maximum effectiveness from the existing suite of alerting tools, particularly Wireless

<sup>&</sup>lt;sup>22</sup> https://nvlpubs.nist.gov/nistpubs/TechnicalNotes/NIST.TN.1950.pdf

<sup>&</sup>lt;sup>23</sup> https://www.dhs.gov/sites/default/files/publications/Outdoor-Sirens-MSR\_0315-508.pdf

- Emergency Alerts (WEA, also used for Amber Alerts). A new set of guidelines for WEA and Emergency Alert System (EAS) alerting is expected from Cal OES in July 2019, and Berkeley will be required to comply with those guidelines within six months. We look forward to Berkeley's continued improvement of these protocols.
- Mass distribution of NOAA weather radios has been discussed as an alternative to sirens. However, the cost to distribute weather radios to every household in Berkeley would reach \$1+ million, and each radio would need to be programmed to receive appropriate alerts. It would also be challenging to ensure proper maintenance and testing of the radios over time. However, a limited distribution to residents who are deaf and hard of hearing should be considered as an accessible supplement to sirens.
- Relying on police and fire vehicle apparatus (bullhorns or sirens) is another option. However, these have a limited audible range<sup>24</sup> and would not be able to alert large portions of the city at once. There may also be physical obstacles that could limit the ability of vehicles to reach all the areas that need alerting. It should not be forgotten that such systems may have a substantial role to play in an early warning system specifically designed to evacuate seniors and people with disabilities.

#### **CITY MANAGER**

The City Manager appreciates the research and work put into this report by the Disaster and Fire Safety Commission. A siren alerting system could be a valuable tool for use in the City's overall emergency notification system. Given the number of modern options for sirens, the high cost in purchase and replacement of such a system, and the additional FTE that would be necessary to install and maintain the system, the Fire Department is researching options and alternatives. The City Manager refers this to the budget process for consideration of funding sources and prioritization with the overall needs of the City.

#### **CONTACT PERSON**

Keith May, Assistant Fire Chief, Berkeley Fire Department, 510-981-5508

#### Attachments:

- 1: Attachment A: Alerting Systems Available for Berkeley
- 2: Attachment B: Memorandum: Alerting and Warning System Project Update, November 2004

<sup>&</sup>lt;sup>24</sup> https://www.fireapparatusmagazine.com/articles/print/volume-22/issue-4/features/siren-limitation-training.html

# ATTACHMENT A Alerting Systems Available for Berkeley Emergencies (February 2019)

Alerting system	Requires Opt-in?	Description	Reaches these people	Will not reach these people			
Systems to alert people who are not actively seeking information:							
WEA (Wireless Emergency Alert)	Does not require opt-in	An Amber Alert-style message with a loud squawking sound, vibration, and brief text message on cell phones.	Anyone with a cell phone that is powered on. Reaches all phones in an area, including residents and visitors passing through.	Anyone without a cell phone or with their cell phone in airplane mode or fully turned off. It is also possible for people to opt out of WEA alerts.			
AC Alert (Alameda County Alert)	Requires opt-in except landlines	Sends emergency messages by landline phone, email and cell phone.	Houses with a landline, plus people who have opted in for cell phone or email messages. Reaches people based on their residence address, not their current location.	Anyone without a landline, unless they have opted in. Only 5-10% of Berkeley residents have opted in to this system. <sup>1</sup>			
Emergency Alert System	n/a	National public warning system that broadcasts on TV, radio, cable, and satellite TV. Also broadcasts to weather radios.	Anyone who is watching or listening to broadcast TV or radio in a specified area.	Anyone not watching or listening to a live TV or radio broadcast at the time of the emergency. Streaming (Netflix, Hulu etc.) do not show EAS messages.			
Nixle	Requires opt-in	Sends messages by email and cell phone and on the web. Often used for lower-urgency messages.	Anyone who has signed up to get messages.	Anyone who has not signed up.			
Information that people can actively seek in an emergency, but won't receive passively:							
City Website, Twitter, Facebook, Nextdoor	n/a	The City plans to post emergency messaging on the City website and social media.	People who are actively seeking information, able to access the internet, and know where to look for City information.	Anyone not actively seeking information online, or not able to access the internet.			
1610 AM Radio	n/a	The City plans to output emergency messages on 1610 AM radio.	People who are actively seeking information, have a radio, and know to go to 1610 AM.	Anyone not actively seeking information online, or who does not have a radio. Also, 1610 AM radio does not reach all of Berkeley.			

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<sup>&</sup>lt;sup>1</sup> Estimate based on data from Berkeley Office of Emergency Services, 3/29/2019.



Department of Fire and Emergency Services Office of Emergency Services Division William Greulich, Manager

#### **MEMORANDUM**

Date: November 5, 2004

To: Phil Kamlarz, City Manager

Cc: Lisa Caronna, Deputy City Manager

Arrietta Chakos, Chief of Staff Reginald Garcia, Fire Chief Roy Meisner, Police Chief

From: Bill Greulich, Emergency Services Manager

#### Alerting and warning system project update and recommendations for further action

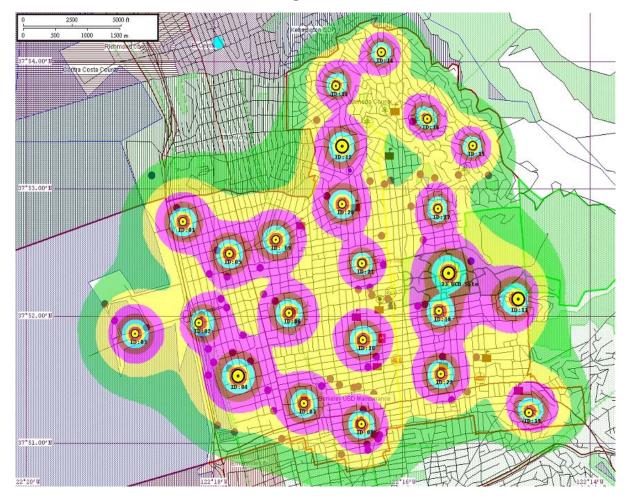
As discussed in our quarterly meeting of May 28<sup>th</sup>, here is a summary of work completed to date and my recommendations for further action.

The first phase of the project as outlined in my memorandum of October 14, 2003, "Berkeley Outdoor Warning System (Siren) Project Recommendation" has been completed. Hormann America, Inc. of Martinez, CA in partnership with ProComm Marketing was awarded the contract under IF-9046-04 for \$9,250. Hormann and ProComm designed, installed and continue to support Contra Costa County and the City of Oakland Alerting and Warning Systems (AWS).

Based on criteria derived from the FEMA "Outdoor Warning Systems Guide", Civil Preparedness Guideline 1-17, Hormann produced a design requiring the placement of 23 sirens (19 @ 118 dB and 4 @ 121 dB). This design was field verified at four Berkeley locations.

Here are my recommendations.

Page 13 of 15



Sound intensities are shown as contours, the outermost is 70 - 75 dB.

#### **Recommendations** –

1. Discontinue the implementation of a citywide siren system. Implementation of a citywide siren system is of limited emergency value, may be detrimental to the health of the community, and exhibits poor cost benefit characteristics.

#### Cost considerations -

The non-recurring capital estimate is based on City funding of 21 sirens totaling **\$801,000**. This is in alignment with the cost to the City of Oakland of \$1.03 million for 27 units. There would be recurring costs associated with power and maintenance.

The initial public education campaign is estimated at \$100,000. There would be recurring costs associated with public education.

Cost estimates for the permitting process are difficult. It is likely that significant staff time would be required to complete an EIR and the other associated work. It is estimated that **0.5 FTE** of City staff would be necessary over a six-month period to accomplish this.

#### Page 14 of 15

#### Public and Environmental Health Consequences -

The FEMA "Outdoor Warning Systems Guide" has guided the design of siren systems nationwide since May of 1980. Recent work has challenged some of the fundamental assumptions on which the guide was based. The current conclusion is that 123 dB sources will likely be considered "highly annoying" by a noticeable segment of the population.

The FEMA guide also proposed the public would accept loud warning devices regardless of their perceived annoyance because of the potentially life saving value. This belief however, does not accurately reflect the possibility that a 118 or 121 dB sound could in fact contribute to public hearing loss, especially to those who are most sensitive, such as children or the frail. While the guide makes a valid point in light of a life-threatening emergency, it does not accommodate the need to activate the sirens regularly to familiarize the public with their existence. A perceived reduction in quality of life is likely in those members of the community who view the siren testing as "highly annoying". This phenomenon was demonstrated during the field-testing of Phase I.

City Environmental Health staff has concluded that the sirens would qualify for the emergency use exemption of the City Noise Ordinance. It is also their conclusion that preparation of an Environmental Impact Report (EIR) would be necessary.

#### Siren System Efficacy -

Sirens target only the community members capable of hearing the warning or alerting tone. Many factors contribute to limiting the number of people who are able to recognize the alert or warning. These include hearing impairments, being inside a building at home, school or work, in an automobile, or in a higher noise environment, i.e. listening to music or operating a power tool.

Hearing a siren sounding is not enough in and of itself. In order to be effective the public must know the system exists before it is used, how to recognize an alert, warning, or test, and what subsequent actions are expected or necessary.

# 2. Continue to work with Toxics Management and the two private facilities covered by the California Accidental Release Prevention Program (CalARP).

Hazardous materials and the related use of such materials in an act of terror are the best matches to a citywide siren system. In fact, the "East Bay Corridor of Safety" community direction of "Shelter, Shut and Listen" comes from the Contra Costa County alerting and warning system which is focused on and funded by local chemical manufacturing companies. Two facilities in Berkeley possess hazardous materials in quantities requiring implementation of State accidental release prevention programs. Sirens would benefit the community in the event of a release of material from either of these facilities.

# 3. Continue to work with UCB and the "Corridor of Safety" concerning their siren programs.

UCB has a limited outdoor warning and alerting system in place. Neighboring communities, in particular the City of Oakland, have sirens that may also impact Berkeley when activated.

#### Page 15 of 15

These agencies have not currently produced a complete, integrated set of procedures and protocols for system activation. It is recommended that staff continue to work with UCB and the "Corridor of Safety" on the creation of protocols for the activation of their systems.

#### 4. Investigate alternative alerting and warning technologies – mobile siren.

Berkeley has a history with these systems and has experienced their lack of utility in public safety programs and their long-term resource burden. However, the potential use of a small number of deployable or mobile sirens with voice capability may be valuable. Mobile sirens could be pre-deployed or brought to areas of high risk as needed, such as placement in the Hills during fire season. Addition of a voice capability could expand their utility as a potential public address tool. While they would be more costly on a unit basis, the city would not need to purchase a large number, and a basic capability in outdoor warning might be had at a more affordable cost.

#### 5. Investigate alternative alerting and warning technologies – weather radio.

Currently, only two Federal programs exist to alert and warn the public, the commercial radio and television based Emergency Alerting System (EAS), and the National Weather Service (NWS) weather radio program. The City of Berkeley has the ability to utilize the EAS; it is recommended the City investigate the weather radio program. The program is very simple. Radios are available which turn themselves on when a NWS alert signal is received. Community members are not burdened by having to listen all the time to the warning station. The NWS signal is broadcast from a tower in San Francisco or on Mt. Diablo. Several key findings are:

- The radios can be placed anywhere, including in schools, and with members of vulnerable populations.
- The alert would be citywide; all radios in the reach of the Diablo or SF tower would be activated.
- The radios are affordable at approximately \$30 each.
- The radios do not have any obvious adverse health impact and can be acquired with visual aids for the hearing impaired.
- Significant Federal support for this program exists.

It is recommended that staff investigate the possibilities of utilizing the NWS system.



CONSENT CALENDAR May 14, 2019

**To:** Honorable Mayor and Members of the City Council

From: Jenny Wong, City Auditor

**Subject:** 911 Dispatchers: Understaffing Leads to Excessive Overtime and Low Morale

#### RECOMMENDATION

We recommend City Council request that the City Manager report back by November 19, 2019, and every six months thereafter, regarding the status of our audit recommendations until reported fully implemented by the Police Department.

#### FISCAL IMPACTS OF RECOMMENDATION

The Communications Center risks losing State funding if it is not able to reach call-answering targets. Investing in adequate staffing and additional resources will allow the Communications Center to answer 911 calls within those required timeframes. The cost of much-needed resources will depend on the outcome of the staffing analysis we recommend that the Police Department complete to determine appropriate staffing levels now and in the future.

Life should not be measured in dollars. Without sufficient staff, it takes longer for call takers to answer 911 calls. The faster that dispatchers can get a police officer, firefighter, or paramedic to the scene, the better the chances of a good outcome.

#### **CURRENT SITUATION AND ITS EFFECTS**

It is taking longer than previous years for call takers to answer 911 calls. The Communications Center's staffing levels are not sufficient to meet current call demands and, with predicted population growth, the Center will soon need even more resources to maintain its emergency response service levels.

Due to consistent understaffing, the Communications Center relies heavily on overtime to meet minimum staffing requirements, spending nearly \$1 million per year on overtime. The Police Department works to fill vacant positions, but the hiring and training processes are lengthy and extensive. There are opportunities to improve those processes to reduce both the number of continuous vacancies and the significant reliance on overtime. Understaffing also leads to low morale in the Communications Center. Dispatchers say that they do not feel supported and that they do not have the time needed to take care of their physical and mental health. Police management has taken some steps to address the low morale, but there is more to be done to address dispatcher needs.

May 14, 2

We recommend that the Police Department conduct a staffing analysis to determine appropriate staffing levels, create a recruitment and continuous training plan for dispatchers, establish a call-taker classification; and implement automated scheduling software to better inform future budgeting decisions, decrease the reliance on overtime, and relieve the burden placed on overworked staff.

We also recommend that the Police Department implement programs to increase morale and staff communication. These include establishing routine meetings with dispatch supervisors, sworn police, and fire personnel; and a comprehensive stress management program.

#### **BACKGROUND**

The Police Department Communications Center serves as Berkeley's 911 public-safety answering point, receiving all emergency and non-emergency police, fire, and medical calls and dispatching public-safety personnel to respond as appropriate. The 2018 City budget authorized 33 non-sworn full-time equivalent positions for the Center, including 28 public safety dispatchers, four supervisors, and one manager. The City has not added to the Communications Center dispatcher staffing levels since 2004.

#### **ENVIRONMENTAL SUSTAINABILITY**

Our office manages and stores audit workpapers and other documents electronically to significantly reduce our use of paper and ink. Our audit recommendation for the Communications Center to use modern staffing software could also reduce the use of paper and ink.

#### **RATIONALE FOR RECOMMENDATION**

The seconds it takes to answer and prepare a 911 call for dispatch can mean the difference between life and death. Implementing our recommendations will enable dispatchers to answer calls within required timeframes by ensuring the Communications Center is appropriately staffed and supported.

#### **CONTACT PERSON**

Jenny Wong, City Auditor, City Auditor's Office, 510-981-6750

#### Attachments:

1: Audit Report: 911 Dispatchers: Understaffing Leads to Excessive Overtime and Low Morale, issued April 25, 2019

Audit Report April 25, 2019

# 911 Dispatchers: Understaffing Leads to Excessive Overtime and Low Morale





# 911 Dispatchers: Understaffing Leads to Excessive Overtime and Low Morale

#### Report Highlights

April 25, 2019



- It is taking longer than previous years for call takers to answer 911 calls and the Communications Center does not have enough call takers to answer the current 911 call volume. We also found that, with predicted population growth, the Communications Center would likely need additional resources in the future to maintain its emergency response services.
- Due to consistent understaffing, the Communications Center relies heavily on overtime to meet minimum staffing requirements, spending nearly \$1 million in 2017 on overtime.
- Morale in the Communications Center is low and dispatchers feel unsupported. We found that there are some resources available for staff to manage stress; however, dispatchers often do not have time to access them.

# Recommendations

We recommend that the Police Department conduct a staffing analysis to determine the appropriate staffing levels, create a recruitment and continuing training plan for dispatchers, establish a call taker classification, and implement automated scheduling software to provide information to inform future budgeting decisions, decrease the reliance on overtime, and relieve the burden placed on overworked staff.

We also recommend that the Police Department implement programs to increase morale and communication. These include recommendations to establish routine meetings with dispatch supervisors, sworn police, and fire personnel, and to establish a comprehensive stress management program.

#### **Objectives**

- 1. To what extent does the Communications Center, which answers 911 calls, have sufficient staffing to handle workloads and service demands?
- 2. What contributes to overtime use?
- 3. How do working conditions affect morale?

#### Why This Audit Is Important

The Police Department **Communications Center serves as** Berkeley's 911 public safety answering point, receiving all emergency and non-emergency police, fire, and medical calls in the city and dispatching public safety personnel to respond as appropriate. To ensure the wellbeing of the public, police officers, firefighters, paramedics, and dispatchers, the City must maintain a Communications Center that is appropriately staffed. Without sufficient staff, it takes longer for call takers to answer 911 calls. The faster the Communications Center can get a police officer, firefighter, or paramedic to the scene, the better the chances of a good outcome. The seconds it takes to answer and prepare a call for dispatch can mean the difference between life and death.



For the full report, visit: http://www.cityofberkeley.info/auditor

#### **Table of Contents**

Page 3	Introduction; Objectives, Scope, and Methodology
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Page 12	Reliance on Overtime
Page 20	Low Morale
Page 25	Management Response Summary
Page 26	Appendix I—Methodology and Statement of Compliance
Page 29	Appendix II—Dispatcher Morale Survey: Design, Efforts, and Results
Page 32	Appendix III—Recommendations and Management Response

#### Introduction

We identified workload capacity as an immediate concern to the City's operations and strategic planning in our fiscal year 2018 Audit Plan. We, therefore, included in our audit plan a series of audits that evaluated the City's ability to provide expected and critical services to the Berkeley community. To ensure the wellbeing of the public, police officers, firefighters, paramedics, and dispatchers, the City must maintain a Communications Center (Center) that is appropriately staffed. Without sufficient staff, it takes longer for call takers to answer 911 calls. The faster the Center can get a police officer, firefighter, or paramedic to the scene, the better the chances of a good outcome. The seconds it takes a call taker to answer and prepare a call for dispatch can mean the difference between life and death.

#### Objectives, Scope, and Methodology

Our objectives were to determine:

- 1. To what extent does the Communications Center, which answers 911 calls, have sufficient staffing to handle workloads and service demands?
- 2. What contributes to overtime use?
- 3. How do working conditions affect morale?

We examined the Center's call volume data for calendar years 2013 through 2017, performed interviews, and conducted a survey to gain an understanding of the program. We specifically assessed minimum staffing levels, call answer performance, overtime, recruitment, retention, training, and morale. For more information, see p. 26.

#### Background

The Public Safety Dispatcher (dispatcher) is often the unsung first responder of the emergency response team. Dispatchers are highly trained professionals, who gather essential information from callers and dispatch the appropriate response team to the scene. They take control of situations that may be chaotic, stressful, confusing, and traumatic. They must be quick-thinking, organized, levelheaded, and confident in their abilities. Dispatchers are at the core of a coordinated emergency response and must make split-second decisions in order to ensure the safety of responders and the public.

The Center, run out of the Police Department, serves as Berkeley's 911 public safety answering point (PSAP), receiving all emergency and non-emergency police, fire and medical calls in the city and dispatching public safety personnel to respond as appropriate. To ensure the wellbeing of dispatchers, police officers, firefighters, paramedics, and the public, the City must maintain a Center that is appropriately staffed.

#### Structure, Staffing, and Training

The Center is part of the Support Services Division of the Berkeley Police Department, overseen by a sworn police captain. The Center is staffed 24 hours a day, 365 days of the year by a team of trained dispatchers under the direction of a non-sworn manager. Sworn personnel take an oath to support the Constitution of the United States and the laws of the state and local jurisdiction. This includes police officers and detectives. Non-sworn (civilian) personnel do not take an oath and have limited legal powers or none at all. This includes dispatchers and parking enforcement officers.

Figure 1. Berkeley Police Department Organizational Chart



Source: City of Berkeley 2018-2019 Biennial Budget

The 2018 City budget authorized 33 non-sworn full-time equivalent positions for the Center, including 28 public safety dispatchers, four supervisors, and one manager. At the end of May 2018, the Police Department had only filled 23.5 of the 28 authorized full-time equivalent dispatcher positions and was

actively recruiting for new hires. In addition to civilian dispatchers, the Center utilizes three additional Police personnel who work overtime as call takers to meet minimum staffing levels on an as-needed basis and dependent on their availability.

#### Dispatcher Roles

Dispatchers have four primary roles: call taker, records desk operator, fire radio dispatcher, and police radio dispatcher. All Berkeley dispatchers are cross-trained and may perform any function during a shift.

Table 1. Dispatcher Work Positions and Duties

Position	Duties				
Call Taker	<ul> <li>Accepts and processes inbound 911 and administrative calls for police, fire, and medical services as well as other services such as animal control</li> </ul>				
	<ul> <li>Inputs call information into Computer-Aided Dispatch (CAD) system and transfers the information to fire and police dispatcher staff</li> </ul>				
Records Desk Operator	<ul> <li>Monitors and responds to radio transmissions on a designated channel</li> </ul>				
	<ul> <li>Conducts warrants, license, and other checks on persons of interest and vehicles</li> </ul>				
Fire Dispatcher	<ul> <li>Dispatches all fire and medical related calls* requiring a response from firefighters or paramedics</li> </ul>				
	Maintains radio contact with field staff				
Police Dispatcher	<ul> <li>Dispatches all police related calls requiring a response from law enforcement</li> </ul>				
	<ul> <li>Enters all officer initiated incidents into CAD such as pedestrian and traffic stops</li> </ul>				
	Maintains radio contact with field staff				

 $<sup>{\</sup>rm *Dispatchers\ route\ all\ medical\ calls\ requiring\ pre-arrival\ instructions\ to\ Alameda\ County}.$ 

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Source: City of Berkeley Communications Center Manual

## It is taking longer to answer 911 calls and there are not enough call takers.

It is taking longer for the City to answer 911 calls because the Communications Center (Center) does not have enough call takers. The number of budgeted dispatchers has remained the same even as call volume has increased. The Center uses a staff-forecasting tool, but has not conducted a thorough staffing analysis to determine the number of dispatchers needed on each shift and the total number of dispatchers needed to staff the Center 24/7. Without a thorough staffing analysis, the Police Department cannot inform future budgeting decisions of dispatcher positions.

### It Is Taking Longer to Answer 911 Calls, Falling Below State Standard

The Center is taking longer to answer 911 calls. The faster the Center can get a police officer, firefighter, or paramedic to the scene the better the chances of a good outcome. The seconds it takes a call taker to answer and prepare a call for dispatch can mean the difference between life and death.

California has a state standard requiring public safety answering points to answer 95 percent of 911 calls within 15 seconds. The state standard does not apply to non-emergency calls. Call data from the State's Emergency Call Tracking System (ECaTS) indicates the Center did not meet the performance target in answering 911 calls in two of the last five calendar years (as shown in Table 2). The data shows that in 2017, dispatchers only answered 89 percent of calls within 15 seconds. If the Communications Center is not able to reach this call answer target, they risk losing State funding in the future.<sup>1</sup>

Call taking is one of the four primary roles of a Berkeley dispatcher. All dispatchers are cross-trained to perform any function. A call taker accepts and processes inbound 911 and non-emergency telephone calls for police, fire, and medical service. They input call information into the CAD system, which provides information to Police and Fire dispatchers. Call takers also answer and transfer calls intended for other Police units and other City departments.

<sup>&</sup>lt;sup>1</sup> Funding from the State is contingent upon adherence to the state's mandatory standards including call answer times. In early 2016, the 911 Emergency Communications Branch of the Governor's Office of Emergency Services issued a review of fiscal and operational policies of the Berkeley Communications Center covering the time period of March 2015 through March 2016. The state found that the Communications Center was meeting the call answer standard and estimated that they will receive approximately \$161,000 in state funding over the next five years. This includes reimbursement for language interpretation calls, ECaTS expenses, annual training allotment, and maintenance/upgrades of the phone system.

Table 2. 911 Call Answer Performance

	Doroont	Average		
	Percent	Average		
	answered	answer	Total 911 calls	Average call
Calendar	within 15	time	(Police, Fire,	duration
year	seconds	(seconds)	Medical)	(seconds)
2013	92%	9	49,579	81
2014	95%	9	54,599	80
2015	95%	9	54,190	88
2016	96%	8	52,520	91
2017	89%	10	55,587	100

Source: ECaTS data

#### Call Volume Has Risen but Staffing Has Stayed the Same

The Center is experiencing more calls, but staffing has not increased to keep up with the call volume. Rapid population growth in Berkeley since the 2010 Census is creating unprecedented challenges for public safety personnel as more people are calling 911. As Berkeley's population has risen, so has the number of calls into the Center, both emergency and non-emergency. In 2013, the Center handled 184,000 calls, including emergency, non-emergency, and outbound calls. There was a significant increase in call volume in 2017, rising to over 256,000 calls for the year (Figure 2). According to the data, the majority of this increase came from a rise in non-emergency calls into the Center and outbound calls from the Center. Call volume data does not explain why there was an increase and the Police Department could not provide support for the increase.

In early 2017, the Department installed a new phone system. According to the Department, they believe that the old phone system was capturing incomplete non-emergency call volume data and the newly installed system is capturing complete call volume data. The Department was unable to provide evidence to support this theory but did provide us with 2018 call data to demonstrate that the call volume continues to be much higher than captured before the phone installation. Regardless of whether the increase in call volume was an actual increase in calls or just the data captured, the Department has not increased staffing in response to the noted increase in call volume. The Center has not had an increase in budgeted dispatcher positions since 2004. The number of authorized dispatcher positions remains at 28.

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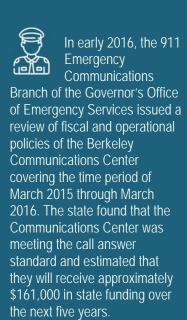
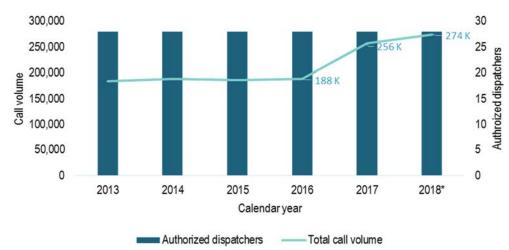


Figure 2. Call Volume for Communications Center Increased with No Change in Authorized Staffing



\*The Police Department provided us with only summary data for calendar year 2018. We did not assess the reliability of the summary data as it was not part of our audit scope. We provide it here because there was a significant increase in non-emergency and outbound calls after 2016, which the Department largely attributes to a new phone system, as well as an increase in calls. Providing the 2018 data for comparative purposes helps demonstrate the Department's hypothesis.

Note: Total call volume includes emergency, non-emergency, and outbound calls.

Source: City of Berkeley Biennial Budgets, ECaTS, and auditor analysis

#### Center Is Understaffed by One Call Taker Each Shift

Based on the Communications Center's current shift staffing model, the Center is understaffed by one call taker at all times of the day to handle 911 calls. The National Emergency Number Association (NENA) published a staffing guidelines report that we used to determine the adequate call taker staffing for the Center.<sup>2</sup> According to our analysis, the Center should have a minimum of three call takers on shift during normal hours and four calls takers on shift during busy hours. However, the Center is not able to follow the NENA guidelines with current budgeted staffing levels. Instead, the Center must set its current minimum staffing levels to include only two call takers during normal hours and three call takers during busy hours. Management determines these levels based on the current minimum staffing and an analysis of call volume. Management stated that the current shift staffing levels are low compared to the call volume and they are unable to adopt higher minimum staffing numbers due to the consistent understaffing of dispatcher positions.

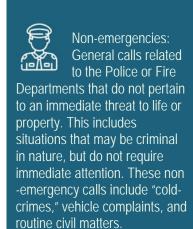
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 $<sup>^2</sup>$  We conducted the staffing analysis using the Erlang C mathematical formula and the results are based on 911 call volume; call duration; and queuing theory. For more information, see methodology section.

During this audit, the Police Department implemented a phone tree on the non-emergency lines in an effort to maximize the efficiency of call takers. The goal is to route calls for service needing a non-emergency response in the most expedient manner possible. This will help ensure that call takers are answering fewer non-emergency calls that they would normally transfer to a different agency or City Department. It is too early in the implementation to understand how the phone tree will affect the overall workload of call takers. A more in-depth analysis of non-emergency call volume is needed to understand the workload impact of these calls with the implementation of the phone tree.

#### Additional Resources Are Necessary to Maintain 911 Services in the Future

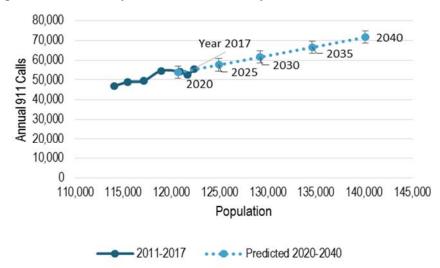
The City of Berkeley's population grew rapidly in the ten years following the 2000 Census. The population rose by almost nine percent to 112,580 according to the 2010 Decennial Census. The City continues to grow approximately one percent every year. The Association of Bay Area Governments (ABAG), projected Berkeley's population to grow 24.4 percent between 2010 and 2040, to about 140,100 people. If the City's population grows to 140,100 people by 2040, the Communications Center's annual call volume may grow to between 253,000 and 350,000 total calls and of those calls, 68,500 - 75,000 would be 911 calls (Figure 3). While population is a good indicator of 911 call volume, additional factors should be considered when planning for the future. Some of those considerations include crime rate, public access to affordable health care, and local attitudes on the use of 911.



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<sup>&</sup>lt;sup>3</sup> Our analysis did not take into account additional factors that may influence 911 call volume.

Figure 3. 911 Calls May Grow Above 70,000 by 2040



Sources: US Census, American Community Survey, ABAG 2013 Projections, Auditor analysis

#### Next Generation 911 and Proposed Fire Department Changes Could Further Burden Call Center Capacity

Berkeley is preparing to upgrade to Next Generation 911 (NG911). The purpose for this upgrade is to create a more successful and reliable network of 911 systems nationwide that are able to accept voice, video, photo, and text messages. Some local jurisdictions, including San Francisco, Fremont, Hayward, and Alameda County, are already accepting 911 text messages. While the Federal Communications Commission encourages all call centers to begin accepting texts, it is up to each center to decide on a method of implementation. Berkeley is not yet set up to accept text messages but has started to make changes to prepare for NG911, including upgrading its systems. Additional staffing is likely necessary to handle the more complex service demands.

The Fire Department desires to add emergency medical dispatching capabilities to the Center, in keeping with regional standards. Currently, medical calls are transferred to Alameda County Regional Emergency Communications Center for this service. Providing in-house emergency medical dispatching would allow the Center to triage medical calls and provide immediate pre-arrival instructions from dispatchers with direct communication to responders. This will require additional resources, including staff, equipment, physical space, procedures, and training. Emergency medical dispatching will also increase call duration times as

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someone from the Center will need to stay on the line with the caller until the responding unit arrives. This will increase call time and, therefore, decrease the Center's availability to answer calls without sufficient increases in staffing.

The physical space the Center currently occupies is small and at capacity. There is no room to add workstations for dispatchers. To prepare for increases in call volume and services, Police can begin to plan now, including looking for a bigger space to run the Center. They will quickly outgrow their current resources with any increase in the minimum staffing levels.

#### Recommendations

To address public safety service demands, we recommend the Police Department:

- 1.1 Conduct an annual staffing analysis of required minimum staffing levels and budgeted dispatchers to ensure budget staffing requests and scheduling efforts meet demand and limit the use of overtime where possible. Use the staffing analysis to communicate to Council and the public during the annual appropriations process:
  - Service level demands;
  - The full-burdened cost of budgeting for additional staff;
  - Whether there is sufficient funding available to budget for the additional staff or a shortfall (quantified in dollars); and
  - Additional staffing requests, if needed.
- 1.2 Use the staffing analysis performed in response to recommendation 1.1, to determine future resource needs of the Communications Center, including staffing, equipment, and physical space. Take into account planned changes to services and factors that may influence call volume.

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# The Communications Center relies on significant overtime leading to inadequate training and an unhealthy work environment.

Due to consistent understaffing, the Center relies heavily on overtime to meet service demands through minimum staffing requirements, spending nearly \$1 million in 2017 on overtime (Figure 4). Historically, recruitment and training processes left the Police Department unable to fill vacant positions in the Center. During this audit, the Department invested additional resources to improve department-wide recruitment efforts. There are further opportunities to strengthen the Department's recruitment and training efforts for dispatcher positions. The lengthy hiring process also contributes to the ongoing vacancies and related overtime costs. In particular, delays occur during the extensive background investigations when recruitments for police officers take priority over dispatchers.

Figure 4. Communications Center Total Annual Payroll vs. Overtime Costs, Calendar Years 2013-2017

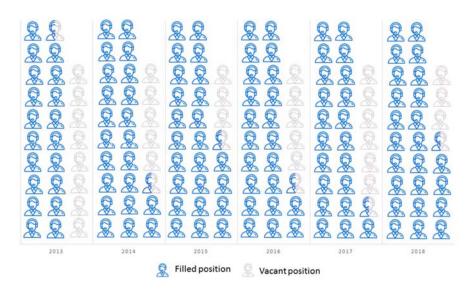


Source: City of Berkeley Cognos payroll data, Auditor analysis

#### Position Vacancies Lead to Excessive Overtime Use

Historically, the Center has struggled to reach full staffing of the current budgeted positions. Between 2013 and 2018, the Center had between 3.5 and 8 dispatcher position vacancies. In order to meet minimum staffing requirements, supervisors schedule existing employees for mandatory overtime to fill vacant shifts.

Figure 5. Dispatcher Positions Have Historically Been Understaffed, 2013-2018



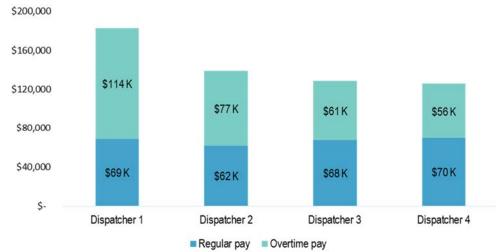
Source: City of Berkeley Human Resource staffing reports

If the Police Department fills all the vacant positions in the Center, they would be able to reduce the amount of overtime. The nearly \$1 million spent in overtime in 2017 is offset by the current budgeted vacant positions in the Center. However, even if Police fill all the vacant dispatcher positions, the Center would continue to be understaffed according to NENA staffing guidelines. We recognize that the some amount of overtime is necessary for all public safety positions due to unplanned absences and events that may require an increase in staffing levels, but there is room to decrease the amount needed.

### Excessive Overtime May Lead to Fatigue and Safety-Related Incidences

The four dispatchers working the most overtime in the Center received 40 percent of the 2017 overtime paid (Figure 6). This much overtime may contribute to worker fatigue and decreased quality of service.

Figure 6. Top Four Overtime Earners in Calendar Year 2017

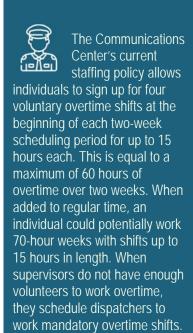


Source: City of Berkeley Cognos payroll data

Although overtime is generally less expensive than hiring additional staff because overtime pay excludes benefits, there are important non-financial benefits to reducing overtime by hiring additional dispatchers. Dispatching is a high-stress job that requires dispatchers to be alert and use good judgement. Overtime, when used in excess, can inhibit these essential skills, threatening the safety of responders and the public. For example, in a traffic stop, dispatchers may need to tell an officer if someone is on parole or probation; has a warrant; has a weapons history; or is in a stolen vehicle. All this information allows the officer to make informed decisions about how to approach a situation safely. Therefore, dispatchers must be alert and ready to quickly convey information.

The continued use of overtime is not an ideal situation for any public safety position and exposes staff to an unhealthy work environment. Studies have shown that in law enforcement and across other industries, working excessively long work shifts, particularly those that are 12 hours or more, can lead to fatigue and safety-related incidents, and decrease quality of service, communication, and cognitive performance. By filling vacant positions, the Center can reduce their reliance on overtime and reduce the risk of employee burnout and potential workers compensation claims that may result from overworking.

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"Our mandatory overtime creates a very stressful environment while at work and extremely poor health and quality of life outside of work. When can we sleep when we are working 14.5-16 hour shifts each day?" – Berkeley Dispatcher

### Manual Scheduling Is Time Consuming and Subject to Errors

The Center's staffing processes are not automated. Supervisors are responsible for creating and maintaining manual schedules, including any overtime, or changes to the schedule due to absences. As a result, the task of meeting daily scheduling and staffing needs is cumbersome, time-consuming, and prone to human error. The manual process for filling overtime is even more complex as supervisors must adhere to complex union labor agreements and overtime policies. The supervisor in charge of scheduling said that it is a difficult job and it gets complicated when dealing with overtime and filling absences. She said that sometimes she makes mistakes and has to scramble to find someone to fill a position to reach minimum staffing. Automating the scheduling system will allow the Center to ensure that scheduling adheres to all policies.

### Police Department Can Improve Dispatcher Recruitment Efforts

The Police Department is responsible for all recruitment efforts for the entire Department, not just those for dispatchers. The Department has shown a commitment to improving the recruitment process by dedicating resources to general Department recruitment efforts. The Chief of Police approved the creation of a four-person recruitment team within the Personnel and Training Bureau. The team will develop better branding and marketing of the Department and career paths for sworn and civilian positions.

The Police Department recently opened the Public Safety Dispatcher II classification to continuous recruitment; however, they do not continuously recruit for entry-level Public Safety Dispatcher I positions. Continuous recruitment of all dispatcher positions would allow prospective candidates to submit application materials at any time and the City to respond quickly to changing staffing needs.

Recruiting events are critical to finding potential applicants with the skills necessary to succeed at the job. The Personnel and Training Bureau attends career fairs and community events around the Bay Area to advertise police career opportunities to targeted audiences. Dispatchers have not routinely been involved in the recruitment process. The Police Department has created

The Fire Department manages firefighter scheduling with an industry-known public safety scheduling software called Kronos TeleStaff. TeleStaff

functionality allows Fire to:

- Automatically fill vacancies based on organizational qualifications and availability
- Manage shift trades and leave requests
- Control and maintain staffing levels and rotations
- Manage the daily schedule by maintaining on-duty and off-duty personnel at all times
- Capture payroll data and export to third-party HR/ payroll systems
- Provide manager and employee self-service access
- Increase oversight and save time currently spent on manual scheduling

marketing material for educating people about the Police Academy but there were no materials about a career in dispatching. Involving dispatchers in this recruitment process and creating unique marketing materials for dispatcher positions would allow the Department to better identify and engage potential recruits. The Department's recruitment webpage is outdated and lacks information about dispatching. Personnel and Training should engage in best practice marketing strategies including the use of websites and social media to engage with targeted audiences.

#### Background Investigations Cause Delays in Hiring

While the recruitment process can take months, mandatory background checks add even more time to the process. Candidates that pass the interview panel are assigned to an internal background investigator in the Department. When the Department has multiple background investigations to conduct, significant delays can occur. According to the Personnel and Training Bureau, the Department prioritizes backgrounds for sworn over non-sworn positions, and dispatcher candidates can fall to the bottom of the pile. During this delay, the Department may lose candidates to other agencies. Options to increase the processing of background investigations include adding staff time or contracting with an outside firm. There are private background investigation firms that could conduct all or some of the Department's recruitment background investigations to alleviate the workload of investigators, expedite the process, and retain more applicants.

#### Opportunity to Increase Trainee Retention

A majority of employee separations occur during dispatchers' first year while still in training. Under the current staffing model, dispatchers are crosstrained to work all four positions in the Center: call taker, records desk, police desk, and fire desk. If a trainee does not pass one phase, they are released from training even if they successfully passed other phases. The reason the Center requires all dispatchers to be cross-trained is because it provides the most flexibility in scheduling. There may be, however, an opportunity to retain qualified individuals as call takers, in order to provide current dispatchers with some workload relief.

Current and former management of the Center identified the Police Desk phase of dispatcher training as the most difficult part of training, stating that



people cannot handle the pace and stress associated with police calls. The training program for new hires is approximately nine months long with the Police Desk phase at the end (Figure 7). Our analysis of staff turnover revealed that only 45 percent of those hired as trainees in 2013-2017 successfully completed the training program to become permanent dispatchers.

Department managers reported that this is an improvement over previous years. In the current training program, trainees are terminated if they are not able to pass all phases of the program. Twenty-eight percent of the trainees were unable to complete the training program and exited between seven and nine months from their start date, approximately during the Police Desk phase of training.

Call taking is the first phase of training that dispatchers receive. This duty currently accounts for two or three staff positions on each shift. By changing practices to retain dispatchers who are able to pass call taking training but are not able to pass all training phases as call takers, the Center may be able to reduce overtime in the short term. Those individuals may later be able to resume training to advance to a fully cross-trained dispatcher if they desire.

### Staffing Shortages Impact Ability to Meet Ongoing Training Requirements

The understaffing of dispatcher positions and the resulting need for dispatchers to work lots of overtime means less time for training. According to the Police Department's Personnel and Training Bureau, the Center does not fully comply with California's Police Officer Standards and Training (POST) ongoing training requirements. In such a highly technical profession with changing technology, it is vital that those answering 911 calls are receiving appropriate and adequate ongoing training.

**Table 3. Compliance with State Training Requirements** 

Reporting Years	Total Dispatchers*	In Compliance	Not in Compliance
2013/2014	30	16	14
2015/2016	30	21	9
2017/2018	31	26	5

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<sup>\*</sup>Includes dispatchers who have separated from the City Source: Berkeley Police Department Personnel and Training Bureau

A lack of training means that dispatchers may not have the skills, knowledge, or abilities to handle calls, which could lead to serious consequences. In order to ensure that the Center is appropriately trained, the Department needs to increase recruitment efforts to attract quality candidates to fill vacant positions. In addition, adding call taker positions will allow the Center to reduce their reliance on overtime, relieving the burden placed on staff who are working excessive overtime and allow dispatchers more time to complete mandatory training.

#### Recommendations

In order to ensure well-rested and content dispatchers, and to reduce reliance on overtime, we recommend the Police Department through its recruitment actions:

- 2.1 Open all dispatcher positions to continuous recruitment.
- 2.2 Work with Communications Center staff to create a specific recruitment plan for dispatcher positions including recruitment events and marketing material. Use recruitment best practices to reach potential applicants and increase the number of applicants.
- 2.3 Identify and implement feasible options to improve turnaround time on background checks for dispatcher positions. This can include outsourcing background investigations or working with Human Resources to ensure that the Department is able to complete all background investigations in a timely manner.
- 2.4 Design a way to retain staff that are unable to pass the Police Desk training, for example, keep staff as Public Safety Dispatcher I and have them work as a call taker or create a new job classification for a call taking position.
- 2.5 Evaluate the results from dispatcher recruitment routinely (e.g., annually or at the end of a recruitment cycle) to determine areas for improvement. Update recruitment plans.

In order to ensure adequate staffing and well-trained dispatchers, we recommend the Police Department:

- 2.6 Implement an automated scheduling software that has built-in decision-making capabilities to automatically fill shifts based on specified qualifications and staff availability.
- **2.7** Decrease the concentration of overtime among dispatchers.
- 2.8 Develop and implement a Communications Center training plan to ensure compliance with POST training requirements. Evaluate training processes and update training plans routinely.

### Working conditions adversely affect dispatcher morale.

All the dispatchers who responded to our survey stated that morale in the Center was low. According to staff, the major cause of the low morale is the understaffing of dispatch positions and subsequent excessive overtime needed to achieve minimum staffing. As the Center has continued to rely on overtime, staff have little to no time in their work days to complete ongoing training, build a healthy workplace culture, and access stress management resources. They also have less time off work to take care of their physical and mental health. Management reported that they have taken steps to address the low morale and provide resources to support dispatchers. However, there is more that needs to be done to ensure dispatchers have access to and participate in these resources.

#### Communication Improvements Can Help Morale

Communication is a key tool to a healthy work environment. The majority of dispatchers feel that they are not given opportunities to voice their concerns, ideas, and opinions. This has caused dispatchers to feel disconnected from supervisors and management. Shift work creates a challenge when it comes to communication because there is no time in the day when staff are all together. Additionally, the type of work does not allow the entire unit to be off work and communicate as a whole. In our interviews, supervisors said that there is a lack of communication because they work different shifts and this makes it hard to be on the same page. Supervisors recognized that this challenge likely causes communication issues up and down their chain of command.

Management has recognized the need for greater transparency about management decisions and appear to be committed to creating better communication practices in order to achieve that. There are opportunities to increase transparency by holding regular meetings with supervisors and management where information is shared and communication plans are made. This would help ensure that supervisors are communicating consistent information down to dispatchers and that supervisors have time to bring ideas, concerns, and issues to management. Center staff also expressed that there are communication barriers between dispatchers and sworn police officers. Staff reported feeling largely ignored and forgotten by the Department. The Center and Police Department previously had a committee that met routinely to

100% of survey respondents agreed or strongly agreed that morale within the Communications Center is low.

73.33% of survey respondents disagreed or strongly disagreed that they are given opportunities to voice concerns, opinions, and ideas.



Supervisors are directly responsible for training and conveying information to dispatchers. It is also the job of the supervisor to resolve issues and refer to management as necessary.

discuss issues between patrol staff and dispatchers and keep communication open. The committee has since stopped meeting. A meeting between patrol staff and the Center, if properly managed, could help dispatchers communicate with the Department, build rapport, and solve recurring issues.

Center staff reported having a good working relationship with the Fire Department. They feel that Fire is very mindful about how their policies affect dispatchers and will initiate discussions with supervisors to address changes and issues, and to solicit feedback. However, there is room to improve communication with Fire by including all Center supervisors in those routine discussions to ensure that all significant issues are discussed. Currently, one of the supervising dispatchers serves as the liaison to Fire and is responsible for this communication. While it is important to have a point person, the Center may benefit from involving all supervisors and management in more routine meetings with Fire.

### Unaddressed Work-Related Stress Increases Risk to Department

There is no such thing as a good day in the Center. A bad day for most people is every day for a dispatcher. Dispatchers do not just hear when crimes or tragedies occur, they are on the phone with someone who was involved or witnessed what happened. According to the National Emergency Number Association, approximately 16.3 percent of dispatchers may be at risk of Secondary Traumatic Stress Disorder. Experts identify risks associated with unaddressed 911 stress, including serious health issues, lower employee retention, impaired work performance, and declining morale in the workplace. All of these impacts have the potential to threaten the health of dispatchers and the ability of the Center to fulfill its mission to provide optimal emergency response to the public.

Experts have found that workplace satisfaction reduces the cost of employee turnover and sick leave while increasing performance and productivity. Low morale has been associated with the opposite. With mounting evidence that work-related stress is having more of an impact on 911 dispatchers, industry experts have established standards for a comprehensive stress management program.



The National Emergency Number Association provides

standards for creating a comprehensive stress management program, including:

- Stress management training for all staff
- On-site educational materials and resources about stress and related risks
- Information on the role of nutrition, exercise, and sleep in preventing stress disorders
- Written procedures for ensuring participation in post-trauma response, debriefing, and peer support
- A PSAP peer support program
- Personal health incentives program to promote employee investment in lifestyle changes and practices shown to prevent mental and physical disease

<sup>&</sup>lt;sup>4</sup> Secondary Traumatic Stress Disorder is the specific stress experienced by an individual who has experienced a traumatic event involving a threat to the physical integrity of another person; the stress resulting from helping or wanting to help a traumatized person.

### Dispatchers Are Tired of Dirty Workplace and Broken Equipment

Our survey and interviews revealed that poor equipment maintenance and workplace cleanliness are also contributing to employee dissatisfaction in the Center. There is currently no planned continuous maintenance on Center equipment. In addition to contributing to employee satisfaction, having working equipment is vital to the success of the City's emergency response. Implementing a maintenance plan will allow management to plan routine upgrades and replacement of equipment. Supervisors also commented on the lack of cleanliness in the Center. Overcrowded and cramped working quarters, as well as staff's frequent inability to leave their desks for lunch breaks, are likely contributors to the unclean space. The crowded conditions are likely to worsen as the Center expands to take on additional dispatchers. The Department may need to invest in additional cleaning services to address all sanitation issues.

### Dispatchers Believe They Need Better Access to Stress and Wellness Resources

The Police Department has policies and practices that address workplace stress, promote wellness, and show appreciation for employees. There are some resources that dispatchers have access to, for example, recognition during National Public Safety Telecommunicators Week and the City Employee Assistance Program. However, there are other resources that dispatchers report that they have a hard time accessing: post-trauma response, peer support, incident debriefing, and use of the Department gym. Center staff reported that dispatchers do not have time to access many of these resources due to understaffing. Management reported that they have introduced new wellness resources including a healthy-meal delivery service, access to a mobile meditation application, and a physical meditation space. Management recognizes that they will need to continue to work towards improving these services and access to these services.

Center staff also stated that dispatchers do not receive adequate ongoing training. The Center should provide ongoing training on the structured call-taking process, including the management of suicidal callers and calls involving persons with mental illness, to ensure that dispatchers have the skills and knowledge to handle the calls and manage their own stress. In

86.67% of survey respondents disagreed or strongly disagreed that they receive the resources needed to effectively manage the stress of being a dispatcher.

60% of survey respondents disagreed or strongly disagreed that the

strongly disagreed that they receive adequate ongoing training to understand their evolving responsibilities and do their job well.

addition to their current stress management practices, the Police Department could benefit from adding practices to ensure that dispatchers have access to the resources they need to continue to do their job and remain healthy. Without addressing staffing and overtime issues, dispatchers will continue to not have time to access essential stress management resources. By creating a comprehensive stress management program specifically for dispatchers, the Center can make time for dispatchers to access vital stress management resources that are relevant to staff needs.

Management has voiced their commitment to increasing transparency and providing additional support to improve the environment. While the initial implementation of programs to improve morale will have financial costs, these can be offset by cost reductions related to sick time, resignations, and workers compensation claims. The City's investment in its people is critical to ensuring that the Center is prepared to respond to calls for service and effectively communicate information to public safety personnel.

#### Recommendations

In order to improve morale and communication, we recommend Communications Center management:

- 3.1 Create a comprehensive stress management program specifically for the Communications Center that includes the following:
  - Stress management training for all staff, 8 hours minimum during career
  - Access to on-site educational resources to help with stress and related risks, e.g., directory of local therapists specializing in treatment of stress and traumatic stress disorders and City programs that provide information on how and where to access help
  - Procedures assuring participation of staff in critical incidence stress management activities (e.g., debriefing sessions when involved in traumatic call events)
  - A Peer Support Program
  - Comprehensive, ongoing training on structured call-taking processes

- 3.2 Develop and implement plans to address workplace cleanliness and equipment maintenance and replacement.
- 3.3 Conduct regular supervisor level meetings to share information about operations and staffing. Use these meetings to improve understanding of the supervisor role, identify problems, discuss changes that may affect operations, and establish communications plans for distributing information to all staff.
- 3.4 Routinely have Police and Fire staff meet with all Center Supervisors to solicit feedback on Center operations and to address any issues. Use these meetings to improve understanding of the dispatcher role and current policies of public safety, identify problems that should be evaluated for further discussion, and discuss known and expected changes that may affect the Communications Center.

#### Management Response Summary

City Management agreed to our findings, conclusions, and recommendations. In our meetings with Police Department management, they described their current and planned actions to address our audit recommendations. We found those verbal responses reasonable. For example, to address recommendations 1.2 and 2.4, Police Department management said they plan to request a new Call Taker position. This will help them hire staff who are able to handle call intake but may not be suited to handle police desk responsibilities. This will help reduce reliance on overtime.

The Police Department provided us with written summary information describing the conditions that led to our audit recommendations and identified some of their milestone dates. Some responses did not include complete, written corrective action plans or expected implementation dates as requested. Therefore, we will be working with Police Department management to obtain that information so that we can monitor their progress with implementing our audit recommendations. Please see Appendix III for the Police Department's written response to our audit recommendations.

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#### Appendix I—Methodology and Statement of Compliance

#### Methodology

We audited the Communications Center's (Center) recruitment, staffing, overtime, retention, and training program for calendar years 2013 through 2017. We performed a risk assessment of the Center's practices and procedures to identify potential internal control weakness, including fraud risks, within the context of our audit objectives. To gain an understanding of the Center's operations and threats to performance and to achieve our audit objectives, we:

- Reviewed the Center's current minimum staffing requirements.
- Sat along during three dispatching shifts to observe operations.
- Interviewed the Captain of the Support Services Division, the Communications Center Manager,
   Dispatcher Supervisors, and Public Safety Dispatchers to gain an understanding of operations,
   staffing, and workload.
- Reviewed professional literature to identify common threats to the capacity of public safety dispatching agencies and best practices for staffing, recruitment, and stress management.
- Performed a regression analysis on estimated population growth and call volume.
- Analyzed call data by hour, including time to answer and duration on a call to understand call volume and call types for calendar years 2011-2017.
- Obtained and presented 2018 summary call data at the request of the Police Department to help demonstrate their hypothesis about the change in call volume post 2016.
- Ran a staffing analysis to determine the number of call takers needed to handle the current 911 call volume and compared those numbers to the current staffing.
- Analyzed the Center's use of overtime to meet minimum staffing requirements for calendar years 2013-2017.
- Calculated historic turnover and vacancy rates of dispatcher classifications for calendar years 2013-2018. This is one instance in which we were able to obtain 2018 data for analysis.
- Reviewed budget documents, written procedures, and common forms and reports used by the Police Department.
- Reviewed State and Department of Justice audits.
- Observed dispatcher candidate interviews and analyzed recruitment data to understand the
  recruitment and hiring process, including a number of applicants passing through each step of
  the recruitment process and the specific dates for various steps of the process for dispatchers
  hired.

- Interviewed Communications Training Officers to understand the training program and typical training timeframe for new dispatchers.
- Performed an anonymous survey of dispatchers to gauge morale and satisfaction with different aspects of their work environment.

We recognize that coordinated emergency response operations are complex, involving multiple City departments. The scope of this audit was narrow and looked only at the Communications Center role in answering 911 and non-emergency calls. We did not assess dispatching or emergency service response times, which are distinctly different from call answer times. When looking at answer times, we did not assess non-emergency calls as the California state standards apply to only 911 calls.

#### **Explanation of Staffing Analysis**

We used the National Emergency Number Association's PSAP Staffing Guidelines to analyze the Center's staffing level based on call volume. This method of determining how many persons should staff a PSAP looks at primary workload, which is considered to be 911 calls received. We used standard queuing theory to determine how many call takers should be available to process the calls. This queuing theory was created to account for call volumes where if the caller was blocked, then at least 85 percent of the time the caller immediately redials. This is the situation of a person seeking emergency help. The limitation of this analysis is that it does not take into account any factors that influence call handling and that are not in the queuing formula.

#### **Data Reliability**

We assessed the reliability of ECaTs data by reviewing them for reasonableness and completeness, interviewing data and data-system owners and managers, gaining an understanding of data access controls, and reviewing data system documentation. We determined that the data were sufficiently reliable for the purposes of this report. We did not include 2018 data in our reliability assessment. We included that data in Figure 2 at the request of the Police Department, but did not use it to support our audit findings, conclusions, or recommendations. We make that clarification under Figure 2.

We relied on US Census population and ABAG population predictions to support our finding regarding predicted increases to call volume. We considered both organizations to be known, reliable sources and, therefore, their data to be sufficiently reliable for our purposes. We recognized both the US Census and ABAG offer slightly differing predictive data. However, the purpose of our predictions is to give readers a general understanding of future impact with an understanding that actual population growth will be different. We do not expect this difference to be significant to the extent it impacts the purpose of our predications, which is to support that the Center will need to expand along with population growth.

We assessed the reliability of payroll data by reviewing it for completeness, appropriateness, and consistency. We determined it is sufficient and reliable for the purposes of our work. The data captures the date of the hours, the staff member, position title, and hour code. We noted a limitation in the data in that the position title associated with individuals is their current title, which does not necessarily reflect the title at the time the hours were earned. This limitation does not significantly impact our use of the data because all four of the current supervisors were in their positions before 2013. In addition, we combined the Public Safety Dispatcher I and Public Safety Dispatcher II totals so our calculations are not impacted by when dispatchers were promoted from Public Safety Dispatcher I to II.

#### Statement of Compliance

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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#### Appendix II—Dispatcher Morale Survey: Design, Efforts, and Results

We designed a survey to gain an understanding of dispatchers' satisfaction on a number of issues, with a particular emphasis on determining the overall climate of the Communications Center (Center), and assessing which factors are contributing to dispatcher satisfaction and which are detracting from their satisfaction.

To collect the information contained in this report, we invited 23 dispatchers to participate through the SurveyMonkey online survey platform. Over a two-week period, a total of 15 employees completed the survey, which represents a participation rate of 65 percent. Because our survey focus was on dispatchers perceptions, we excluded supervisors and management. We interviewed the four supervisors, the Center Manager, and the Captain of Support Services separately to gain an understanding of their perceptions and concerns.

We created our survey in SurveyMonkey, an online platform for creating, distributing, and analyzing surveys. We designed our survey to keep responses anonymous.

#### **Survey Limitations**

When we started designing this survey, we understood that there are inherent limitations in using survey data to gauge the morale of an organization. However, even with those limitations, providing an anonymous survey to employees was the most effective and efficient way to hear from a large number of employees in shift work who could responded freely. During our audit, we kept the following in mind:

- Many factors can impact an employee's frame of mind when completing the survey, which could
  influence their responses either positively or negatively.
- People who are dissatisfied are more apt to reply to the survey.
- Ongoing changes within the Center would impact perceptions day to day.
- Unless the survey achieves 100 percent response rate, some dispatchers' opinions may not be reflected in the quantitative analysis of responses.
- Despite our extensive preparation, dispatcher could have interpreted questions differently than we intended.

Because the overall goal was to set a baseline of the morale at a point in time, we determined that the above factors would not create a significant risk as to the accuracy of our audit findings, conclusions, and recommendations. The 65 percent response rate was a strong indicator that the results were reliable, and the responses agreed with comments made during interviews, including discussions with supervisors and management.

Table 1: Overall Survey Results of Dispatcher Morale

	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
There are enough dispatchers on duty during each shift to handle call volume.	6.67%	6.67%	13.33%	40.00%	33.33%
I am not able to take my required breaks due to workload and staffing shortages.	26.67%	33.33%	13.33%	20.00%	6.67%
I am required to work too much overtime.	73.33%	13.33%	6.67%	0.00%	6.67%
I received adequate new dispatcher training to understand my responsibilities and to do my job well.	13.33%	40.00%	26.67%	13.33%	6.67%
I receive adequate ongoing training to understand my evolving responsibilities and do my job well.	0.00%	13.33%	26.67%	13.33%	46.67%
I would like to receive additional training to advance my knowledge and skills.	66.67%	20.00%	0.00%	0.00%	13.33%
I am compensated fairly for my work.	13.33%	33.33%	26.67%	20.00%	6.67%
I am given opportunities to voice my concerns, opinions, and ideas.	0.00%	6.67%	20.00%	13.33%	60.00%
I receive the resources I need to effectively manage the stress of being a dispatcher.	0.00%	0.00%	13.33%	26.67%	60.00%
The Communications Center operations written policies and procedures provide appropriate direction and guidance.	0.00%	6.67%	13.33%	13.33%	66.67%
The Communications Center written policies and procedures are applied to all personnel equally.	0.00%	0.00%	6.67%	26.67%	66.67%
I feel supported by Supervising PSDs and can count on them to fill in when workload increases due to training, staff absences, or call increases.	0.00%	6.67%	20.00%	13.33%	60.00%

	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
I feel supported by Supervising PSDs and can count on them to fill in when workload increases due to training, staff absences, or call increases.	0.00%	6.67%	20.00%	13.33%	60.00%
Supervisors contribute to a positive work culture.	0.00%	6.67%	20.00%	20.00%	53.33%
I have confidence in management's ability to perform their duties and run the Communications Center.	0.00%	0.00%	6.67%	26.67%	66.67%
Management contributes to a positive work culture.	0.00%	0.00%	13.33%	20.00%	66.67%
Overall, the morale within the Communications Center is low.	93.33%	6.67%	0.00%	0.00%	0.00%

#### Appendix III—Recommendations and Management Response

- Conduct an annual staffing analysis of required minimum staffing levels and budgeted dispatchers to ensure budget staffing requests and scheduling efforts meet demand and limit the use of overtime where possible. Use the staffing analysis to communicate to Council and the public during the annual appropriations process:
  - Service level demands;
  - The full-burdened cost of budgeting for additional staff;
  - Whether there is sufficient funding available to budget for the additional staff or a shortfall (quantified in dollars); and
  - Additional staffing requests, if needed.

**Management Response:** We will research other available analysis options to determine if we are using best practices by June 2019. A monthly and yearly analysis of staffing is helpful when determining best use of the current employees in terms of scheduling. We recognize that our current use of a manual scheduling process is not optimal and that we would be better served by an automated scheduling program. The Department has already begun to consider several automated scheduling programs to replace our current manual method.

Use the staffing analysis performed in response to recommendation 1.1 to, determine future resource needs of the Communications Center, including staffing, equipment, and physical space. Take into account planned changes to services and factors that may influence call volume.

**Management Response:** Decide on Communications Center expansion versus relocation by December, 2019. We will need to increase our staffing levels to meet NENA staffing recommendations. Future enhancements to the 911 system such as text to 911 and Next Generation 911 will increase our call times and further hinder our ability to meet NENA standards on call answer times. The Communications Center will need to either expand the space it currently occupies in the Public Safety Building, or relocate to a separate building in order to increase the number of consoles needed to accommodate additional required staff.

The Department has already begun discussion on the Communications Center's spatial needs. In 2018, we implemented a new Computer Aided Dispatch system in order to enable us to receive 911 calls via the upcoming Next Generation technology. The Call Taker proposal will be submitted to Human Resources and the Personnel Board.

### 2.1 Open all dispatcher positions to continuous recruitment.

Management Response: We hope to obtain approval from Human Resources by September, 2019. Open and continuous recruitment of all dispatcher positions has long been the desire of Management. There are several factors that make hiring dispatchers challenging. The hiring process itself is lengthy due to required testing of applicants, background investigation and physical exam. Because of our limited resources in terms of floor trainers, we cannot hire more than three dispatchers at one time or the trainer's become overburdened. The Public Safety Dispatcher training program generally takes 9-10 months to complete. Often, it is not until the latter months of training that deficiencies that will not allow a trainee to complete the program are discovered. Allowing for open and continuous recruitment would give us the ability to create a pipeline of applicants to "plug in" once a trainee either completes or is released from the training program.

Human Resources has already agreed to open and continuous hiring for lateral Public Safety Dispatcher II classification and Management has requested the same for both the non-lateral and Public Safety Dispatcher I classifications.

# Work with Communications Center staff to create a specific recruitment plan for dispatcher positions including recruitment events and marketing material. Use recruitment best practices to reach potential applicants and increase the number of applicants.

**Management Response:** In progress since 2018, the marketing firm is expected to begin work by May of 2019. Recruitment of a compassionate, competent, talented and diverse workforce is a priority for the entire department, and has been a challenge over the last several years due to a variety of reasons. Creation of a more specific plan for dispatcher positions can help reach potential applicants and increase the total number of applicants. Management recognizes the importance of both hiring and retaining applicants through the training program as being a key element in overcoming the staffing shortage.

The Department created a Recruitment and Retention Team in 2018 in order to address the departmental recruitment needs. This was the first step in setting out a concrete plan. This team has developed goals and priorities, with very specific tasks. The goals include better tracking of recruitment efforts, creation of recruitment videos, attending recruitment events, hiring a marketing firm to assist with web design, employment brochures and literature, social media outreach and other advertising avenues.

2.3 Identify and implement feasible options to improve turnaround time on background checks for dispatcher positions. This can include outsourcing background investigations or working with Human Resources to ensure that the Department is able to complete all background investigations in a timely manner.

**Management Response:** In progress since 2018. In April of 2019 the Department contracted with a background investigation firm that can complete up to three backgrounds at a time with a one month turn around. The Department also hired a retired BPD officer to complete backgrounds on a part time basis. This retiree has extensive experience conducting background investigations for the Department. The Department is experimenting with now assigning multiple categories of backgrounds out at one time, instead of exhausting higher categories before moving on.

The long background check process has been an impediment to successful recruitment and hiring for some time. The above described Recruitment and Retention Team has also identified improving the background investigation process as a critical task. Plans were considered to dedicate current employees as background investigators, hire independent background investigation companies or do some combination of the two. The proposed plan to affect change in this area is to hire an independent but highly experienced background investigation firm that can rapidly complete quality background investigations, continue to use Department employees to complete background investigations, and also continually evaluate and adapt practices.

Design a way to retain staff that are unable to pass the Police Desk training, for example, keep staff as Public Safety Dispatcher I and have them work as a call taker or create a new job classification for a call taking position.

**Management Response:** We want to have our final proposal for the call taker and revisions to the PSD classifications by June and implement by fall 2019. Historically, many trainees have gained proficiency in call taking, demonstrated excellent customer service skills and professionalism, but could not complete the training program due to their inability to pass Police Desk training.

Hiring more full time call takers would improve staffing levels, greatly relieve overtime required by dispatchers, significantly reduce overtime costs and allow us to meet NENA minimum staffing requirements. Once the Call Taker classification is approved, it would help Management to potentially retain valuable employees by offering them a position in a different classification they are already qualified to work.

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### Evaluate the results from dispatcher recruitment routinely (e.g., annually or at the end of a recruitment cycle) to determine areas for improvement. Update recruitment plans.

**Management Response:** Evaluation and more robust data collection on applications began in late 2018. By the summer of 2019 the Department should begin to have an adequate data set to review. Recruitment has changed over the last several years, and competition for qualified candidates is great among agencies. Continual evaluation of Departmental efforts will be critical to staying abreast of best practices and successfully hiring quality candidates. The Department plans to improve tracking and review of the number of applicants, how successful applicants are through the process, and where they most often are "lost" in the process. The Department also plans to review these results in line with testing processes in order to adjust as necessary.

### Implement an automated scheduling software that has built-in decision-making capabilities to automatically fill shifts based on specified qualifications and staff availability.

**Management Response:** As of April 2019, there have been presentations by two separate software vendors. There is a plan to research a third vendor's software (Tyler Technology) at an upcoming annual conference. DoIT suggests implementing a scheduling software in line with other technology upgrades surrounding payroll (ERMA). The Department anticipates that review of available products and decisions as to whether to move to Implementation could occur in late Fall of 2019.

Implementation of a scheduling software could help relieve the current personnel engaged in scheduling, create a feeling of greater fairness and control which would be a morale boost. This would also allow for greater review over how much overtime individuals are working in order to ensure their wellness and that they are taking enough time off. The Department is interested in balancing the above opportunities with the challenges and expense of implementing a new software solution.

The Department has been communicating with and working alongside DoIT, union representatives and outside vendors to explore various scheduling software options. Efforts are also underway to identify best practices in other jurisdictions.

#### 2.7

Decrease the concentration of overtime among dispatchers.

**Management Response:** Change in overtime distribution procedures implemented in 2018. For the past five years, the Communications Center's overtime has averaged roughly 300 hours per week in order to meet our minimum staffing requirements. Approximately 100 additional hours would be necessary to meet NENA minimum staffing levels.

Although we cannot reduce overtime levels until we hire more dispatchers and they successfully complete either the PSDII or call taking training program, in 2018 the scheduling supervisor was directed by the Communications Manager to re-order the way overtime is assigned in order to more equitably distribute overtime hours between all dispatchers, instead of the majority of hours falling to a portion of staff.

### Develop and implement a Communications Center training plan to ensure compliance with POST training requirements. Evaluate training processes and update training plans routinely.

**Management Response:** In progress since January of 2019. The goal is that by end of 2019, all Communications Center Personnel will be on track with POST requirements (nearly half completed with all training hours at the halfway point of the training cycle).

Ongoing training of employees is a priority for the Department. The Department sees the value and benefit of these training opportunities for the employee's development and wellness, the Department's mission, and the quality of service the community ultimately receives.

In January of 2019 the Communications Center leadership team implemented a plan to track POST training requirements along with yearly Performance Appraisal Reviews. At each employee's PAR anniversary date, their supervisor will review the number of hours of training received to date. Additionally, Personnel and Training will conduct an annual review of all Communications Center personnel to track POST training time. Finally, one of the Public Safety Dispatch Supervisors was assigned the job to work as a liaison with Personnel and Training for scheduling POST classes as well as directly with dispatchers to locate and sign dispatchers up for course of interest.

- 3.1 Create a comprehensive stress management program specifically for the Communications Center that includes the following:
  - Stress management training for all staff, 8 hours minimum during career
  - Access to on-site educational resources to help with stress and related risks, e.g., directory
    of local therapists specializing in treatment of stress and traumatic stress disorders and city
    programs that provide information on how and where to access help
  - Procedures assuring participation of staff in critical incidence stress management activities (e.g., debriefing sessions when involved in traumatic call events)
  - A Peer Support Program
  - Comprehensive, ongoing training on structured call-taking processes

**Management Response:** All Communications Center Staff to receive 8 hours training by December, 2019. The Department recognizes the negative effects of stress on employees and utilizes Peer Support Counselors, a Crisis Intervention Team as well as the Employee Assistance Program and most recently the Headspace website which promotes mindfulness and meditation.

Work with Personnel and Training to Expand current stress management toolset to include a mandatory 8 hour stress management course for all Communications Center staff.

Develop and implement plans to address workplace cleanliness and equipment and furniture maintenance and replacement.

**Management Response:** Beginning fall 2018, the Communications Center receives a deep cleaning on a quarterly basis. Standalone Hepa filters will be purchased by July 2019. Management recognizes the need for improvement in the cleanliness of the Communications Center.

Conduct regular supervisor level meetings to share information about operations and staffing. Use these meeting to improve understanding of the supervisor role, identify problems, discuss changes that may affect operations, and establish communications plans for distributing information to all staff.

**Management Response:** Fully operational by October 2019. Management recognizes the need for improved communication across all ranks. The Communications manager is in the process of creating a web based information portal which includes sections for polices, Supervisory blog, Communications Center blog, resources, health and wellness, new dispatcher training, and links to web based training opportunities for tenured staff.

Routinely have Police and Fire staff meet with all Center Supervisors to solicit feedback on Center operations and to address any issues. Use these meetings to improve understanding of the dispatcher role and current policies of public safety, identify problems that should be evaluated for further discussion, and discuss known and expected changes that may affect the Communications Center.

**Management Response:** May 2019. The Department recognizes the need and benefit of such meetings. Logistically this has been challenging due to the various shifts and workdays of personnel from other divisions. Invite Police and Fire staff to attend the weekly Supervisor meeting whenever problems are identified or whenever known or anticipated changes may affect the Communications Center.

#### **Mission Statement**

Promoting transparency and accountability in Berkeley government.

#### **Audit Team**

Claudette Biemeret, Audit Manager Erin Mullin, Auditor-in-Charge Tracy Yarlott-Davis

#### **City Auditor**

Jenny Wong Ann-Marie Hogan (Retired)

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# CONSENT CALENDAR May 14, 2019

To: Honorable Mayor and Members of the City Council

From: Mayor Jesse Arrequín, and Councilmembers Sophie Hahn and Ben Bartlett

Subject: Support AB 539 – the Fair Access to Credit Act

#### RECOMMENDATION

Adopt a Resolution in support of AB 539, the Fair Access to Credit Act, authored by Monique Limón. Send a copy of the Resolution to Governor Gavin Newsom, State Senator Nancy Skinner, and Assemblymembers Buffy Wicks and Monique Limón.

#### **BACKGROUND**

Currently, California is one of 13 states that have no rate cap on loans of more than \$2,500. In recent years, such loans have had skyrocketing APR rates, with 60% of loans between \$2,500 - \$5,000 having over 100% APR. This means, for example, that a seven-year \$5,000 loan at 116% can balloon up to \$40,000. In states that have caps, the cap is 36% APR, which is also the same rate for loans issued to active duty military under the 2006 Military Lending Act.

Exorbitant APR rates often lead to loan defaults. In fact, in a July 2016 report by the National Consumer Law Center, approximately 20-40% of high-interest rate loans in California go into default compared to 2-9% for lower interest loans. To make matters worse, predatory lending practices are disproportionately targeted towards vulnerable populations. In 2015, the Berkeley City Council voted to restrict new check cashing stores in Berkeley after new stores began opening throughout South Berkeley, a traditionally lower income neighborhood of color. At the same time the Council increased regulations on existing stores all located in the same South Berkeley neighborhood. The California Department of Business Oversight has noted that such businesses are more likely to open up in African American and Latino neighborhoods.

AB 539, the Fair Access to Credit Act, introduced by Assemblymember Monique Limón, would cap the interest rate at 36% for loans between \$2,500 and \$10,000. In addition, the bill will limit the terms of loans to a minimum of 12 months and a maximum of 5 years, which will prevent an overly extended loan that results in substantially increased payments over time. Finally, the bill will prohibit penalties for prepayment.

FINANCIAL IMPLICATIONS None.

#### ENVIRONMENTAL SUSTAINABILITY

Support AB 539 - the Fair Access to Credit Act

CONSENT CALENDAR May 14, 2019

Not applicable.

**CONTACT PERSON** 

Mayor Jesse Arreguín 510-981-7100

Attachments:

1: Resolution

2: Text of AB 539

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

#### IN SUPPORT OF AB 539 - THE FAIR ACCESS TO CREDIT ACT

WHEREAS, promoting the fiscal health and responsibility of Berkeley residents, especially those who are low-income and working class, is important for their livelihoods and the region's economy; and

WHEREAS, under existing state law, interest rates on loans below \$2,500 are capped at 36%, but not for loans over \$2,500 or greater; and

WHEREAS, 60% of loans between \$2,500 - \$5,000 in California have an interest rate of over 100%; and

WHEREAS, approximately 20-40% of high-cost loans in California go into default compared to 2-9% for lower interest loans; and

WHEREAS, check cashing stores are disproportionately placed in neighborhoods with a high level of African American and Latino residents, and in places where the family poverty rates are higher than that of the state average; and

WHEREAS, the only check cashing stores in Berkeley are located in South Berkeley neighborhoods – which historically are neighborhoods of color and lower income; and

WHEREAS, the Berkeley City Council voted in 2015 to restrict new check cashing stores in Berkeley and increased regulations to existing stores after new stores; and

WHEREAS, AB 539, the Fair Access to Credit Act, introduced by Assemblymember Monique Limón, would cap the interest rate at 36% for loans between \$2,500 and \$10,000; and

WHEREAS, the bill will limit the terms of loans to a minimum of 12 months and a maximum of 5 years, and prohibit penalties for prepayment.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it hereby supports AB 539 – the Fair Access to Credit Act.

BE IT FURTHER RESOLVED that copies of this Resolution be sent to Governor Gavin Newsom, State Senator Nancy Skinner, and Assemblymembers Buffy Wicks and Monique Limón.

#### AMENDED IN ASSEMBLY MARCH 26, 2019

CALIFORNIA LEGISLATURE—2019-20 REGULAR SESSION

#### **ASSEMBLY BILL**

No. 539

Introduced by Assembly Members Limón and Grayson (Coauthors: Assembly Members Aguiar-Curry, Kalra, Ramos, Reyes, and Mark Stone)

(Coauthors: Senators Durazo, Mitchell, and Wieckowski)

February 13, 2019

An act to amend Sections 22202, 22250, 22251, <del>22302,</del> 22305, and 22334 of, and to add Sections 22304.5 and 22307.5 to, the Financial Code, relating to consumer loans.

#### LEGISLATIVE COUNSEL'S DIGEST

AB 539, as amended, Limón. California Financing Law: consumer loans: charges.

(1) The California Financing Law (CFL) provides for the licensure and regulation of finance lenders and brokers by the Commissioner of Business Oversight. The CFL prohibits anyone from engaging in the business of a finance lender or broker without obtaining a license. A willful violation of the CFL is a crime, except as specified. Under existing law, a licensee who lends any sum of money is authorized to contract for and receive charges at a maximum rate that does not exceed specified sums on the unpaid principal balance per month, ranging from 2 ½ % to 1%, based on the consumer loan amount, as specified. This provision, however, does not apply to any loan of a bona fide principal amount of \$2,500 or more, as determined in accordance with a provision governing regulatory ceilings and evasion of the CFL.

The CFL also authorizes a licensee, as an alternative to the above-described rate charges for consumer loan amounts, to instead

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contract for and receive charges at the greater of a rate not exceeding 1.6% per month on the unpaid principal balance or a rate not exceeding 5% of 1% per month, plus a specified percentage per month, as established by the Federal Reserve Bank of San Francisco, on advances to member banks under federal law, or if there is no single determinable rate, the closest counterpart of this rate. Under existing law, these provisions do not apply to a loan of a bona fide principal amount of \$2,500 or more, as specified. The CFL further authorizes a licensee to contract for and receive an administrative fee of a specified amount that varies with the bona fide principal amount of the loan.

This—bill bill, entitled the Fair Access to Credit Act, would authorize a licensee, with respect to a loan of a bona fide principal amount of \$2,500 or more but less than \$10,000, to contract for or receive charges at a rate not exceeding an annual simple interest rate of 36% plus the Federal Funds Rate. The bill would specify that a licensee may contract for and receive an administrative fee, as described above, in addition to these charges.

(2) Under the CFL, certain principles apply in determining whether a loan is a loan of a bona fide principal amount under specified provisions and whether the regulatory ceiling provision is used for purposes of evading the CFL.

This bill would apply these principles to loans of a bona fide principal amount of \$2,500 or more but less than \$10,000. The bill would also apply these principles to any fees paid to a licensee for the privilege of participating in an open-end credit program.

(3) Existing law prohibits licensees subject to the CFL from entering into a contract for a consumer loan that provides for a scheduled repayment of principal over more than the maximum terms set forth in relation to the respective size of the loan. Among other things, this provision prohibits a loan of at least \$3,000 but less than \$5,000 from exceeding a maximum term of 60 months and 15 days.

This bill would increase the maximum principal loan amount under the above schedule to \$10,000. The bill would also prohibit a licensee from entering into a contract for a consumer loan that is in excess of \$2,500 but less than \$10,000 that provides for a scheduled repayment of principal that is less than 12 months.

(4) The CFL specifies that a loan found to be unconscionable pursuant to a specified provision shall be deemed in violation of the CFL and subject to the remedies applicable to the CFL.

-3- AB 539

This bill would specify that certain charges authorized under the CFL shall not be deemed to be unconscionable based on the costs of the charges alone. The bill would also prohibit a licensee from charging, imposing, or receiving any penalty for the prepayment of a loan under the CFL.

By expanding the application of the CFL to cover more loans, the bill would expand the scope of an existing crime, thereby imposing a state-mandated local program

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.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. This act shall be known, and may be cited, as the 2 Fair Access to Credit Act.
- 3 SECTION 1.

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- 4 SEC. 2. Section 22202 of the Financial Code is amended to 5 read:
- 6 22202. "Charges" do not include any of the following:
- 7 (a) Commissions received as a licensed insurance agent or 8 broker in connection with insurance written as provided in Section 9 22313.
  - (b) Amounts not in excess of the amounts specified in subdivision (c) of Section 3068 of the Civil Code paid to holders of possessory liens, imposed pursuant to Chapter 6.5 (commencing with Section 3067) of Title 14 of Part 4 of Division 3 of the Civil Code, to release motor vehicles that secure loans subject to this division.
  - (c) Court costs, excluding attorney's fees, incurred in a suit and recovered against a debtor who defaults on the debtor's loan.
  - (d) Amounts received by a licensee from a seller, from whom the borrower obtains money, goods, labor, or services on credit, in connection with a transaction under an open-end credit program that are paid or deducted from the loan proceeds paid to the seller at the direction of the borrower and that are an obligation of the

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seller to the licensee for the privilege of allowing the seller to participate in the licensee's open-end credit program. Amounts received by a licensee from a seller pursuant to this subdivision may not exceed 6 percent of the loan proceeds paid to the seller at the direction of the borrower.

- (e) Actual and necessary fees not exceeding five hundred dollars (\$500) paid in connection with the repossession of a motor vehicle to repossession agencies licensed pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code provided that the licensee complies with Sections 22328 and 22329, and actual fees paid to a licensee in conformity with Sections 26751 and 41612 of the Government Code in an amount not exceeding the amount specified in those sections of the Government Code.
- (f) Moneys paid to, and commissions and benefits received by, a licensee for the sale of goods, services, or insurance, whether or not the sale is in connection with a loan, that the buyer by a separately signed authorization acknowledges is optional, if sale of the goods, services, or insurance has been authorized pursuant to Section 22154.

21 SEC. 2.

- SEC. 3. Section 22250 of the Financial Code is amended to read:
- 22250. (a) The following sections do not apply to any loan of a bona fide principal amount of ten thousand dollars (\$10,000) or more, or to a duly licensed finance lender in connection with any such loan or loans, if the provisions of this section are not used for the purpose of evading this division: Sections 22154, 22155, 22201, 22202 22307, 22313, 22314, 22315, 22322, 22323, 22325, 22334, and 22752, and the sections enumerated in subdivision (b).
- (b) The following sections do not apply to any loan of a bona fide principal amount of five thousand dollars (\$5,000) or more, or to a duly licensed finance lender in connection with any such loan or loans, if the provisions of this section are not used for the purpose of evading this division: Sections 22300, 22305, and 22306, subdivision (a) of Section 22307, and Sections 22309, 22320.5, 22322, 22326, 22327, 22400, and 22751.

38 SEC. 3.

39 SEC. 4. Section 22251 of the Financial Code is amended to 40 read:

22251. Any section that refers to this section does not apply to any loan of the bona fide principal amount specified in the regulatory ceiling provision of that section or more if that provision is not used for the purpose of evading this division. In determining under Section 22250, 22303, 22304, or 22304.5 or any section that refers to this section whether a loan is a loan of a bona fide principal amount of the amount specified in that section or more and whether the regulatory ceiling provision of that section is used for the purpose of evading this division, the following principles apply:

- (a) If a borrower applies for a loan in a bona fide principal amount of less than the specified amount and a loan to that borrower of a bona fide principal amount of the specified amount or more—if is made by a licensed finance lender, no adequate economic reason for the increase in the size of the loan exists, and by prearrangement or understanding between the borrower and the licensee a substantial payment is to be made upon the loan with the effect of reducing the bona fide principal amount of the loan to less than the specified amount within a short time after the making of the loan other than by reason of a requirement that the loan be paid in substantially equal periodical installments, then the loan shall not be deemed to be a loan of the bona fide principal amount of the specified amount or more and the regulatory ceiling provisions shall be deemed to be used for the purpose of evading this division unless the loan complies with the other provisions of the section that includes the regulatory ceiling provisions.
- (b) If a loan made by a licensed finance lender is in a bona fide principal amount of the specified amount or more, the fact that the transaction is in the form of a sale of accounts, chattel paper, goods, or instruments or a lease of goods, or in the form of an advance on the purchase price of any of the foregoing, shall not be deemed to affect the loan or the bona fides of the amount thereof or to indicate that the regulatory ceiling provisions are used for the purpose of evading this division.
- (c) For the purposes of determining whether the loan amount exceeds a regulatory ceiling, the "bona fide principal amount" shall not be comprised of any charges or any other fees or recompense specified in Sections 22200, 22201 (including, but not limited to, amounts paid for insurance of the types specified in Sections 22313 and 22314), 22201, 22202, 22305, 22316, 22317,

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22318, 22319, 22320, 22320.5, and <del>22336.</del> 22336, or any amounts paid for insurance of the types specified in Section 22313 and 22314, or any fees paid to a licensee for the privilege of participating in an open-end credit program. Nothing in this subdivision shall be construed to prevent those specified charges, fees, and recompense that have been earned and remain unpaid in an existing loan from being considered as part of the bona fide principal amount of a new loan to refinance that existing loan, provided the new loan is not made for the purpose of circumventing a regulatory ceiling provision. This subdivision is intended to define the meaning of "bona fide principal amount" as used in this division solely for the purposes of determining whether the loan amount exceeds a regulatory ceiling, and is not intended to affect the meaning of "principal" for any other purpose. 

- SEC. 4. Section 22302 of the Financial Code is amended to read:
- 22302. (a) Section 1670.5 of the Civil Code applies to the provisions of a loan contract that is subject to this division.
- (b) A loan found to be unconscionable pursuant to Section 1670.5 of the Civil Code shall be deemed to be in violation of this division and subject to the remedies specified in this division.
- (c) Charges authorized by Section 22303, 22304, or 22304.5 shall not be deemed to be unconscionable pursuant to Section 1670.5 of the Civil Code based on the cost of the charges alone.
- SEC. 5. Section 22304.5 is added to the Financial Code, to read:
- 22304.5. (a) For any loan of a bona fide principal amount of at least two thousand five hundred dollars (\$2,500) but less than ten thousand dollars (\$10,000), as determined in accordance with Section 22251, a licensee may contract for or receive charges at a rate not exceeding an annual simple interest rate of 36 percent per annum plus the Federal Funds Rate. As
- (b) As used in this-paragraph, section, "Federal Funds Rate" means the rate published by the Board of Governors of the Federal Reserve System in its Statistical Release H.15 Selected Interest Rates and in effect as of the first day of the month immediately preceding the month during which the loan is consummated. If the Federal Reserve System ceases publication of the federal funds rate, the commissioner shall designate a substantially equivalent

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SEC. 6. Section 22305 of the Financial Code is amended to read:

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22305. In addition to the charges authorized by Section 22303, 22304, or 22304.5, a licensee may contract for and receive an administrative fee, which shall be fully earned immediately upon making the loan, with respect to a loan of a bona fide principal amount of not more than two thousand five hundred dollars (\$2,500) at a rate not in excess of 5 percent of the principal amount (exclusive of the administrative fee) or fifty dollars (\$50), whichever is less, and with respect to a loan of a bona fide principal amount in excess of two thousand five hundred dollars (\$2,500), at an amount not to exceed seventy-five dollars (\$75). No administrative fee may be contracted for or received in connection with the refinancing of a loan unless at least one year has elapsed since the receipt of a previous administrative fee paid by the borrower. Only one administrative fee may be contracted for or received until the loan has been repaid in full. For purposes of this section, "bona fide principal amount" shall be determined in accordance with Section 22251.

- SEC. 7. Section 22307.5 is added to the Financial Code, to read:
  - 22307.5. A licensee shall not charge, impose, or receive any penalty for the prepayment of a loan. This section does not apply to loans secured by real property.
- SEC. 8. Section 22334 of the Financial Code is amended to read:
- 22334. (a) Except as provided in subdivision (b), a licensee shall not enter into any contract for a loan that provides for a scheduled repayment of principal over more than the maximum terms set forth below opposite the respective size of loans.

32	Principal amount of loan	Maximum term
33	Less than \$500	24 months and 15 days
34	\$500 but less than \$1,500	36 months and 15 days
35	\$1,500 but less than \$3,000	48 months and 15 days
36	\$3,000 but less than \$10,000	60 months and 15 days

(b) The maximum loan term of 60 months and 15 days does not apply to loans secured by real property of a bona fide principal amount in excess of five thousand dollars (\$5,000).

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(c) A licensee shall not enter into any contract for a loan that provides for a scheduled repayment of principal that is less than 12 months. This subdivision applies to a loan of a bona fide principal amount in excess of two thousand five hundred dollars (\$2,500), but less than ten thousand dollars (\$10,000).

- (d) This section does not apply to open-end loans, or to a student loan made by an eligible lender under the Higher Education Act of 1965, as amended (20 U.S.C. Sec. 1070 et seq.), or to a student loan made pursuant to the Public Health Service Act, as amended (42 U.S.C. Sec. 294 et seq.).
- SEC. 9. No reimbursement is required by this act pursuant to 11 Section 6 of Article XIIIB of the California Constitution because 12 13 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 14 15 infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of 16 17 the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California 18 19 Constitution.



# SUPPORT AB 539 (Limón-Grayson) - Fair Access to Credit Act of 2019

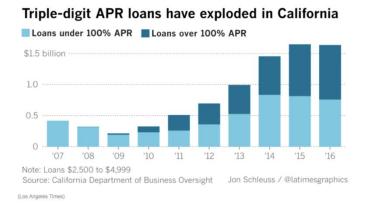
# Californians deserve protection from high interest, predatory loans

#### California law does not limit interest rates on loans of more than \$2,500

In California, loans less than \$2,500 have a rate cap to protect consumers from unconscionable loans. However, loans of more than \$2,500 have no such limits. This puts us well behind 37 states (Colorado, New York, Georgia) that have a cap of 36% APR or less for loans in this range. Also, in 2006, Congress capped all loans issued to active duty military at 36%, through the Military Lending Act.

#### Triple digit interest rates are on the rise

Since 2010, there has been a sharp increase in ultra high-cost installment loans. In 2017, nearly 60% of loans in the range of \$2,500 - \$5,000 had an APR of more than 100%. Many of these loans require repayment of 4-8 times the original amount borrowed!



# These loans are a debt-trap

The National Consumer Law Center examined high-cost loans in California and found that approximately 20-40% of these loans end up in default. When you take into account borrowers that are struggling to repay and have a 30-day late payment, that number increases to 30%-80% of loans made.<sup>iii</sup>

#### Example: \$5,000, 116% Loan Balloons to \$40,000

Here is a complaint submitted to the Consumer Financial Protection Bureau from a California borrow that is illustrative of the issues with these loans:

"In 2014, I took out a \$5,000 personal loan with Cash Call, Inc. The terms of the loan are egregious and predatory. My annual percentage rate is 116%. The cost of my loan, according to my contract is \$35,000 and the total cost, if I make 84 monthly payments (7 years) according to schedule, will be \$40,000. Currently (after 2 years of payments) less than \$3.00 per month is applied toward payment."

#### Page 13 of 13



# Predatory lenders are aggressively marketing to vulnerable populations

Predatory lenders are aggressively marketing to vulnerable populations through direct mail, phone calls, ads on Black and Latino radio stations, and their expansive number of store fronts, the majority of which are deliberately located in communities of color. Predatory lenders are also targeting seniors, veterans, and low-income borrowers.

# Borrowers are being steered away from regulated loans into higher dollar loans

Payday lenders are luring borrowers by offering loans of \$1,000 and then steering them into loans of \$2,501, where they can charge 100% APR or more. The following companies have been sued for this practice, Cash Call, now LoanMe, Advance America, California Check Cashing Stores, Check Into Cash, Quick Cash Funding.

#### Access to safe and affordable credit is ruined

Borrowers who end up saddled with these ultra high cost loans very often end up with damaged credit and have trouble accessing lower cost credit in the future. Lenders use aggressive debt collection tactics, including harassing phone calls, car repossession if the loan is secured by car title, and lawsuits where they can pursue wage garnishment or wipe out funds from their bank account. Lenders can also charge off unpaid debt and get a break on their taxes. In addition, borrowers can lose their bank accounts and end up in bankruptcy.

# AB 539 stops these predatory tactics, protects consumers and focuses on fair credit

AB 539 caps interest rates at 36% plus the fed fund rate (2.5% today). vi This bill is a compromise between consumer advocates and lenders that are currently offering loans at approximately 36%.

AB 539 limits the terms of loans to a minimum loan term of 12 months and maximum loan of 5 years. This will stop lenders from spreading loans over an extended number of years to hide the true cost.

AB 539 prohibits any prepayment penalties.

i National Consumer Law Center, "A Larger and Longer Debt Trap? Analysis of States' APR Caps for a \$10,000 Five-Year Installment Loan," October 2018, <a href="https://www.nclc.org/issues/a-larger-and-longer-debt-trap-installment-loan.html">https://www.nclc.org/issues/a-larger-and-longer-debt-trap-installment-loan.html</a>

ii California Department of Business Oversight, "California Department of Business Oversight Annual Report" June 2018, http://www.dbo.ca.gov/Press/press\_releases/2018/CFL%20RSDL%20Annual%20Reports%20Release%2006-18-18.asp

iii National Consumer Law Center, "Misaligned Incentives, Why high-rate installment lenders want borrowers who will default," July 2016, https://www.nclc.org/issues/misaligned-incentives.html

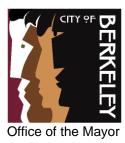
iv California Department of Business Oversight, "The Demographics of California Payday Lending:

A Zip Code Analysis of Storefront Locations," December 2016,

http://www.dbo.ca.gov/Press/press\_releases/2016/Zip%20Code%20Research%20Brief%20Release%2012-07-16.asp

v California Department of Business Oversight, "DBO Settlement with Advance America Subsidiary Continues Crackdown on Interest Rate Cap Avoidance," March 2018, <a href="http://www.dbo.ca.gov/Press/press">http://www.dbo.ca.gov/Press/press</a> releases/2018/Advance%20America%20Settlement%20Announcement%2003-12-18 asp

vi Federal Funds Rate - 62 Year Historical Chart, https://www.macrotrends.net/2015/fed-funds-rate-historical-chart



CONSENT CALENDAR May 14, 2019

TO: Members of the City Council

FROM: Mayor Jesse Arreguin and Councilmember Kate Harrison

SUBJECT: Engage Professional Support to Assist City Council in Establishing a Process and

Performing an Evaluation of the City Manager's Performance

#### **RECOMMENDATION**

Direct the City Manager to issue a Request for Proposal to contract with an experienced firm that will engage the City Manager and City Council in a performance evaluation of the City Manager's performance. The process should begin in July 2019 following the scheduled approval of the Biennial Budget, and result in a process for ongoing updates and establish an annual evaluation schedule.

#### **BACKGROUND**

On April 3, 2012, City Council unanimously voted to create an Ad Hoc City Manager Evaluation committee responsible for creating an evaluation process of the City Manager. On September 17, 2013, an item was submitted by Councilmember Worthington, and included on the Information Calendar, containing a report on a proposed process for city manager evaluations. This report had been presented to the Ad Hoc City Manager Evaluation Committee for consideration.

The Ad Hoc City Manager Evaluation Committee submitted a status report on the Information Calendar for the October 15, 2013 Council meeting that outlined a process, and recommended the assistance of a professional and experienced facilitator. An Extension of Term of Contract #8905B with Management Partners Inc. located in San Jose, CA was executed on October 31, 2013 to perform the scope as defined by the Ad Hoc Committee for the City Manager Evaluation. On October 29, 2013, an item was submitted by Councilmember Worthington entitled, "Establish an Annual City Manager Evaluation Policy" the item was moved to Consent and referred to the Ad Hoc City Manager Evaluation Committee to establish a policy to conduct an annual performance evaluation on any acting city manager. The item added that if an interim city manager is filling the role, an evaluation should occur six months after assuming the position. Following the closed session evaluation that occurred in early 2014, there has not been any subsequent performance evaluations of the previous or current City Manager.

#### **Numerous Benefits of an Annual Evaluation**

Evaluations are an opportunity to improve communication between a council and city manager, establish goals and objectives, set expectations for the coming year, and improve how an organization functions, resulting in a more effective elected body. The California City Management Foundation<sup>1</sup> lists the following tangible benefits:

- Head off problems before they grow
- Recognize and celebrate successes
- Provide dedicated time to reflect on the working relationship
- Consider feedback that may not arise in day-to-day dealings
- Design an action plan with specific ideas
- Communicate openly and honestly without becoming personal or defensive
- Provide a timely, well-managed process
- Provide specific, useful feedback
- Develop consensus view of the manager's performance and clarity about the majority's desires regarding future performance and priorities
- Is less time consuming for governing body
- Provide everyone with an equal say
- Create a dialog less politicized and more focused on objective criteria
- Achieve consensus about a few priorities moving forward, sets goals and defines what success would look like

Overarching goals to guide priorities for the coming year can be set as a result of an evaluation process, based on what the council and city manager have each identified as priorities. These goals should include community and organizational priorities as well as relationship goals, both internal and external-public facing. The goals themselves are not part of appraising a city manager's performance. However, their professional capacity to take policy direction from the Council and implement the goals is an important ingredient in evaluation.

It is important to emphasize that the purpose of the evaluation process is to serve as a tool for organizational improvement. Establishing an annual review can improve a council's effectiveness at communicating its expectations to the city manager, and provide an opportunity for the council to reflect on its own performance. With an established schedule and process, roles and responsibilities can be refined, goals reassessed, priorities updated, and gaps in training and personal/team development needs identified.

# **Developing an Evaluation Process**

The City Council's evaluation of the City Manager must be approached as part of an on-going process which strives to allow for a more thoughtful and effective decision-making body and more effective city management.

#### Importance of Third Party Facilitation

<sup>&</sup>lt;sup>1</sup> Ron Gould & Jan Perkins, A Building Block to Better Performance: Using Council-Manager Goal-Setting to Support Performance Evaluation, August 2016 [Online] Available: https://www.cacities.org/Resources-Documents/Education-and-Events-Section/MCXF/2017/How-to-Set-Goals-for-City-Manager-Performance-Eval

The International County/City Management Association (ICMA) "Manager Evaluation Handbook" suggests that it is helpful to use an independent consultant to assist in preparing and performing an evaluation<sup>2</sup>. ICMA also discourages Councils from conducting evaluations alone. Additionally, directly involving City staff such as city attorneys, city clerks or human resource directors is also discouraged because often these positions have either a reporting or cooperating relationship with the city manager. Involving reporting staff to an evaluation process could damage relationships that are necessary for effective and efficient operation of local government.

However, a 360-degree feedback process in which from City staff participate would be useful. The City of Berkeley would be best served to engage a consultant that would follow the best practices outlined by ICMA..

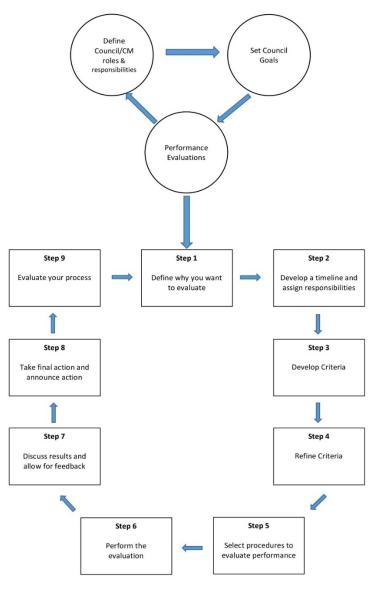
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Defining Roles
Before any evaluation takes
place, a city council and the
city manager should define
and reach agreement on
their respective roles and
responsibilities. Without a
clear understanding of how
these are structured and
function, a performance
evaluation is of little value.

The City of Dover, New Hampshire created a flowchart of the performance evaluation process adapted from materials developed by the Oregon League of Cities.<sup>3</sup>

The basic process for engaging in an evaluation outlined by ICMA mirror those of the City of Dover, New Hampshire. Elements

https://www.dover.nh.gov/Assets/gover process/Handbook%20for%20Evaluating



those of the City of Dover,
New Hampshire. Elements

2 ICMA, Manager's Handbook, pg. 5,6
3 Dover First, A Handbook for Evaluating

of this process were followed in the last City of Berkeley City Manager Evaluation. While the City engaged an outside consultant at that time, the Ad Hoc Committee, comprised of only three Councilmembers, defined the process and the approach was not comprehensive. Recommended components were not included and the City Council was not engaged, as a body, in goal setting discussions.

#### Evaluation Criteria to Consider

ICMA recognizes specific practices for effective local government management<sup>4</sup> that should be included to evaluate the core competencies of city manager leadership. These 14 points of City Manager Leadership include (see Attachment A):

- 1. Personal and Professional Integrity
- 2. Community Engagement
- 3. Equity and Inclusion
- 4. Staff Effectiveness
- 5. Personal Resiliency and Development
- 6. Strategic Leadership
- 7. Strategic Planning
- 8. Policy Facilitation and Implementation
- 9. Community and Resident Service
- 10. Service Delivery
- 11. Technological Literacy
- 12. Financial Management and Budgeting
- 13. Human Resources Management and Workforce Engagement
- 14. Communication and Information Sharing

Each of these areas should be addressed individually by Councilmembers and discussed as a body; Department Heads and randomly selected City staff should be included in the City Manager evaluation. Areas specifically relating to the democratic process and citizen service and participation should be offered to the community for feedback.

#### Public Engagement

ICMA also suggest engaging the public in the review process by soliciting their feedback, and presenting the results of the performance at a public meeting for the following reasons:

- Public will know how the elected body evaluates and views manager
- Ensures transparency and public accountability
- o Promotes ICMA's commitment to openness in government
- More opportunity to earn public trust
- o Improves elected, CM and citizen relationships
- o Reduces claims of "secrets" and inappropriate agreements

# Rating Structure

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<sup>&</sup>lt;sup>4</sup> ICMA, Practices of Effective Local Government Leadership , [Online] Available: https://icma.org/practices-effective-local-government-leadership

The National League of Cities recommends that for each criteria of the evaluation (e.g. ICMA specific practices) there is an opportunity to rate the relative importance of the criteria from the reviewer's individual perspective, as well as the performance of the City Manager.<sup>5</sup> Narrative comments to provide specific examples are important supportive information. Typical ratings include:

- Needs Improvement: The employee has a developmental need in the job description
- Almost Always Meets Expectations: The employee, for the most part, does what is expected well and there are some development opportunities
- Meets Expectations: The employee consistently does what is expected to perform well
- Exceeds Expectations: The employee consistently goes above and beyond what is expected to perform well

# Building Evaluation into City Budget and Annual Timeline

It is important to establish a regular pattern for City Manager evaluation.<sup>6</sup> Evaluation should occur at a time of year that is less busy than others, avoiding budget preparation times and election seasons. Neglecting to undertake regular performance evaluations can lead to numerous issues, including miscommunication and misalignment with goals.

Additionally, establishing a line item in the city's administration budget for performance evaluation management will ensure that the process will be ongoing. Costs for conducting a city manager evaluation and 360-degree feedback, based on information from Palo Alto in a December 8, 2015 report to the City of Palo Alto Council CAO Committee and Draft Minutes from a Special Meeting dated March 6, 2013 of the same Council CAO Committee, range from \$90,000 to \$130,000 (in 2015-2016 dollars).

#### FISCAL IMPACTS

Approximately \$100,000 - \$150,000

#### **SUSTAINABILITY**

Supports City of Berkeley sustainability goals

#### STRATEGIC PLAN

Aligns with Goal #8: Attract and retain a talented and diverse City government workforce

#### **CONTACT PERSON**

Jesse Arreguin, Mayor 510-981-7100

#### ATTACHMENT A

14 Points of City Manager Leadership

<sup>&</sup>lt;sup>5</sup> Julia Novak & Catherine Tuck Parrish, Hiring and Evaluating the CEO - What Councils and Managers Need to Know, June 2017, [Online], Available: https://www.nlc.org/sites/default/files/2017-06/Hiring%20the%20Right%20CEO.pdf

<sup>&</sup>lt;sup>6</sup> ICMA, Manager's...Handbook, pg. 9,10



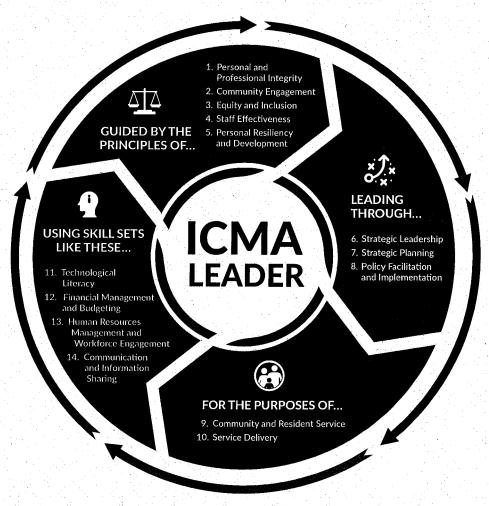
# **Practices for Effective Local Government Leadership**

ICMA delivers the latest research in the 14 core areas critical for effective local government leadership and management.

ICMA University is the premier resource for local government leadership and management training. Our programs are designed to advance your career, enrich your community, and contribute to your professional fulfillment. ICMA's online workshops and programs bring the latest research from leading experts to your office. Our conferences and in-person workshops allow you to network with colleagues and exchange ideas. All ICMA University programs are drawn from the 14 core competencies that members have determined are essential to local government leadership and management.

ICMA's professional development programs encourage local government professionals to think in terms of leading the organization and not just managing the organization. Leadership is engaging with and inspiring others to participate in developing, achieving, articulating, and embodying a shared set of values, shared sense of purpose, and shared vision of the desired community outcome. Leadership requires professionals who are highly interpersonally competent as well as self-aware.

ICMA also recognizes the leadership role of local government managers in creating and maintaining resilient and livable communities. Through the responsible stewardship of public resources, our communities will retain the economic, environmental, and social capital needed to prosper for future generations.



#### 1. PERSONAL AND PROFESSIONAL INTEGRITY

Being fair, honest, and ethical in all personal and professional relationships and activities

**Leadership** dimensions that contribute to this core content area are:

- Fostering ethical behavior throughout the organization through exemplary personal actions
- Ensuring the decision-making model reflects integrity, honesty, and openness.

Management dimensions that contribute to this core content area are:

- Conducting professional relationships and activities fairly, honestly, ethically, and in conformance with the ICMA Code of Ethics and the policies of your local government to maintain public confidence in the profession and local government
- Performing official and personal affairs in a manner that clearly conveys that you cannot be improperly influenced
- Fostering ethical behavior throughout the organization through staff training on administrative ethics and the ICMA Code of Ethics
- Holding staff accountable and instilling accountability into operations
- Communicating ethical standards and guidelines to others.

#### 2. COMMUNITY ENGAGEMENT

Ensuring and managing community involvement in local government to support good decision making

Leadership dimensions that contribute to this core content area are:

- Building relationships among local, state, and federal elected and appointed officials to advocate for the community
- Ensuring robust public outreach in the policy-making process
- Respecting the governing body's role in setting direction and vision, and helping staff and the community understand the governing body's role in the democratic process
- Working to promote civility in public discourse
- Advocating for diverse viewpoints to be considered and helping the organization seek them out when they appear to be missing.

Management dimensions that contribute to this core content area are:

- Understanding the perspectives of elected officials and being mindful of competing public values in policy recommendations
- Learning and respecting a community's history with various political, social, and economic issues
- Engaging with and understanding the viewpoints of key stakeholders in the community; committing to ongoing communication about expectations, decisions, and outcomes
- Understanding emerging technologies that are designed to promote open dialogue between local government and constituents
- Employing a range of engagement, positive communication, and conflict resolution methods.

#### 3. EQUITY AND INCLUSION

Creating an environment of involvement, respect, and connection of diverse ideas, backgrounds, and talent throughout the organization and the community

Leadership dimensions that contribute to this core content area are:

- Authentically bringing everyone, including traditionally excluded individuals and groups, into processes, activities, and decision making
- Taking a proactive approach to service delivery and decision making that accounts for underlying differences in opportunities, burdens, and needs, in order to equitably improve the quality of life for all.

Management dimensions that contribute to this content area are:

- Driving measures, goals, and plans around diversity, equity, and inclusion within your organization
  and community; communicating the vision for why and how achieving these goals will improve the organization
  and service delivery
- Understanding and championing sustainable support mechanisms such as affinity groups, mentoring programs, and cultural celebrations
- Educating the organization on common behaviors that advance diversity and inclusion efforts and address implicit biases
- Being aware of and acknowledging culturally significant events and holy days for employees and community members
- Creating opportunities for employees and community members to learn about each other's cultural backgrounds, lives, and interests; building relationships through increased understanding.

#### 4. STAFF EFFECTIVENESS

Taking responsibility for the development, performance, and success of employees throughout the organization

**Leadership** dimensions that contribute to this core content area are:

- Energizing the team to reach a higher level of performance
- Providing the team with a sense of direction and purpose, and balancing the big picture framework with day-to-day operations
- Prioritizing collaboration and efforts that create a shared sense of success
- Being a role model and demonstrating behavior expected by others
- Developing an environment where staff are encouraged to learn new skills and try new ideas
- Developing meaningful connections with people at all levels of the organization
- Facilitating teamwork.

Management dimensions that contribute to this core content area are:

- Setting clear expectations for the organization and work groups
- Creating an empowering work environment that encourages responsibility and decision making at all
  organizational levels
- Delegating: assigning responsibility to others and relying on staff
- Coaching and mentoring: providing direction, support, and feedback to enable others to meet their full potential
- Conducting effective performance evaluations, reviewing success and opportunities for achievement of
  goals and work objectives, providing constructive feedback, and identifying others' developmental needs
  and available ways to address those needs
- Creating a positive atmosphere where interactions are based in respect and professionalism.

#### 5. PERSONAL RESILIENCY AND DEVELOPMENT

Demonstrating a commitment to a balanced life through ongoing self-renewal and development in order to increase personal capacity

**Leadership** dimensions that contribute to this core content area are:

- Modeling healthy work habits to your employees
- Modeling a healthy lifestyle to your employees
- Actively encouraging a personal and professional growth and development mindset throughout the organization
- Seeking and providing support when career setbacks occur.

Management dimensions that contribute to this core content area are:

· Periodically establishing personal development goals

- Successfully integrating work and personal responsibilities; periodically assessing yourself and seeking
  input from trusted others on their assessment of your work-life balance or integration
- Continually practicing mindfulness of your stress levels
- Identifying areas where you would like to gain knowledge or skills and developing a plan to acquire those skills and knowledge.

#### 6. STRATEGIC LEADERSHIP

Defining and communicating a vision and leveraging all resources and tools to achieve it

Leadership dimensions that contribute to this core content area are:

- Creating, conveying, and instilling a unified vision and purpose by illustrating and providing examples of what the future will look like
- Fostering a safe place to take risks and initiative; serving as an example to others by applying lessons learned to future initiatives, decision making, and risk taking
- Examining the full scope of factors that influence an issue, determining calculated risks, and developing and using relationships and interpersonal skills to build consensus
- Implementing integrated solutions to complex problems that address the needs of all stakeholders
- Creating new and innovative strategies to deal with rapid change by assessing the environment, synthesizing strategies and plans, ensuring organizational direction and alignment, generating excitement in the workforce, and celebrating new ideas
- Thinking and acting to instill a culture of continuous improvement; moving the organization forward through consistent examination of methods and integration of new and innovative business trends
- Demonstrating high interpersonal competence and educating yourself on fundamental concepts such as self-awareness, judgment, emotions, power, resistance to change, and trust.

Management dimensions that contribute to this core content area are:

- Sharing, supporting, and advocating the organization's mission and vision by developing and communicating the vision to staff and others
- Creating an environment through coaching that encourages others to address complex problems using a strategic approach
- Providing resources and training to support creative innovation and problem-solving and seeking opportunities for improvement as well as new initiatives.

#### 7. STRATEGIC PLANNING

Developing a plan of action that brings the community together, provides clarity of purpose and priorities, and guides the organization's actions in achieving its goals and objectives

**Leadership** dimensions that contribute to this core content area are:

- Ensuring the organization is focused on the core mission, plans are implemented, and resources are available to achieve the plan's goals and objectives.
- Ensuring that the social responsibility of the organization is well understood and forms part of the planning process
- Making sure the plan ties all parts of the organization together and that everyone sees themselves in the plan and is invested in the plan
- Making sure that the planning process is highly participative, involves all levels of the organization, has strong support from the elected officials and the community, and coalesces everyone around the plan
- Building an integrated planning system that begins with the community and flows to corporate, operational, and individual plans. Plan examples include short- and long-term financial, human resource and workforce, enterprise-wide technology, capital improvement and asset management, and community.

Management dimensions that contribute to this core content area are:

- Carrying out the planning process incorporating the needs of all stakeholders, including input from the community, elected officials, and staff
- Completing an environmental scan and assessment of organizational strengths, weaknesses, opportunities, and threats including major economic, social, and competitive factors
- Developing a vision and mission for the organization that are aspirational and reflect the organization's social responsibility
- Ensuring that organizational values are incorporated into strategy and plans at all levels
- Determining goals and key strategic objectives and indicators
- Completing a strategic planning document
- Implementing the strategic plan
- Assessing the results of the planning effort through data collection and measurement and benchmarking of performance
- Ensuring necessary improvements to processes and systems so that attainment of goals and objectives is possible.

#### 8. POLICY FACILITATION AND IMPLEMENTATION

Engaging with elected officials and other community stakeholders to create and execute policies that achieve common goals and objectives

Leadership dimensions that contribute to this core content area are:

- Assessing the environment to determine the best approach or style for championing a project to success
- Maintaining perspective and focus on both short- and long-term outcomes
- Listening to identify core interests and build cooperation and consensus among and within diverse groups
- Helping diverse groups identify common goals and act effectively to achieve them
- Energizing a group: acting as a stimulus for group action
- Demonstrating courage and taking responsibility for advancing the policy discussion
- Knowing when to lead others and when to follow the lead of others
- · Accepting and implementing elected officials' decisions that run counter to your recommendations
- Being politically savvy: recognizing and navigating relationships to influence and achieve positive results
- Understanding the political environment and the impact of decision making on diverse groups.

- Helping elected officials develop a policy agenda that can be implemented effectively and that serves the best interests of the community
- Understanding the policy cycle, including problem definition, data gathering, development and analysis of alternatives, and ranking and recommendations
- Communicating sound information and recommendations
- Developing fact sheets, issue briefs, and other materials to provide information to decision makers and other stakeholders
- Respecting the role and authority relationships between elected and appointed officials
- Recognizing interdependent relationships and multiple causes of community issues
- Anticipating the consequences of policy decisions and their link to strategy
- Acting as a neutral party in the resolution of policy disputes; using mediation and negotiation techniques
- Identifying core initiatives, long-term trends, and policy issues to support and enhance the success of local government
- Participating in national, state, provincial, regional, and local policy discussions.

#### 9. COMMUNITY AND RESIDENT SERVICE

Discerning community needs and providing responsive, equitable services

**Leadership** dimensions that contribute to this core content area are:

- Convening, encouraging, and ensuring that all facets of the community are represented and have physical
  or technological access to engage in and be informed about community discussions and issues
- Celebrating participation and engagement of the community
- Building a culture of transparency throughout the organization
- Making difficult funding recommendations and building consensus when needed, taking service equity into consideration
- Understanding that different approaches are needed to account for different needs.

Management dimensions that contribute to this core content area are:

- Adopting a variety of data collection methods to determine community and resident needs and to inform decision making
- Using technology to build an open and engaging relationship between residents and their government
- Employing various communication methods, including social media, to ensure transparency and to tell the story of local government services and performance
- Providing complete, accurate, and timely information.

#### 10. SERVICE DELIVERY

Understanding the basic principles of service delivery, using strategic decision making and continuous improvement to serve the organization and community, and influencing the components and relationships between operational areas

**Leadership** dimensions that contribute to this core content area are:

- Championing and supporting comprehensive plans and quality standards for service delivery and efficiency
- Anticipating the probability and impact of external influences on the organization, community, and individual service levels; initiating change to harness positive impacts and mitigate negative impacts
- Identifying strategic decisions required to pivot current resources and policies to achieve a desired future state
- Holding managers and staff accountable for measuring performance, using data to improve services, sharing data with other communities, and using data to communicate with constituents and tell a story
- Building a culture that values high performance and continuous improvement.

- Understanding the basic principles of service delivery in functional areas
- Systems planning: Understanding the processes by which functional and operational systems can impact the
  ability to grow jobs and improve the economy, to control cost of government, and to improve quality of life;
  recognizing that systems are interrelated and interdependent and must work in a coordinated fashion in order
  to maintain long-term community vitality
- Asking the right questions of functional experts to ascertain service delivery needs and corresponding solutions
- Understanding the roles and responsibilities of all levels of management and aligning those with the broader mission and vision of the organization
- Identifying the interconnectivity within the organization and with other levels of government—horizontal integration and collaboration—to create opportunities to improve service or efficiency
- Identifying, gathering, and reporting performance measures in a manner that is meaningful, understandable, and efficient; using data to lead and manage the organization and deliver results.

#### 11. TECHNOLOGICAL LITERACY

Demonstrating an understanding of information technology and ensuring that it is incorporated appropriately in service delivery, information sharing, and public access

Leadership dimensions that contribute to this core content area are:

- Remaining future oriented to anticipate how new developments in technology can be applied to local government
- Being a change agent, role model, and advocate for technology innovation that improves the organization and community
- Engaging the users of technology in decision making about the tools they use to serve the community and accomplish tasks
- Sharing data and technology with other communities to improve delivery of service and, ultimately, quality of life,

Management dimensions that contribute to this core content area are:

- Identifying the organization's technology needs and devising strategic plans to meet those needs
- Managing technology resources to maintain up-to-date systems, software, and infrastructure; establishing a business continuity plan
- Ensuring security of information technology systems
- Continually exploring work process and process improvements; automating only effective processes.

# 12. FINANCIAL MANAGEMENT AND BUDGETING

Implementing long-term financial analysis and planning that integrates strategic planning and reflects a community's values and priorities; preparing and administering the budget

Leadership dimensions that contribute to this core content area are:

- Supporting transparency in financial planning and budget development by involving the community to identify goals and prioritize spending
- Building financial resiliency by analyzing risk, anticipating future trends and challenges, and planning for the unexpected
- Using the budget to tell a story and as a vehicle to connect with and inform the community
- Understanding the community and governing body's priorities and advancing them through the budget and short- and long-term financial planning and management
- Communicating and working collaboratively with departments and stakeholders throughout the budget process and through ongoing financial management
- Ensuring the governing body is well informed about its fiduciary responsibilities.

- Implementing short- and long-term financial analysis and planning
- Preparing accurate and understandable capital and operating budgets
- Providing information for effective budget and financial planning decisions by elected officials and other stakeholders
- Administering the adopted budget and ensuring accountability for spending
- Taking responsibility for preventing fraud in the system
- Engaging in strategic planning to direct the development of goals and the budget document
- Engaging employees across the organization in strategic planning, budget development, and ongoing budget management
- Measuring performance and assessing the results of spending
- Understanding investments and best practices of government finance officers
- Interpreting financial information to assess the short- and long-term fiscal condition of the community, determine the cost-effectiveness of programs, and compare alternative strategies.

#### 13. HUMAN RESOURCES MANAGEMENT AND WORKFORCE ENGAGEMENT

Ensuring that the policies and procedures of the organization are applied consistently and fairly, and motivating and engaging the workforce to its highest potential

Leadership dimensions that contribute to this core content area are:

- Encouraging each employee to be focused on personal growth; proactively providing professional and leadership development opportunities for staff
- Modeling the organization's values
- Building a culture of trust and inclusiveness in which employees understand the big picture and how their positions fit within it
- Ensuring that hiring practices are open and transparent and that diversity goals are acted upon
- Actively engaging employees in the development of a high-performance organization
- · Forecasting the needs of the workforce and institutionalizing succession planning.

#### Management dimensions that contribute to this core content area are:

- Understanding the organization's policies and procedures, making sure that they remain current, and ensuring that they are applied consistently
- Understanding the collective bargaining process
- Keeping current on trends in human resources management
- Understanding employee and employer rights and responsibilities and applicable laws and regulations
- Providing for continuous education and improvement, including coaching, mentoring, and access to professional and leadership development
- Recruiting, retaining, and developing a talented workforce
- Aligning the organization's human capital with the strategic objectives of the governing body.

#### 14. COMMUNICATION AND INFORMATION SHARING

Effectively facilitating the flow of ideas, information, and understanding

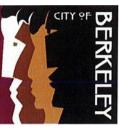
**Leadership** dimensions that contribute to this core content area are:

- Articulating personal support for policies, programs, or ideas that advance organizational and community objectives
- Practicing emotional intelligence, including understanding and managing your own and others' emotions and harnessing emotions to apply them to tasks like thinking and problem solving
- Using verbal and nonverbal communication and cues to inspire and motivate
- Effectively communicating with elected officials
- Maintaining poise and composure while presenting in emotionally charged and crisis situations
- Understanding your environment; knowing when to engage and when not to engage
- Building a culture of transparency in the organization that facilitates effective information sharing across the entire organization and community
- Strategically supplementing the organization's communication tools to provide the most effective outreach opportunities.

- Clearly and articulately conveying a message to diverse audiences who have different levels of understanding of the content
- Selecting the most effective communication methods and using interesting and compelling tools to share information, including story telling
- Communicating and sharing information respectfully, credibly, and confidently
- Communicating complex material in a nontechnical way

#### Page 14 of 15

- · Anticipating things that can go wrong and preparing accordingly
- Demonstrating a solid grasp of the subject matter
- Understanding, appreciating, and interacting with persons from cultures or belief systems other than one's own
- Providing accurate information in a timely manner
- Training staff on how to appropriately and effectively communicate with various stakeholders, including traditional and social media, with one message and one voice, and in compliance with community protocols
- Preparing a crisis communication protocol
- Establishing positive working relationships with the media and other key information-sharing outlets
- Understanding and training staff on the importance of appropriate compliance with public records requests.



Councilmember Cheryl Davila District 2

CONSENT CALENDAR May 14, 2019

**To:** Honorable Mayor and Members of the City Council

From: Councilmembers Cheryl Davila and Ben Bartlett

**Subject:** BOSS Rising Stars Gala Event: Relinquishment of Council Office Budget

Funds to General Fund and Grant of Such Funds

# **RECOMMENDATION**

Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember including \$100 from Councilmember Cheryl Davila, to support the Rising Stars Youth Leadership Gala Event (BOSS) May 31, 2019, 6-8PM, 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.

#### FISCAL IMPACTS OF RECOMMENDATION

No General Fund impact; \$100 is available from Councilmember Cheryl Davila's Council Office Budget discretionary account (011 11 102 000 0000 000 411).

## ENVIRONMENTAL SUSTAINABILITY

Providing insight, inspiration, leadership and motivation on personal growth and development for their youthful peers who are also confronting challenges.

# **BACKGROUND**

We are proposing that the City Council make a minimum grant of \$100 to this awards program honoring local youth who are working toward college and other life goals as they struggle to overcome barriers including homelessness, substance abuse and criminal justice system involvement under the auspices of Building Opportunities for Self-Sufficiency (BOSS), with partners Berkeley High School, Berkeley Technology Academy. Assembly member Nancy Skinner will be the keynote speaker, and it will feature performance by the Berkeley High Jazz Band. Last year, the Rising Stars Youth Leadership Gala was attended by over 125 community members providing these highly laudable youth with unforgettable memories, pride and motivation to continue their course and progress toward realization of their chosen goals.

# Page 2 of 4

<u>CONTACT PERSON</u> Cheryl Davila, Councilmember, District 2 510.981.7120

ATTACHMENTS: 1: Resolution

2: Flyer

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

AUTHORIZING THE EXPENDITURE OF SURPLUS FUNDS FROM THE OFFICE EXPENSE ACCOUNTS OF THE MAYOR AND COUNCILMEMBERS FOR A GRANT TO PROVIDE PUBLIC SERVICES FOR A MUNICIPAL PUBLIC PURPOSE

**WHEREAS**, Councilmember Cheryl Davila has surplus funds in her office expenditure account (budget code 011 11 102 000 0000 000 411); and

**WHEREAS,** a California non-profit tax-exempt corporation BOSS, a community-serving non-profit is seeking donations of support in the amount of \$250 for the Rising Stars Gala community event on May 31, 2019; and

**WHEREAS,** BOSS' Rising Stars are providing inspiration and motivation that demonstrates to other similarly situated youth that they can also overcome obstacles to achieving their goals;

**NOW THEREFORE, BE IT RESOLVED** by the Council of the City of Berkeley that funds relinquished by the Mayor and Councilmembers from their Council Office Budget up to \$250 per office shall be granted to BOSS' Rising Stars Gala Event.

Friday

May 31st 2019 6pm - 8pm

Hotel Shattuck Plaza 2086 Allston Wav Berkeley



Tickets \$30 each / 2 for \$50 BUY TIX @self-sufficiency.org or call (510) 649-1930

# 2019 **Galaxy Cohort** Youth Leadership Gala

Join us as we award our youth who are shaping bright futures against the odds



Awards Program, Food, Fun, Music, Silent Auction Presented by BOSS (Building Opportunities for Self-Sufficiency). A family friendly event - come **build YOUR COMMUNITY!** 



Performances by: Berkeley High Jazz Ensemble Emcee: Leslie Stoval, KPFA and California Music Channel

**Proud Sponsors:** 





**Berkeley Technology** Academy







Become a Sponsor!

Building Opportunities for Self-Sufficiency (BOSS) provides Housing, Health, Income, and Social Justice programs that help homeless, poor, and disabled people in Alameda County TURN THEIR LIVES AROUND www.self-sufficiency.org | 1918 University Avenue, Suite 2A, Berkeley CA 94704 | Ph (510) 649-1930 | Fx (510) 649-0627



Cheryl Davila Councilmember District 2

#### **CONSENT CALENDAR**

May 14, 2019

**To:** Honorable Mayor and Members of the City Council

**From:** Councilmembers Cheryl Davila, Kate Harrison, Sophie Hahn,

and Susan Wengraf

**Subject:** Opposition to Revision of Title IX Sexual Harassment and Assault

Regulations Proposed by U.S. Department of Education, Secretary

Betsy DeVos

#### **RECOMMENDATION**

Adopt a resolution opposing the proposed revisions of Title IX regulations on gender and sex-based discrimination as proposed by Secretary DeVos of the United States Department of Education.

#### **FINANCIAL IMPLICATIONS**

None.

#### **CURRENT SITUATION AND ITS EFFECTS**

Current Title IX regulations pertaining to gender and sex-based discrimination provide greater protections to victims than the proposed new regulations offered by U.S. Department of Education. The effect of imposing higher standards of proof while reducing the protections now afforded to victims at institutions of higher learning such as the University of California, Berkeley will be detrimental to students and their communities locally in Berkeley, and nationwide.

#### BACKGROUND

In November 2018, U.S. Department of Education released proposed revisions to Title IX regulations that would roll back longstanding civil rights protections that are currently available by substantially reducing schools' obligation to respond to claims of sexual assault and harassment, which are forms of sex discrimination. The proposed rules limit what constitutes harassment to a narrower definition, namely "unwelcome conduct that is severe, pervasive and objectively offensive." It even forbids schools from investigating complaints that do not meet this exceedingly high standard. Therefore, a school could not investigate a threat of rape (severe, but not pervasive), or repeated harassment (pervasive, but not severe). Under the proposed regulations, schools can also require

#### Page 2 of 3

that sexual assault and harassment be proven by "clear and convincing evidence," a higher standard than is generally used in civil cases. Moreover, the regulations also require live cross-examination in sexual harassment proceedings that could deter victims from coming forward and introduces potential economic disparity to the process in that one party may have more means to hire a skilled attorney, placing him/her at an advantage. The regulations change the confidentiality rules in ways that also may chill victims' willingness to report offenders.

#### **ENVIRONMENTAL IMPACT**

None.

#### CONTACT PERSON

Councilmember Cheryl Davila

510.981.7120

### Link to Proposed Regulations:

https://www.ed.gov/news/press-releases/secretary-devos-proposed-title-ix-rule-provides-clarity-schools-support-survivors-and-due-process-rights-all

2180 Milvia Street, Berkeley, CA 94704 • Tel: (510) 981.7120 • TDD: (510) 981.6903 • Fax: (510) 981.7122

E-Mail: cdavla@diyofberkeleyinfo

#### **RESOLUTION NO. XXXX**

Opposition to Revision of Title IX Sexual Harassment and Assault Regulations Proposed by U.S. Department of Education, Secretary Betsy DeVos

WHEREAS, the City of Berkeley (City) prohibits harassment on the basis of sex, race, age, religion, color, national origin, ancestry, physical disability, mental disability, medical condition (associated with cancer, a history of cancer, or genetic characteristics), HIV/AIDS status, genetic information, marital status, pregnancy, sexual orientation, gender, gender identity, gender expression, military and veteran status, and any other classifications protected by state or federal law; and

**WHEREAS**, all City employees are guaranteed the right to a work place free of hostility and intimidation based on any of the above-referenced protected classifications; and

**WHEREAS,** the City will neither tolerate nor condone harassment of employees by managers, supervisors, co-workers, elected/appointed officials, or persons with whom the City has a business, service, or professional relationship; and

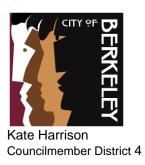
WHEREAS, any employee, applicant, elected/appointed official, contract worker, intern or volunteer, who believes he or she has been harassed or retaliated against in violation of this policy are encouraged to promptly report the incident and the individuals involved, because complaints of harassment, and retaliation are most effectively addressed at the earliest possible stage, the City of Berkeley encourages early reporting of concerns or complaints along with thorough unbiased investigation; and

**WHEREAS**, the U.S. Department of Education has proposed revision to Title IX regulations pertaining to gender and sex-based discrimination that are antithetical to the City's policies and approach to such discriminatory behavior; and

**WHEREAS**, the proposed revisions narrow the definitions of such discriminatory behavior at institutions of higher learning that will tend to weaken enforceability of the protections from sexual harassment and assault, and

**WHEREAS**, revisions that reduce confidentiality of victim's reports, require cross-examination and a higher burden of proof that has the likely potential to deter reporting by victims;

**BE IT NOW, RESOLVED**, that the Berkeley Mayor and City Council are on record as opposing the implementation of the U.S. Department of Education's proposed revisions to Title IX gender and sex-based discrimination protections which are currently in effect and which offer greater protections to victims of sexual harassment, discrimination and assault than the proposed regulations would provide.



CONSENT CALENDAR May 14<sup>th</sup>, 2019

To: Honorable Mayor and Members of the City Council

From: Councilmembers Kate Harrison and Ben Bartlett

Subject: Resolution in Support of Charter Reform Assembly Bills

#### RECOMMENDATION

Adopt a resolution in support of Assembly Bills 1505, 1506, and 1507, which regulate charter schools and give public school boards more authority to resist privatization of schools. Send letters of support to Assemblymember Wicks, Senator Skinner, and Governor Newsom.

#### **BACKGROUND**

California is home to one out of every five charter schools in America. In the 2015-2016 school year, 580,000 California students were enrolled in a charter school¹ and that number is expected to increase absent serious regulation. Charter schools receive public education funding but, unlike traditional public schools run by a publicly accountable elected school boards, are run by organizations with self-appointed boards. Charter schools are lucrative² for the organizations behind them benefiting from significant tax incentives, public education money from the state, and absence of union representation for many charter school teachers.³ The evidence is that charter schools do not improve education outcomes.⁴

Both the Oakland<sup>5</sup> and Los Angeles<sup>6</sup> school boards called for moratoriums on new charter schools after the historic teacher strikes this winter centered on the fight against charters and school privatization. However, after city school boards deny charter school petitions, under current state law, the petitioners can appeal to the county board of education. Therefore, school board moratoriums, though a powerful gesture, are not effective at

<sup>&</sup>lt;sup>1</sup> https://ballotpedia.org/Charter\_schools\_in\_California

<sup>&</sup>lt;sup>2</sup> https://www.washingtonpost.com/news/answer-sheet/wp/2014/06/04/why-hedge-funds-love-charter-schools/?utm\_term=.73a968a7037d

<sup>&</sup>lt;sup>3</sup> https://eastbaymajority.com/why-billionaires-love-charter-schools/

<sup>&</sup>lt;sup>4</sup> https://www.washingtonpost.com/local/education/charters-not-outperforming-nations-traditional-public-schools-report-says/2013/06/24/23f19bb8-dd0c-11e2-bd83-e99e43c336ed story.html?utm term=.550d960a9395

<sup>&</sup>lt;sup>5</sup> https://sanfrancisco.cbslocal.com/2019/03/04/oakland-district-teachers-strike-moratorium-charter-schools/

<sup>&</sup>lt;sup>6</sup> https://www.reuters.com/article/us-usa-education-los-angeles/l-a-school-board-seeks-pause-on-charter-schools-after-teachers-strike-idUSKCN1PO07A

CONSENT CALENDAR May 14th, 2019

curbing the growth of charter schools. State legislation is required to slow the privatization of public education.

Under our system of uncontrolled charter school growth, important education decisions are being made by investors and unaccountable organizations. Public education exists to serve students, teachers, parents, and the surrounding community. These stakeholders deserve to make decisions about public education. Taken together, this cluster of charter school laws caps the number of charter schools and ensures that any new charters (petitioning after another charter school closes) are wanted by the community and its school board.

AB 1505<sup>7</sup> (O'Donnell) amends the Charter School Act of 1992 to require charters to get approval from the school district in which the charter school is located. AB 1505 returns control of important decisions about charter school authorizations to elected school board members who, along with parents, students, and teachers, know best the needs of local school communities. It ensures that all matters related to charter school authorization and renewal be made by local school communities after considering the economic, facilities, and academic impacts of a charter applicant on students in neighborhood public schools.

AB 15068 (McCarty) caps the number of charter schools statewide and by school district to their current number. Charter school expansion often diverts money out of California's neighborhood public schools. California's original 1992 charter school law included a cap of 100 charters statewide and no more than 10 charters per school district. Since the cap was removed in 1998, the number of charter schools in California has skyrocketed to more than 1,300. AB 1506 establishes a one-in-one-out policy: the only way to authorize new charters is if existing ones close. By also establishing caps in individual school districts, the bill prevents individual districts from being dominated by charter interests.

AB 1507<sup>9</sup> (Smith) closes a loophole that allows a charter school to operate in a district where it has not been authorized. It is a common-sense solution that will ensure charter schools are authorized and operated by their local districts.

#### FISCAL IMPACTS OF RECOMMENDATION

No impact. Clerk time necessary to send letter.

#### ENVIRONMENTAL SUSTAINABILITY

No impact.

#### **CONTACT PERSON**

Kate Harrison, Berkeley City Councilmember, (510) 981-7140

#### **ATTACHMENTS**

- 1: Resolution
- 2: Letters

Commented [HK1]: Would they be required to make these findings?

<sup>&</sup>lt;sup>7</sup> https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\_id=201920200AB1505

<sup>8</sup> https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\_id=201920200AB1506

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\_id=201920200AB1507

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

#### RESOLUTION IN SUPPORT OF CHARTER SCHOOL REFORM BILLS

WHEREAS, students, teachers, parents, and district school board members should be empowered to have control over public education policy decisions that affect them; and

WHEREAS, charter schools are run by unaccountable self-appointed boards, rather than elected school boards that represent the interests of the public; and

WHEREAS, research does not indicate that charter schools lead to better educational outcomes for students, only that charter schools can be lucrative investments and lead to significant tax breaks for their financial backers; and

WHEREAS, the successful Oakland and Los Angeles teachers strikes demanded regulation and oversight of charter schools, and the local school boards for both jurisdictions passed moratoriums on approving new charter schools; and

WHEREAS, charter school expansion diverts money away from neighborhood public schools; and

WHEREAS, the Charter School Act of 1992 set a statewide cap of 100 charter schools with no more than 10 charter schools per school district, but 1998 law repealed these caps; and

WHEREAS, the Charter School Act of 1992 allows state and county entities to approve charter schools even after local school boards deny the petition; and

WHEREAS, a loophole in the Charter School Act of 1992 allows charters to operate in jurisdictions in which they have not been approved;

NOW THEREFORE, BE IT RESOLVED that the Berkeley City Council urges Senator Nancy Skinner and Assemblymember Buffy Wicks to support, the California Legislature to pass, and Governor Gavin Newsom to sign into law the California State Assembly Bills 1505, 1506, and 1507; and

BE IT FURTHER RESOLVED that copies of this Resolution will be sent to Governor Gavin Newsom, Senator Nancy Skinner, and Assemblymember Buffy Wicks.

CONSENT CALENDAR May 14th, 2019

May 14, 2019

The Honorable Patrick O'Donnell California State Assembly State Capitol, Room 4001 Sacramento, CA 95814

RE: Assembly Bill 1505 (O'Donnell)
Support from the Berkeley City Council

Dear Assemblymember O'Donnell:

We, the Berkeley City Council, wish to express our support for Assembly Bill 1505.

It ensures all matters related to charter school's authorization, renewal, and other key decisions be made by the local school communities – those parents, educators, and locally-elected school board members who know the needs of their neighborhood children. The bill repeals provisions allowing the State Board of Education to approve, renew, or hear appeals of charter school petitions. This proposal allows local school boards to consider the economic, facilities, and academic impact of a charter applicant on students in neighborhood public schools when approving charter schools in their communities.

Overturning locally-elected school board decisions harms students and threatens democracy. Default approval of new schools wastes public funding. Studies show that nearly 450 charter schools have opened in places that already had enough classroom space for all students. Giving a school district total control over how public schools operate within its boundaries allows school board members to use resources efficiently and represent the will of the surrounding community.

Thank you for your leadership on this and other reforms for quality public education.

Sincerely,

Berkeley Mayor and City Council

Cc: Assemblymember Buffy Wicks Senator Nancy Skinner Governor Gavin Newsom

CONSENT CALENDAR May 14th, 2019

May 14, 2019

The Honorable Kevin McCarty California State Assembly State Capitol, Room 2136 Sacramento, CA 95814

RE: Assembly Bill 1506 (McCarty)
Support from the Berkeley City Council

Dear Assemblymember McCarty:

We, the Berkeley City Council, wish to express our support for Assembly Bill 1506.

Placing a cap on the number of charter schools allowed to operate in California will bring the state in line with the intent of the original charter school law, which was to authorize charters upon agreement of the local educators, parents, and community. The unregulated growth of charters has negatively impacted students over the past two decades. Too often, charter school expansion has meant diverting money out of California's neighborhood public schools to fund privately-managed charter schools with little oversight or regulation. This cap would allow school districts to control the educational opportunities and supports within their communities to best meet the needs of their students.

Removing California's charter school cap was a mistake. California's original 1992 charter school law included a cap of 100 charter schools statewide and no more than 10 charter schools per school district. Since the cap was removed in 1998, the number of charter schools operating in California has skyrocketed to more than 1,300. The 1998 law changes also allow private corporations to manage these charter schools.

Our focus must be on improving public education for all students, not on expansion of corporate charter school chains. California currently has nearly twice as many charter schools as any other state in the nation. Networks of California's charter schools are putting profits before kids by prioritizing growth opportunities over educational opportunities for all students. Neighborhood public schools are bearing the cost for unchecked expansion of privately-managed charter schools and it must stop.

Thank you for your leadership on this and other reforms for quality public education.

Sincerely,

Berkeley Mayor and City Council

Cc: Assemblymember Buffy Wicks Senator Nancy Skinner Governor Gavin Newsom

CONSENT CALENDAR May 14th, 2019

May 14, 2019

The Honorable Christy Smith California State Assembly State Capitol, Room 2158 Sacramento, CA 95814

RE: Assembly Bill 1507 (Smith)
Support from the Berkeley City Council

Dear Assemblymember Smith:

We, the Berkeley City Council, wish to express our support for Assembly Bill 1507.

AB 1507 deletes the authority of a charter school resource center to be located outside of the jurisdiction or geographic boundaries of the chartering school district. This is in effect a loophole that allows a charter school to operate in a district where it has not been authorized. This practice undermines the ability of a local school board to determine the educational practices of its community. It is a commonsense solution that will ensure charter schools are authorized and operated in their local districts.

The law is broken and charter schools in various parts of the state have abused loopholes for financial gains. Abuse of this loophole hurts students as the charter school operates without meaningful supervision and it diverts money away from student supports. This loophole is undemocratic and leads to poor outcomes for students.

Thank you for your leadership on this and other reforms for quality public education.

Sincerely.

Berkeley Mayor and City Council

Cc: Assemblymember Buffy Wicks Senator Nancy Skinner Governor Gavin Newsom



CONSENT CALENDAR May 14<sup>th</sup>, 2019

To: Honorable Mayor and Members of the City Council

From: Councilmembers Harrison and Wengraf, and Mayor Arreguin

Subject: Rebuilding Together Budget Referral

#### RECOMMENDATION

Refer to the budget process a two-year allocation to fund Rebuilding Together East Bay-North from the General Fund according to the Housing Advisory Commission recommendations, with an evaluation after the first 18 months to determine whether the organization's fiscal reporting would be in compliance with CDBG reporting requirements were the organization to apply again.

#### **BACKGROUND**

In the FY2020-2023 Community Agency Funding recommendations, Rebuilding Together East Bay-North applied for federal Community Development Block Grants (CDBG) to fund two different projects: Safe at Home Project and Community Facility Improvement.

Rebuilding Together is a nonprofit that provides free rehabilitation and repairs to the homes of low-income seniors, disabled people, and veterans. Repairing existing housing stock is cheaper that building new housing, so organizations like this keep home ownership affordable in low-income and gentrifying communities. Repairing housing stock is also far more environmentally conscious than building new. Rebuilding Together rehabilitates homes for general livability, and also retrofit homes to be more accessible, green, and seismically fit. Rebuilding Together is focused on residents of South and Southwest Berkeley. At a special meeting of the Housing Advisory Commission on March 13, 2019, many individuals, including disabled and low-income senior homeowners, urged that the Commission continue funding Rebuilding Together due to the benefits they received to live in a safer environment.

The Safe at Home project provides qualified disabled seniors with safety modifications to their homes such as wheelchair ramps, exterior handrails, and grab bars in the bathroom. According to the Center for Disease Control and Prevention, one in three adults aged 65 and older fall every year. Older adults are hospitalized for fall-related injuries five times more often than injuries from other causes. Yet upgrading a home to prevent falls is costly, labor-intensive, and out of reach for many seniors. The Safe at Home project can do carpentry, roofing, weatherization, painting, electrical work, and more at no cost to the homeowner.

The Community Facility Improvement project partners Rebuilding Together with other nonprofit agencies, senior centers, and cultural centers in Berkeley. Recently, through the Community Facility Improvement project, Rebuilding Together provided materials and labor worth thousands of dollars to the Women's Daytime Drop-In Center, including improving the building's foundation, bringing the site up to ADA compliance, correcting plumbing issues, and installing new gutters. Funding the Facility Improvement project assists not only Rebuilding Together, but community organizations across Berkeley and across the East Bay.

City staff did not recommend that Rebuilding Together receive the four-year CDBG grant for either project due to concerns over past deficiencies in financial reporting, but recognized the organization's deep community roots and excellent work in assisting lower-income residents in repairing their homes and remaining housed. These important community projects can be funded through the General Fund at prior year levels, with milestones set for evaluating reporting compliance.

The Housing Advisory Commission subcommittee on CDBG grants recognized Rebuilding Together's poor past financial performance. However, the executive director is no longer with the organization; a new bookkeeper has been hired and staff report that the organization has begun to comply with completing all needed reports. After a change in organizational leadership, stability can take some time. For that reason we request funding for the next two years, while acknowledging the possibility that Rebuilding Together will be fully compliant in the next year and CDBG funding may be appropriate for FY2021-2022, if surplus funds are available.

#### FINANCIAL IMPLICATIONS

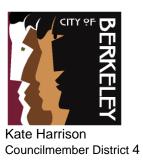
\$98,275 for the Safe Home program and \$24,575 for the Community Facility Improvement program for a total of \$122,850 from the General Fund per year, or \$245,700 over two years.

#### **ENVIRONMENTAL SUSTAINABILITY**

Rebuilding Together can make old homes more energy efficient and reduce the carbon footprint of low-income homeowners.

#### **CONTACT PERSON**

Councilmember Kate Harrison, Council District 4, 510-981-7140



CONSENT CALENDAR May 14<sup>th</sup>, 2019

To: Honorable Mayor and Members of the City Council

From: Councilmember Harrison

Subject: Acton and University Traffic Light Budget Referral

#### RECOMMENDATION

Refer to the budget process a one-time allocation for an overhanging street light at Acton and University

#### BACKGROUND

University Ave is one of the busiest streets in Berkeley, with tens of thousands of cars traveling the stretch every day. As the heart of Downtown and Central Berkeley's business community, pedestrians frequently cross University to access retail and entertainment venues and public transportation stops. Acton and University is an especially dangerous intersection, with 47 collisions in the past 10 years, per the University of California Transportation Injury Mapping System (TIMS). For comparison, over the same time period, the similarly busy intersection at University and Curtis experienced 19 collisions.

According to local businesses and neighbors, the intersection is particularly dangerous because it has a traffic light in the median, while intersections on either side with a light (for example, at University and Curtis) have overhanging traffic lights. Thus, drivers get accustomed to looking overhead for the next light, which may be green, and do not realize that they are running a red light at Acton.

The median traffic light leads to infrastructure costs for the City. On multiple occasions in the past several years, cars have hit the traffic light in the median, presumably because they could not see the red light. The City is forced to replace the traffic light in the median when this happens. An overhead traffic light is more expensive than a median traffic light, but because they will not be knocked over by cars, they have more longevity. Furthermore, when the median traffic light is down and waiting to be replaced by City staff, the intersection is without a light at all and this dangerous intersection is made even worse.

#### FINANCIAL IMPLICATIONS

\$400,000 per Transportation Department estimates. May save the City money if the median intersection does not have to be replaced regularly.

#### **ENVIRONMENTAL SUSTAINABILITY**

By making intersections safer for bicyclists and pedestrians, we incentivize use of carbon-neutral modes of transportation.

#### **CONTACT PERSON**

Councilmember Kate Harrison, Council District 4, 510-981-7140

#### ATTACHMENTS:

1: Data from TIMS





#### SOPHIE HAHN

Berkeley City Council, District 5 2180 Milvia Street, 5th Floor Berkeley, CA 94704 (510) 981-7150 shahn@cityofberkeley.info

CONSENT CALENDAR

May 14, 2019

To: Honorable Mayor and Members of the City Council

From: Councilmembers Sophie Hahn, Kate Harrison, and Cheryl Davila

Subject: Sponsoring the 2019 Himalayan Fair

#### RECOMMENDATION

Adopt a resolution approving the co-sponsorship by the City of Berkeley of the 2019 Himalayan Fair to be held at Live Oak Park on Saturday, May 18th and Sunday, May 19th, and approving the expenditure of an amount not to exceed \$300 per councilmember, including \$300 from Councilmember Hahn, to The Himalayan Fair for administrative fees, event production and advertising, 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.

#### **BACKGROUND**

The Himalayan Fair has been a Berkeley annual event since 1983. It was conceived and initiated by Arlene Blum, local resident and mountain climber best known for leading an all-women's ascent of Annapurna. She envisioned the Fair as a celebration of Himalayan culture and a gathering place for members of the Himalayan Community living in the Bay Area.

The Fair has been incredibly successful, attracting thousands of attendees each year during the two-day event. Fair organizers have worked with Parks, Recreation, and Waterfront staff and the disabled community to ensure the event maintains a scale appropriate to the site and is accessible for all attendees. Co-sponsorship will allow the organizers to use the City's logo in their advertising, and provide inclusion in the City's Calendar of activities.

Proceeds from the event are donated to organizations improving education, public health, and the environment. The festival is on Saturday, May 18th from 10:00am - 7:00pm and Sunday, May 19th from 10:00am - 5:30pm at Live Oak Park at 1300 Shattuck Ave. More information can be found at <a href="https://www.himalayanfair.net">www.himalayanfair.net</a>

#### FISCAL IMPACTS

A total of up to \$2,700 from Councilmembers' discretionary budgets.

#### **ENVIRONMENTAL SUSTAINABILITY**

This item is consistent with the City's vision on sustainability and the environment.

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

#### RESOLUTION ##,###-N.S.

CO-SPONSORING THE 2019 HIMALAYAN FAIR ON MAY 18TH AND 19TH AT LIVE OAK PARK AND AUTHORIZING THE EXPENDITURE OF SURPLUS FUNDS FROM THE OFFICE EXPENSE ACCOUNTS OF THE MAYOR AND COUNCILMEMBERS FOR A GRANT TO PROVIDE SUPPORT FOR A MUNICIPAL PUBLIC PURPOSE

WHEREAS, the thirty-sixth annual Himalayan Fair will take place at Live Oak Park in North Berkeley on Saturday May 18th and Sunday May 19th; and

WHEREAS, since its inception by Berkeleyan and groundbreaking mountain climber Arlene Blum in 1983, the Himalayan Fair has become a beloved Berkeley institution; and

WHEREAS, the fair has served as an annual celebration of and gathering spot for the local Himalayan Community, earning over \$200,000 over the past ten years for grass roots projects in the Himalayas; and

WHEREAS, the Himalayan Fair seeks funds for administrative fees, event production and advertising.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City of Berkeley hereby co-sponsors The 2019 Himalayan Fair, and The Himalayan Fair has permission to use the City's name and logo in the event's promotional materials and signage naming the City of Berkley as a co-sponsor solely for the purpose of the City indicating its policy endorsement of the event.

BE IT FURTHER RESOLVED, by the Council of the City of Berkeley that funds relinquished by Councilmember Hahn of \$300 and any funds, up to \$300 per Council Office Budget, from the Mayor and other Councilmembers shall be granted to the 2017 Himalayan Fair, to fund the following services: administrative fees, event production and advertising.



#### SOPHIE HAHN

Berkeley City Council, District 5 2180 Milvia Street, 5th Floor Berkeley, CA 94704 (510) 981-7150 shahn@cityofberkeley.info

**CONSENT CALENDAR** 

May 14, 2019

To: Honorable Mayor and Members of the City Council

From: Councilmembers Sophie Hahn, Kate Harrison, and Cheryl Davila Subject: Supporting the Timely Implementation of the Buy Clean California Act

and Reaffirming the City of Berkeley's Commitment to Reducing

**Embodied Energy in Building Materials** 

#### RECOMMENDATION

Adopt a resolution supporting the timely implementation of the Buy Clean California Act (AB 262), and reaffirming the City of Berkeley's commitment to reducing embodied energy in building materials. Send copies of the resolution to Assemblymember Buffy Wicks, State Senator Nancy Skinner, Governor Gavin Newsom, and senior leadership at the California Department of General Services.

#### **SUMMARY STATEMENT**

In 2017, the State legislature passed AB 262 which requires State agencies to purchase construction materials (such as structural steel, carbon steel rebar, mineral wool board insulation, and flat glass) from manufacturers that have invested in cutting their greenhouse gas emissions. Emissions (and other impacts) are disclosed through an Environmental Product Declaration (EPD) which is similar to a "nutrition label" and provides information on the amount of greenhouse gas emissions that the manufacturer creates from raw materials acquisition through manufacture of a product. Though the Buy Clean California Act was signed into law in 2017, the Sierra Club has expressed concern that the act will not be fully implemented, due to outside pressure on the Department of General Services, the state agency charged with implementing the act.

The City of Berkeley adopted an ambitious Climate Action Plan in 2009, and to achieve its goals, Berkeley has committed to reducing its greenhouse gas (GHG) emissions through a variety of measures, including a reduction in the amount of energy consumed by buildings. A major element of a building's energy consumption is its embodied energy, the non-renewable energy consumed in the acquisition of raw materials, their processing, manufacturing and transportation to the site, and during construction.

<sup>&</sup>lt;sup>1</sup> Berkeley Climate Action. Office of Energy and Sustainable Development. Web.

Berkeley has also adopted a number of plans and policies dedicated to fighting climate change and improving the energy efficiency and sustainability of buildings, including the Berkeley Resilience Strategy (2016), the Berkeley Deep Green Building Initiative (2017) and other extensive green building standards<sup>2</sup>, and a Climate Emergency Declaration (2018). Berkeley's Deep Green Building Initiative, adopted unanimously by the Berkeley City Council in February 2017, referred to the City Manager and Energy Commission to develop policies and programs to improve the energy efficiency and sustainability of buildings.

By joining other California cities in supporting full implementation of the Buy Clean California Act, Berkeley can urge the State to address supply chain emissions, and reaffirm its commitment to reducing embodied energy in building materials, particularly those used in public projects. Full implementation of the Buy Clean Act will also serve as "proof of concept" for strategies to reduce embodied energy, which cities like Berkeley can look to in developing local standards to ensure that building materials used in local projects minimize embodied energy and GHG emissions.

#### **BACKGROUND**

In addition to the energy buildings consume on an ongoing basis for electricity, water and other utilities, significant energy is "embodied" in building materials themselves. Embodied energy is defined as the non-renewable energy consumed in the acquisition of raw materials; their processing, manufacturing and transportation to the site; and during construction.

Many of the strides that the U.S. and Europe have made to reduce emissions over the past decade have failed to account for emissions "exported" to other countries. Steel that used to be manufactured in the U.S. and is now manufactured in China, for example, has an environmental cost when we use it for building in the United States. Nearly 13 percent of China's emissions and 20 percent of emissions in India are attributable to the production of goods for other countries.<sup>3</sup> The energy used to produce building materials in these countries are far more carbon-intensive because their power grids are more reliant on coal, resulting in significant GHG emissions.

Purchasing decisions are among the most effective tools consumers have to influence pollution reduction. State and local governments are consumers who can reduce GHG emissions by spending their money in ways that support environmental goals.

<sup>&</sup>lt;sup>2</sup> Green Building Requirements. Office of Energy and Sustainable Development. Web.

<sup>&</sup>lt;sup>3</sup> Plumer, Brad. You've Heard of Outsourced Jobs, but Outsourced Pollution? It's Real, and Tough to Tally Up. 4 September, 2018. Web.

The Buy Clean California Act (AB 262) was passed in 2017, requiring the Department of General Services to establish a Global Warming Potential (GWP) limit for materials frequently used in construction including structural steel, carbon steel rebar, flat glass, and mineral wool board insulation. The bill also requires successful contract bidding companies to submit an Environmental Product Declaration (EPD) providing information on greenhouse gas emissions during manufacture. In 2019, State agencies are requesting that bidders submit EPDs for eligible materials used in projects. On January 1, 2020, bidders will be required to submit EPDs. The Department of General Services (DGS) will publish the maximum acceptable GWP by January 2021, when State-level compliance will be required.<sup>4</sup> However, there is concern that DGS will not implement the Buy Clean Act promptly and the Sierra Club is asking cities to issue Resolutions in support of the Act's full implementation.

By committing to implementing the Buy Clean California Act, the State could contribute to a growing chorus to close this so-called "carbon loophole." The United States is the biggest importer of embodied carbon -- carbon produced throughout the entire life cycle of manufacturing and shipping. The steel and cement industries represent 10 percent of global greenhouse gas emissions and the biggest sources of embodied carbon worldwide.<sup>5</sup>

#### REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES & LAWS

The City of Richmond, CA, adopted a resolution in 2018 supporting statewide efforts to implement the Buy Clean Act, and simultaneously directed their City Manager to report back on potential early implementation. Their resolution maintains that the Buy Clean Act's policies "level the playing field for companies that have invested in reducing their environmental impact and encouraging the development of an environmentally friendly manufacturing industry." 6

Supporting the implementation of the Buy Clean California Act is closely aligned with Berkeley's support for other environmental initiatives, in addition to the many plans and policies enacted by the City including the Climate Action Plan, Berkeley Deep Green Buildings, and the Berkeley Resilience Strategy.

<sup>&</sup>lt;sup>4</sup> California Assembly Bill 262. Chapter 816. California Legislature. Web.

<sup>&</sup>lt;sup>5</sup> Moran, Daniel; Hasanbeigi, Ali; and Springer, Cecilia. The Carbon Loophole in Climate Policy. Buyclean.org. August 2018. Web.

<sup>&</sup>lt;sup>6</sup> City of Richmond Agenda Report. Proposed Resolution in Support of California Buy Clean Efforts. 10 July, 2018.

The first goal of the Berkeley Climate Action Plan (CAP) relates to reducing the energy consumed by buildings. The CAP also sets a goal of reducing greenhouse gas emissions by 33 percent of 2000 levels by 2020, and 80 percent by 2050.

In addition, Berkeley Deep Green Buildings set out five goals to achieve truly green buildings in Berkeley:

- 1. Support Zero Net Energy at the individual building and community scale
- 2. Reduce Embodied Energy in building materials and practices
- 3. Reduce toxicity in building materials
- 4. Source sustainably produced materials from fair trade, fair wage and culturally and environmentally sustainable suppliers; and
- 5. Conserve Water

Berkeley Deep Green Buildings also referred specific Global Warming Potential levels for certain building materials to the City Manager and the Energy Commission as requirements for future building projects.

Finally, the Berkeley Resilience Strategy of April 2016 further recognized the importance of reducing building emissions, reinforcing the need for us to take continuing steps to combat climate change.

#### ACTIONS/ALTERNATIVES CONSIDERED

Referring adoption of Buy Clean California Act regulations governing embodied energy in building materials and requiring EPDs to be delivered for large contracts for City of Berkeley building projects was also considered. However, it is more appropriate at this time for the City to await and encourage full implementation of such regulations at the state level, so that best practices can be developed by the state, before adopting these regulations at the local level.

#### CONSULTATION/OUTREACH OVERVIEW & RESULTS

Molly Culton, a conservation organizer for the Sierra Club, provided information on the Sierra Club's support of local resolutions in support of the Buy Clean California Act to reinforce the state's role and keep administrators motivated toward full and timely implementation.

Cate Leger, Chair of the Energy Commission, a green architect and expert on building energy, and primary author of Berkeley Deep Green Building, was also consulted to provide additional background information on Berkeley's policies regarding embodied energy in building materials.

#### RATIONALE FOR RECOMMENDATION

Berkeley's Climate Action Plan commits the city to reduce the embodied emissions of building materials. As such, supporting the statewide implementation of the Buy Clean California Act is aligned with the Climate Action Plan and numerous other policies adopted by the City of Berkeley.

The Sierra Club wants to ensure that DGS will implement the Buy Clean California Act in a timely fashion, and is asking California cities and counties to pass resolutions urging full and timely implementation. The City can contribute to the implementation of effective standards by passing a resolution to support the robust implementation of the Buy Clean California Act (AB 262), delivering letters to California Assembly Member Buffy Wicks and California Department of General Services staff.

The City of Berkeley can also reaffirm its commitment to policies to improve the sustainability of buildings and reduce embodied energy in building materials, and to show support for legislation seeking to reduce the environmental costs of building materials and to consider sourcing less impactful alternatives.<sup>7</sup>

#### IMPLEMENTATION, ADMINISTRATION & ENFORCEMENT

At this time there is no enforcement required, as the resolution is supporting new standards for State-level contracts only.

#### FISCAL IMPACTS

Staff time to send copies of the resolution to State officials. In the future, if local regulations similar to the Buy Clean Act are adopted after successful implementation by the State, there may be potential costs or savings associated with additional requirements for sourcing materials from manufacturers, or for buying more sustainably sourced materials.

#### **ENVIRONMENTAL SUSTAINABILITY**

This item would fulfill key provisions in the City of Berkeley's Climate Action Plan, Resilience Strategy, and Berkeley Deep Green Building initiative.

#### CONTACT

Sophie Hahn, District 5, (510) 981-7150

<sup>&</sup>lt;sup>7</sup> Buy Clean California: Aligning Public Spending with Our Environmental Goals. Sierra Club CA. Web.

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

# RESOLUTION SUPPORTING STATE IMPLEMENTATION OF THE BUY CLEAN CALIFORNIA ACT OF 2017

WHEREAS, the 2018 UN Intergovernmental Panel on Climate Change (IPCC) Report states that we have 12 years to make "massive and unprecedented changes" to global energy infrastructure to limit global warming to moderate levels; and

WHEREAS, immediate action must be taken to reduce greenhouse gas emissions; and

WHEREAS the State of California is a demonstrated leader in the fight against climate change; and

WHEREAS, the State legislature passed the Buy Clean California Act (AB 262) in 2017, the country's first bill that addresses greenhouse gas emissions within State purchases for public works projects; and

WHEREAS, the bill requires the Department of General Services to establish a Global Warming Potential (GWP) limit for eligible materials such as structural steel, carbon steel rebar, mineral wool board insulation, and flat glass; and

WHEREAS, successful bidders on contracts for public works projects are required to submit an Environmental Product Declaration (EPD), which provides emission information on greenhouse gas emissions that the manufacturer creates during production of eligible materials; and

WHEREAS, a major element of a building's energy consumption is its Embodied Energy, the non-renewable energy consumed in the acquisition of raw materials; their processing, manufacturing and transportation to the site; and construction; and

WHEREAS, the City of Berkeley has adopted a number of plans and policies dedicated to fighting climate change and improve the energy efficiency and sustainability of buildings, including the Climate Action Plan (2009), the Berkeley Resilience Strategy (2016), the Berkeley Deep Green Building Initiative (2017), and the Climate Emergency Declaration (2018); and

WHEREAS, the Climate Action Plan states that commercial and residential buildings account for nearly half of the City's emissions; and

#### Page 7 of 7

WHEREAS, by joining other California cities in supporting full and timely implementation of the Buy Clean California Act, Berkeley can help ensure that the Buy Clean California Act can serve as an example for cities to develop local strategies to reduce embodied energy.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City of Berkeley supports and encourages full and timely implementation of the Buy Clean California Act by the State.

BE IT FURTHER RESOLVED, that the City of Berkeley reaffirms its commitment to reducing the embodied energy of building materials.



To: Honorable Mayor and Members of the City Council

From: Councilmember Wengraf

Subject: Letter in Support of AB 38

#### RECOMMENDATION

Send a letter of support for AB 38 Fire Safety: State Wildfire Preparedness Board: Fire Hardened Homes Revolving Loan Fund (Wood) to Assemblymember Wood, with copies to Senator Skinner, Assemblywoman Wicks and Governor Newsom.

#### **FINANCIAL IMPLICATIONS**

None

#### **BACKGROUND**

AB 38 will create a Community Fire Preparedness Council to step up the pace and broaden the scale of California's fire preparedness. This council will be responsible for reviewing and approving community wildfire protection plans; developing best practices for emergency alert and evacuation procedures; creating and executing statewide fire preparedness public education campaigns and promoting, organizing and supporting community fire evacuation drills. This bill will also create regional Community Fire Preparedness Councils in higher-fire severity zones so that they can respond to specific local needs including developing community wildfire protection plans, developing vegetation management ordinances, performing defensible space inspections on both public and private land and providing education and technical assistance for landowners and residents to improve fire safety.

The bill will also create the state's Fire Hardened Homes Revolving Loan Fund of \$1 billion to be used for no- or low-interest loans for homeowners to replace or install items such as ember-resistant vents, install fire-resistant roofing and siding or use the funds to create a noncombustible zone three feet around homes or remove trees within 100 feet of a home.

And finally, AB 38 will require the Community Fire Preparedness Council to develop a list of construction features that must be retrofitted, or built into new construction, in high and very high fire severity zones including features such as fire-resistant roofing and siding, vent screens and any other feature the Council deems critical for home protection. These features, once approved, would be required for all homes and commercial buildings beginning January 1, 2024.

## **ENVIRONMENTAL SUSTAINABILITY**

If passed, AB 38 would lower the likelihood of wildfire and its accompanying GHGs.

# **CONTACT PERSON**

Councilmember Wengraf Council District 6 510-981-7160

#### Attachments:

- 1: AB 38
- 2: Letter in support
- 3: Latest update by Assembly Committee on Natural Resources

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AB-38 Fire safety: State Wildfire Preparedness Board: Fire Hardened Homes Revolving Loan Fund. (2019-2020)

AMENDED IN ASSEMBLY APRIL 11, 2019

AMENDED IN ASSEMBLY APRIL 10, 2019

AMENDED IN ASSEMBLY MARCH 21, 2019

CALIFORNIA LEGISLATURE — 2019-2020 REGULAR SESSION

#### **ASSEMBLY BILL**

No. 38

#### **Introduced by Assembly Member Wood**

December 03, 2018

An act to add Section 1102.19 to the Civil Code, to add Article 4.3 (commencing with Section 8580) to Chapter 7 of Division 1 of Title 2 of the Government Code, and to add Division 33 (commencing with Section 55500) to the Health and Safety Code, relating to fire safety.

# LEGISLATIVE COUNSEL'S DIGEST

AB 38, as amended, Wood. Fire safety: State Wildfire Preparedness Board: Fire Hardened Homes Revolving Loan Fund.

reimbursement.

CONSENT CALENDAR May 14, 2019

(1) Existing law, the California Building Standards Law, requires the State Fire Marshal to develop, and the California Building Standards Commission to review, building standards to implement the state's fire and life safety policy.

Existing law requires the Director of Forestry and Fire Protection to designate specified areas as very high fire hazard severity zones. Existing law requires the State Fire Marshal, in consultation with the Director of Forestry and Fire Protection and the Director of Housing and Community Development, to recommend building standards for very high fire hazard severity zones to protect structures and vegetation from fires spreading from adjacent structures or vegetation. Existing law requires persons who own, lease, control, operate, or maintain dwellings or occupied structures in these designated areas to comply with specified requirements, including complying with all applicable state and local building standards. Existing law makes a violation of these provisions a crime.

Existing law requires a person who owns, leases, controls, operates, or maintains a building or structure in, upon, or adjoining a mountainous area, forest-covered lands, brush-covered lands, grass-covered lands, or land that is covered with flammable material to maintain defensible space around the building or structure and to maintain vegetation and other fuel loads, as specified.

This bill would establish the State Wildfire Preparedness Board, consisting of specified members, and would prescribe the responsibilities of the state board with regard to the state's fire preparedness. The bill would divide the state's very high fire hazard severity zones into 18 regional wildfire prevention districts, which are advisory bodies to the State Wildfire Preparedness Board, as provided. The bill would prescribe the duties of the districts, including, among others, the promotion, organization, and support for the implementation of regional community fire evacuation drills.

- (2)Existing law requires the State Fire Marshal to develop a list of low-cost retrofits that provide for comprehensive site and structure fire risk reduction to protect structures from fires spreading from adjacent structures or vegetation and to protect vegetation from fires spreading from adjacent structures.
- (2) Existing law requires a person who owns, leases, controls, operates, or maintains an occupied dwelling or occupied structure in, upon, or adjoining certain property to comply with certain defensible space requirements. Under existing law, the California Building Standards Commission has adopted regulations regarding materials and construction methods for exterior wildfire exposure.

This bill would, on or after July 1, 2025, require a seller of a building in a very high fire hazard severity zone to-provide to the buyer a certificate certifying that the low-cost retrofits developed by the State Fire Marshal have been undertaken on the building. The bill, prior to July 1, 2025, would require the State Fire Marshal to submit to the Legislature for approval the list of low-cost retrofits compiled by the State Fire Marshal. attest, under the penalty of perjuty, certain facts related to compliance with defensible space requirements and those regulations. Because the attestation would be submitted under the penalty of perjury, this bill would impose a state-mandated local program.

(3) Existing law authorizes local agencies, upon making specified findings, to provide low-interest loans to the owners of buildings within their jurisdiction for the purpose of making seismic safety upgrades to eligible buildings, as defined, to meet current earthquake safety codes. Existing law authorizes these local entities to issue bonds to finance these loans that are secured by a lien on the subject property. This bill would establish the Fire Hardened Homes Revolving Loan Fund in the State Treasury, as specified. The bill would transfer \$1,000,000,000 from the General Fund to the new fund for the purposes of the bill. Moneys in the fund would be available, upon appropriation by the Legislature, to an unspecified state agency to distribute to local agencies for the purpose of funding no or low interest loans made by those agencies the California Statewide Communities Development Authority to provide financial assistance to owners of eligible buildings to pay for eligible costs of fire hardening. hardening, as specified. The bill would provide that financing under this program, along with other liens on the subject property, could not exceed 80% of the appraised value of the property. The bill would define terms for its purposes.

(4) 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

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: noyes

# **BILL TEXT**

# THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

#### SECTION 1.

The Legislature finds and declares all of the following:

- (a) Climate change has resulted in higher year-long temperatures and increasing dry weather conditions in California, resulting in extended, sometimes multiyear, droughts; extended wildfire seasons throughout the year, with higher temperatures during dry season conditions; and impacts on vegetation wildfire fuel loads and increasing decay and loss of vegetation due to insect infestations and plant diseases.
- (b) Wildfires have grown larger and have increased in intensity over the last several decades. As compared with 1986, wildfires in the western United States have occurred nearly four times more often, burning more than six times the land area and lasting almost five times as long. Through the end of the 2017 calendar year, 11 of the 20 most destructive wildfires in California have occurred in the last 10 years. The 2018 calendar year witnessed the most destructive wildfires in California history in terms of the loss of life and structures.
- (c) In terms of the size of wildfires, in the last decade, enormous wildfires have consumed vast areas, including the 2013 Rim Fire impacting national park and national forest lands, the 2017 Napa Valley, Sonoma Valley, and Santa Rosa wildfires, the 2017 Thomas Fire impacting 200,000 acres, and the 2018 Camp Fire.
- (d) Wildfires, which have impacted occupied areas, have resulted in enormous human and financial costs, including the following:
- (1) The 1991 Berkeley-Oakland Tunnel Fire, which resulted in 25 deaths, the loss of more than 3,000 homes, and a total financial loss of \$1.5 billion in 1991 United States dollars.
- (2) The 2003 San Diego Cedar Fire, which resulted in 15 deaths and the loss of 2,000 structures.
- (3) The 2017 Tubbs Fire, which resulted in 22 deaths, the loss of 5,643 structures, and a total financial loss of approximately \$1.3 billion in 2017 United States dollars.
- (4) The 2017 Thomas Fire, which resulted in two deaths, the loss of more than 1,000 homes, and a total financial loss of approximately \$2.2 billion in 2018 United States dollars.
- (5) The 2018 Camp Fire, which resulted in 89 deaths, the loss of 18,804 structures, and at least \$12.4 billion in 2018 United States dollars in insured losses.
- (e) More than 2,000,000 California households, approximately one in four residential structures in California, are located within or in wildfire movement proximity of "high" or "very high" fire hazard severity zones identified on maps drawn by the Department of Forestry and Fire Protection. Additionally, areas subject to seismic risks confront the likelihood that wildfires could result from downed power lines and ruptures of natural gas lines caused by earthquakes.
- (f) There is a pressing need for wildfire prevention and minimization strategies, on an area-specific basis, that combine increased wildfire resistance within developed areas to minimize wildfire impacts with comprehensive vegetation management measures in wildlands to prevent or severely limit large-scale wildfires from developing and spreading as follows:
- (1) Wildfire minimization programs. Developed areas need to carry out comprehensive urban vegetation management programs to reduce vegetation wildfire fuel loads within developed areas. Further, there is a need to provide funding for the hardening of homes and other structures to increase their resistance to wildfires.
- (2) Wildfire prevention programs. Comprehensive wildlands vegetation management, responsive to the widely varying vegetation conditions throughout California, is required to reduce vegetation wildfire fuel

loads, in relation to the flammability of different vegetation types, to the maximum extent feasible to prevent or severely limit the spread of wildfires.

- (3) Wildfire response planning. Area-specific plans should include measures needed to include planning for safe wildlands access for firefighters to the maximum extent feasible.
- (g) The diversity of vegetation and development patterns through the state necessitate a geographic approach to planning and implementing wildfire prevention and minimization strategies with fire prevention management agencies covering the geographic areas in which wildfires have or may occur.
- (h) Local public agencies have made efforts to prevent wildfires, but, in many instances, lack the expertise, authority, or the financial resources to undertake or complete the tasks at hand.
- (i) Wildfires do not respect jurisdictional boundaries or property lines.
- (i)
- (j) Regional wildfire prevention districts designed to address the widely varying vegetation and development characteristics of our diverse state and to ensure that the districts have the expertise, authority, and funding to reduce the threat of wildfires on all lands, public and private, in the wildland urban interface should be established.
- <del>(i)</del>
- (*k*) The coordination of planning and implementation with federal lands agencies, such as the United States Forest Service and the United States National Park Service, should take place primarily at the state and regional district level as necessary.

#### SEC. 2.

Section 1102.19 is added to the Civil Code, to read:

#### 1102.19.

- (a)On and after July 1, 2025, a seller of a building in a very high fire hazard severity zone, as identified by the Director of Forestry and Fire Protection pursuant to Section 51178 of the Government Code or Article 9 (commencing with Section 4201) of Chapter 1 of Part 2 of Division 4 of the Public Resources Code, shall provide to the buyer a certificate certifying that low-cost retrofits compiled and listed pursuant to Section 51189 of the Government Code have been undertaken on the building. attest, under the penalty of perjury, and to the best of their knowledge or belief, both of the following:

  (b)Prior to July 1, 2025, the State Marshal shall submit the list compiled pursuant to subdivision (c) of Section 51189 of the Government Code to the Legislature for approval.
- (a) The property is in compliance or arrangements have been made to bring the property into compliance with the requirements of Section 51182 of the Government Code.
- (b) The roof, gutters, attic ventilation, eaves, eave and cornice vents, and underfloor and appendages have been retrofitted, or arranged to be retrofitted to comply with the requirements of Chapter 7A (commencing with Section 701A.1) of Part 2 of Title 24 of the California Code of Regulations.

#### SEC. 3.

Article 4.3 (commencing with Section 8580) is added to Chapter 7 of Division 1 of Title 2 of the Government Code, to read:

Article 4.3. State Wildfire Preparedness Board

#### 8580.

- (a) The State Wildfire Preparedness Board is hereby established in state government, consisting of the following members:
- (1) The Director of Emergency Services, or the director's designee.
- (2) The Secretary of the Natural Resources Agency, or the secretary's designee.
- (3) The Director of Forestry and Fire Protection, or the director's designee.
- (4) The Secretary of Transportation, or the secretary's designee.
- (5) The Secretary of California Health and Human Services, or the secretary's designee.
- (6) The State Fire Marshal, or the State Fire Marshal's designee.
- (7) The Director of the Office of Planning and Research, or the director's designee.
- (8) The Secretary of the Department of Corrections and Rehabilitation, or the secretary's designee.
- (9) (A) A member of the public with expertise in fire science appointed by the Governor.
- (B) The member appointed pursuant to this paragraph shall serve at the pleasure of the Governor.

- (10) (A) A member of the public with expertise in fire science appointed by the Senate Committee on Rules.
- (B) The member appointed pursuant to this paragraph shall serve a two-year term.
- (11) (A) A member of the public with expertise in fire science appointed by the Speaker of the Assembly.
- (B) The member appointed pursuant to this paragraph shall serve a two-year term.
- (b) The State Wildfire Preparedness Board shall do all of the following:
- (1) Convene a meeting of its members and one representative from each of the regional wildfire prevention districts, established pursuant to Section 8580.2, at least twice per year to provide technical assistance, review best practices, and receive reports on the progress and obstacles to fire prevention work from the regional wildfire prevention districts.
- (2) Actively seek opportunities for interagency collaboration and efficiencies.
- (3) Review and approve the regional wildfire protection plans prepared by each regional wildfire prevention district.
- (4) Create and implement a statewide fire preparedness public education campaign.

#### 8580.2.

- (a) The state's very high fire hazard severity—zones zones, designated pursuant to Section 51178 or Article 9 (commencing with Section 4201) of Chapter 1 of Part 2 of Division 4 of the Public Resources Code, are divided, for purposes of this article, into 18 regional wildfire prevention districts as follows:
- (1) District 1, which comprises the Counties of Del Norte, Humboldt, and Mendocino.
- (2) District 2, which comprises the Counties of Shasta, Siskiyou, and Trinity.
- (3) District 3, which comprises the Counties of Lassen, Modoc, and Plumas.
- (4) District 4, which comprises the Counties of Butte, Glenn, and Tehama.
- (5) District 5, which comprises the Counties of Nevada, Sierra, and Yuba.
- (6) District 6, which comprises the Counties of Amador, El Dorado, and Placer.
- (7) District 7, which comprises the Counties of Colusa and Lake.
- (8) District 8, which comprises the Counties of Marin, Napa, Solano, and Sonoma.
- (9) District 9, which comprises the Counties of Alameda and Contra Costa.
- (10) District 10, which comprises the Counties of San Mateo, Santa Clara, and Santa Cruz.
- (11) District 11, which comprises the Counties of Merced, Monterey, and San Benito.
- (12) District 12, which comprises the Counties of Alpine, Calaveras, and Tuolumne.
- (13) District 13, which comprises the Counties of San Luis Obispo, Santa Barbara, and Ventura.
- (14) District 14, which comprises the Counties of Fresno, Madera, and Mariposa.
- (15) District 15, which comprises the Counties of Kern and Tulare.
- (16) District 16, which comprises the County of Los Angeles.
- (17) District 17, which comprises the Counties of Orange and San Bernardino.
- (18) District 18, which comprises the Counties of Riverside and San Diego.
- (b) Each regional wildfire prevention district, which is an advisory body to the State Wildfire Preparedness Board, district shall be governed by a board with members who are residents of the counties comprising the district and appointed by the State Wildfire Preparedness Board. consisting of the following:
- (1) A member representing each constituent county in the regional wildfire prevention district selected by the board of supervisors of the county.
- (2) A member from a fire safe council within the regional wildfire prevention district selected by the California Fire Safe Council.
- (3) A member from each resource conservation district within the regional wildfire prevention district.
- (4) A member from the regional office of the Department of Forestry and Fire Prevention within the regional wildfire prevention district.
- (5) A member with fire science expertise from a campus of the University of California within, or closest to, the regional wildfire prevention district selected by the President of the Regents of the University of California.
- (6) A member from the sheriff's department of each of the county within the regional wildfire prevention district.

#### 8580.4.

Each regional wildfire prevention district shall do all of the following: (a)Establish an office.

(b)Select one of its board members as chairperson at the first regular meeting held each year.

(c)Employ individuals with knowledge in wildfire prevention and types of fire-related vegetation commonly found in the district as staff of the district.

<del>8580.6.</del>8580.4.

Each regional wildfire prevention-district district, upon appropriation by the Legislature, shall do all of the following:

- (a) Establish an office.
- (b) Select one of its board members as chairperson at the first regular meeting held each year.
- (c) Develop a region-specific wildfire prevention and preparedness plan that shall include all of the following:
- (1) A region specific vegetation management ordinance that could be adopted by the relevant jurisdictions within the regional wildfire prevention district.
- (2) Strategic fire break and fuel reduction projects to provide community protection.
- (3) Evacuation plans that include both of the following:
- (A) Emergency notification protocols.
- (B) A verification of the quality and capacity of identified evacuation routes.
- (d) Implement a grant program to ensure compliance with regional vegetation management ordinances and the execution of strategic community protection fuel load projects.

<del>(a)</del>

(e) Provide education and technical assistance to landowners, residents, and regional community fire prevention advisory groups on fire prevention and land management practices to improve fire safety in the district's region.

(h)

(f) Review and recommend to the State Wildfire Preparedness Board possible methods of financing ongoing fire preparedness measures, including loan and grant programs, that may be implemented by the member departments of the board.

<del>(c)</del>

(g) Promote, organize, and support the implementation of regional community fire evacuation drills. (d)Prepare regional wildfire protection plans for approval by the State Wildfire Preparedness Board.

<del>(e)</del>

(h) Prepare a semiannual report and ensure a member of the district attends the meeting convened pursuant to paragraph (1) of subdivision (b) of Section 8580.

#### SEC. 4.

Division 33 (commencing with Section 55500) is added to the Health and Safety Code, to read:

DIVISION 33. Fire Hardened Homes Revolving Loan Fund 55500.

As used in this division:

- (a) "Eligible building" means a building existing as of January 1, 2020, and containing not more than one unit that is intended for human habitation.
- (b) "Eligible costs" means all costs, including costs of design, preparation, and inspection, incurred in the following:
- (1) Replacing or installing the following:
- (A) Ember-resistant vents.
- (B) Fire-resistant roofing.
- (C) Fire-resistant siding.
- (D) Fire-resistant eaves.
- (E) Fire-resistant soffits.
- (F) Fire-resistant windows.
- (2) Establishing a noncombustible zone of five feet around an eligible building.
- (3) Tree removal and trimming within 100 feet of an eligible building.

#### 55501.

- (a) There is established in the State Treasury the Fire Hardened Homes Revolving Loan Fund. Moneys in the fund shall, upon appropriation by the Legislature, be made available to the \_\_\_\_\_ California Statewide Communities Development Authority to provide financing to local agencies to make no or low interest loans assistance to owners of eligible buildings to pay for eligible costs of fire hardening if the legislative body of the local agency makes one of the following findings: as follows:
- (1)(A)The owner to whom financing would be made available pursuant to this division is unable to qualify for or could not afford financing for eligible costs from private lending institutions.
- (B)The legislative body of the local agency may also make no- or low-interest loans to an owner who is able to qualify or afford financing as long as priority is given to owners described in subparagraph (A).

  (2)Absent the availability of financing pursuant to this division, the eligible building would pose a health
- (2) Absent the availability of financing pursuant to this division, the eligible building would pose a health and safety risk to its occupants.
- (1) No- and low-interest loans to a person who owns an eligible building and has an income level up to 120 percent of the area median income.
- (2) Rebates for up to 80 percent of the cost of the retrofit to a person who owns an eligible building and has an income level up to 50 percent of the area median income.
- (b) Financing provided by a local agency pursuant to this division shall not, when combined with existing liens on the property, exceed 80 percent of the current appraised value of the property, as determined by an independent, certified appraiser, unless existing lienholders consent in writing to a higher loan-to-value ratio. Notice of the intention to provide financing to the owner of the property shall be given to existing lienholders of record not less than 30 days before any vote of the local agency authorizing the provision of financing to the owner of the property.

#### SEC. 5.

The sum of one billion dollars (\$1,000,000,000) is hereby transferred from the General Fund to the Fire Hardened Homes Revolving Loan Fund to provide no- or low-interest loans to owners of eligible buildings for the eligible costs of fire hardening pursuant to Division 33 (commencing with Section 55500) of the Health and Safety Code.

#### SEC. 6.

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.

Letter in Support of AB 38

CONSENT CALENDAR May 14, 2019

May 14, 2019

The Honorable Jim Wood California State Assembly State Capitol, Room 6005 Sacramento, CA 95814

RE: AB-38 (Wood) Fire Safety: State Wildfire Preparedness Board: Fire Hardened Homes Revolving Loan Fund Support from the Berkeley City Council

Dear Assemblymember Wood:

On behalf of the Berkeley City Council, I want to express our support for AB-38 (Wood), Fire Safety: State Wildfire Preparedness Board: Fire Hardened Homes Revolving Loan Fund.

Wildfires have increased in numbers and severity in recent years and the toll on lives and property is staggering. The combination of winds and fuel loads have made it impossible for firefighters to manage wildland fires successfully.

We must turn our attention to:

- reducing fuel loads
- planning escape routes
- hardening our homes
- early notification systems

Fires do not know geographical jurisdictions or political boundaries. Coordination between local governments is essential.

AB-38 is focused on addressing the above mentioned issues.

Thank you for your leadership on this important issue!

Sincerely,

Susan Wengraf Vice Mayor City of Berkeley

CC: Senator Skinner, Representative Wicks, Governor Newsom

Date of Hearing: April 22, 2019

ASSEMBLY COMMITTEE ON NATURAL RESOURCES Laura Friedman, Chair

AB 38 (Wood) - As Amended April 11, 2019

**SUBJECT**: Fire safety: State Wildfire Preparedness Board: Fire Hardened Homes Revolving Loan Fund

**SUMMARY**: Establishes all of the following: the State Wildfire Preparedness Board (Board) consisting of specified state agencies and public members; 18 wildfire prevention districts (Districts) with one of more county; and, the Fire Hardened Homes Revolving Loan Fund (Fund) to provide no- or low-interest loans and rebates for home hardening.

## **EXISTING LAW:**

- 1) Requires the Board of Forestry and Fire Protection (BOF) to classify all lands within the state for the purpose of determining areas in which the financial responsibility of preventing and suppressing fires is primarily the responsibility of the state [known as the State Responsibility Area (SRA)].
- 2) Requires the Department of Forestry and Fire Protection (CAL FIRE) to identify certain areas outside the SRA as very high fire hazard severity zones (VHFHSZ) based on consistent statewide criteria and based on the severity of fire hazard that is expected to prevail in those areas.
- 3) Requires a person who owns, leases, controls, operates, or maintains a building or structure on land that is covered with flammable material in the SRA or VHFHSZ to maintain defensible space of 100 feet around the structure. Requires the most intense fuels management to be within 30 feet of the structure.
- 4) Requires a local agency shall to designate, by ordinance, VHFHSZ in its jurisdiction within 120 days of receiving recommendations from the Director. Requires the State Fire Marshal (SFM) to prepare and adopt a model ordinance that provides for the establishment of VHFHSZ.
- 5) Requires, no later than January 31, 2020, the SFM, in consultation with the CAL FIRE and the Department of Housing and Community Development (HCD) to recommend building standards that provide for comprehensive site and structure fire risk reduction to protect structures from fire risk. Based on information learned from the 2017 wildfire season.
- 6) Requires, no later than January 31, 2020, the SFM, in consultation with CAL FIRE and HCD to develop a list of low-cost retrofits that provide for comprehensive site and structure fire risk reduction to protect structures from fire risk. Requires CAL FIRE to incorporate the list in its fire prevention education and outreach efforts.
- 7) Requires, before July 1, 2020, the Office of Planning and Research (OPR) to update the guidance document entitled "Fire Hazard Planning General Plan Technical Advice Series" and update not less than once every eight years.

CONSENT CALENDAR May 14, 2019

#### THIS BILL:

- 1) Makes various findings including that the state should establish regional wildfire prevention districts designed to address the widely varying vegetation and development characteristics of our diverse state, and to ensure that the districts have the expertise, authority, and funding to reduce the threat of wildfires on all lands, public and private, in the wildland urban interface.
- 2) Requires, on and after July 1, 2025, a seller of a building in a VHFHSZ both in and out of the SRA to attest, under the penalty of perjury, and to the best of their knowledge or belief, both of the following:
- a) The property is in compliance or arrangements have been made to bring the property into compliance with specified defensible space requirements; and
- b) The roof, gutters, attic ventilation, eves, eave and cornice vents, and underfloor and appendages have been retrofitted or arranged to be retrofitted to comply with Chapter 7A fire risk building standards.
- 3) Establishes the State Wildfire Preparedness Board (Board) consisting of the following members:
- a) The Director of Emergency Services (CAL OES), or the Director's designee;
- b) The Secretary of the Natural Resources Agency (NRA), or the secretary's designee;
- c) The Director of CAL FIRE, or the director's designee;
- d) The Secretary of Transportation, or the secretary's designee;
- e) The Secretary of California Health and Human Services, or the secretary's designee;
- f) The SFM, or the SFM's designee;
- g) The Director of OPR, or the director's designee;
- h) The Secretary of the Department of Corrections and Rehabilitation, or the secretary's designee; and
- i) Three members of the public with expertise in fire science with the Governor, Assembly, and Senate each appointing one member.
- 4) Requires the Board to do all of the following:
- a) Convene a meeting of its members and one representative from each of the regional wildfire prevention districts (Districts) at least twice per year to provide technical assistance, review best practices, and receive reports on the progress and obstacles to fire prevention work from Districts;

- b) Actively seek opportunities for interagency collaboration and efficiencies;
- c) Review and approve the regional wildfire preparedness plans prepared by each District; and,
- d) Create and implement a statewide fire preparedness public education campaign.
- 5) Divides the state's VHFHSZ both in and out of the SRA into 18 Districts as follows:
- a) District 1, which comprises the Counties of Del Norte, Humboldt, and Mendocino;
- b) District 2, which comprises the Counties of Shasta Siskiyou, and Trinity;
- c) District 3, which comprises the Counties of Lassen, Modoc, and Plumas;
- d) District 4, which comprises the Counties of Butte, Glenn, and Tehama;
- e) District 5, which comprises the Counties of Nevada, Sierra, and Yuba;
- f) District 6, which comprises the Counties of Amador, El Dorado, and Placer;
- g) District 7, which comprises the Counties of Colusa and Lake;
- h) District 8, which comprises the Counties of Marin, Napa, Solano, and Sonoma;
- i) District 9, which comprises the Counties of Alameda and Contra Costa;
- j) District 10, which comprises the Counties of San Mateo, Santa Clara, and Santa Cruz;
- k) District 11, which comprises the Counties of Merced, Monterey, and San Benito;
- 1) District 12, which comprises the Counties of Alpine, Calaveras, and Tuolumne;
- m) District 13, which comprises the Counties of San Luis Obispo, Santa Barbara, and Ventura;
- n) District 14, which comprises the Counties of Fresno, Madera, and Mariposa;
- o) District 15, which comprises the Counties of Kern and Tulare;
- p) District 16, which comprises the County of Los Angeles;
- q) District 17, which comprises the Counties of Orange and San Bernardino; and,
- r) District 18, which comprises the Counties of Riverside and San Diego.

- 6) Requires each District to be governed by a board with members consisting of the following:
- a) A member representing each constituent county in the District selected by the board of supervisors of the county;
- b) A member from a fire safe council within the District selected by the California Fire Safe Council;
- c) A member from each resource conservation district within the District;
- d) A member from the regional office of CAL FIRE within the District;
- e) A member with fire science expertise from a campus University of California within, or closest to, the regional wildfire prevention district selected by the President of the Regents of the University of California; and,
- f) A member from the sheriff's department of each of the counties within the District.
- 7) Requires each district, upon appropriation, to do all of the following:
- a) Establish an office;
- b) Select one of its board members as chairperson at the first regular meeting held each year;
- c) Develop a region-specific wildfire prevention and preparedness plan that includes the following:
  - i) A region specific vegetation management ordinance that could be adopted by the relevant jurisdiction within the District;
  - ii) Strategic fire break and fuel reduction projects to provide community protection; and,
  - iii) Evacuation plans that include:
    - (1) Emergency notification protocols; and,
    - (2) A verification of the quality and capacity of identified evacuation routes.
- d) Implement a grant program to ensure compliance with regional vegetation management ordinances and the execution of strategic community protection fuel load projects;
- e) Provide education and technical assistance to landowners, residents, and regional community fire prevention advisory groups on fire prevention and land management practices to improve fire safety in the District's region;
- f) Review and recommend to the Board possible methods of financing ongoing fire prevention measures, including loan and grant programs, that may be implemented by the member departments of the board; and,
- g) Promote, organize, and support the implementation of regional community fire evacuation drills.

- 8) Establishes the Fire Hardened Homes Revolving Loan Fund (Fund). Requires money in the fund, upon appropriation, to be made available to the California Statewide Communities Development Authority to provide financing assistance to owners of eligible buildings to pay for eligible costs of fire hardening as follows:
- a) No- and low-interest loans to a person who owns an eligible building and has an income level up to 120% of the area median income;
- b) Rebates for up to 80% of the cost of the retrofit to a person who owns an eligible building and has an income level up to 50% of the area median income.
- 9) Defines "eligible costs" to mean all costs, including costs of design, preparation, and inspection, incurred in the following:
- a) Replacing or installing the following:
  - i) Ember-resistant vents;
  - ii) Fire-resistant roofing;
  - iii) Fire-resistant siding;
  - iv) Fire-resistant eaves;
  - v) Fire-resistant soffits; and
  - vi) Fire-resistant windows.
- b) Establishing a noncombustible zone of five feet around an eligible building; and,
- c) Tree removal and trimming within 100 feet of an eligible building.
- 10) Transfers from the General Fund to the Fund \$1 billion to provide no- or low-interest loans to owners of eligible buildings for the eligible costs of fire hardening.

## FISCAL EFFECT: Unknown

#### **COMMENTS**:

### 1) Author's statement:

Wildfires have grown larger and have increased in intensity over the last several decades. As compared with 1986, wildfires in the Western United States have occurred nearly four times more often, burning more than six times the land area, and lasting almost five times as long. Through the end of 2017, eleven of the twenty most destructive wildfires in California have occurred in the last 10 years. In 2018 we witnessed the most destructive wildfires in California history in terms of the loss of life and structures. Wildfires impacting occupied areas have resulted in enormous human and financial costs. More than 2 million California households, approximately one in four residential structures in California, are located within, or in wildfire movement proximity of, "high" or "extreme fire risk" areas as identified by the California Department of Forestry and Fire Protection.

CONSENT CALENDAR May 14, 2019

Overwhelming data suggest the two most important factors in protecting homes from wildfire are selection of building materials and the maintenance of vegetation and other flammable materials in order to establish adequate defensible space.

While existing building codes and standards ensure that newly constructed buildings utilize appropriate fire resistant materials, there are millions of homes in California that were built before these standards were established.

Additionally the diversity of vegetation and development patterns through the State of California necessitate a geographic approach to planning and implementing wildfire prevention and minimization strategies.

Local public agencies have made efforts to prevent wildfires but in many instances lack the expertise, authority and/or the financial resources to undertake or complete the tasks at hand.

2) **Background**. In 2017, over 1.3 million acres burned in high-severity wildfires and over 10,000 structures were destroyed. In 2018, over 1.8 million acres burned and over 22,700 structures were destroyed. Over one hundred Californians have died from wildfires over the last two years. CAL FIRE keeps records of the largest and most destructive wildfires in the state's history. Each year those records continue to be broken.

Fire has always been present in California landscapes either occurring by lightning strikes or used by Native American tribes to preserve certain useful plants and prevent larger fires. Low-intensity fires have clear ecological benefits, such as creating habitat and assisting in the regeneration of certain species of plants and trees. Low-intensity fire also reduces surface fuel, which decreases future wildfire intensity.

A century of suppressing low intensity fires, logging of older growth and more fire-resistant trees, and a significant five-year drought has increased the size and severity of California's fires. Climate change has also contributed to wildfire risk by reducing humidity and precipitation and increasing temperatures.

California's forests have become overstocked and unhealthy. In the Stanislaus National Forest, a team of UC Berkeley researchers found a density of 400 trees per acre in 2013, compared with 60-90 trees per acre found in historical reports from 1911. In addition, the researchers found more undergrowth species, and a smaller average tree size than in 1911. From 2014 to 2018 over 147 million trees have died due to a combination of drought and bark beetles. New research by UC Berkeley states "these dead trees have created unprecedented levels of fuel, which could create dangerous wildfires in the near future that are beyond the predictive capacity of current fire models."

The use of targeted mechanical vegetation management, prescribed fire, and managed wildfire reduces the accumulated high fuel loads, promoting healthier, more resilient forests, reducing the risk of high-severity wildfires.

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Senate Bill 901 (Dodd), Chapter 626, Statutes of 2018, committed \$1 billion for CAL FIRE's Forest Health Grant Program and fire prevention grant program and dedicated fuel reduction crews over the next five years. The funds will be used to do significant fuel reduction work near communities and in forested watersheds, and many projects will include a biomass utilization component.

On March 5, 2019, CAL FIRE released a 45-day report to Governor Newsom. According to CAL FIRE, the report systematically identified high priority fuel reduction projects and other measures to immediately begin to protect over 200 of California's most wildfire-vulnerable communities and put the state on a path toward long-term wildfire prevention and forest health. CAL FIRE's report identified more than 30 strategically defined local projects that can be completed in partnership with communities in time to make a difference this wildfire season. Examples include removal of hazardous dead trees, vegetation clearing, creation of fuel breaks and community defensible spaces, and creation of ingress and egress corridors.

3) **Defensible space**. According to CAL FIRE, defensible space is the front line for defending a property against wildfire. Creating and maintaining defensible space around your home can dramatically increase a home's chance of surviving a wildfire and improves the safety of firefighters defending a property. Defensible space in combination with home hardening will make a home ignition resistant from embers, radiant heat, and flame impingement. All structures within the SRA and VHFHSZ in the local responsibility area must maintain 100 feet of defensible space. SB 1595 (Kehoe), Chapter 366, Statutes of 2008, provided the last major update to defensible space requirements and included a requirement that a more intense fuel management should occur within the first 30 feet around a structure. CAL FIRE requires that within 30 feet of a structure the removal of all dead plants, grass, and weeds; removal of dry leaves, pine needles; and, to keep tree branches 10 feet away from a chimney and other trees. However, this standard still allows most vegetation within five feet of the house. According to the University of California Division of Agriculture and Natural Resources, few people think about creating a non-combustible zone in the immediate area surrounding a structure, but that noncombustible space may be the difference between losing and not losing your house in a wildfire.

In CAL FIRE's 45-day report to Governor Newsom it stated laws governing defensible space should be updated and included the following recommendations:

- a) Review the penalty for non-compliance with defensible space code, establishing a fixed compliance date in lieu of three-inspection process. Include vacant land provisions;
- b) Review enforcement the full 100 feet of defensible space around a structure when the structure is closer than 100 feet from the parcel line;
- c) Consider the home and the first 0-5 feet as the most critical and hardened aspect of home hardening and defensible space. Consider requiring ignition resistant building material, only allow bark and hardscape, not trees or shrubs in the area; and,
- d) Consider science-based regulation of wood piles and wood fences.

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This bill requires that defensible space work be completed prior to selling of a home within a VHFHSZ both in and out of the SRA. This bill would also make the cost of defensible space work including establishing the noncombustible zone eligible for loans and rebates.

4) **Home hardening**. New homes within the VHFHSZ and the SRA must meet Chapter 7A building standards for new construction (including ignition resistant roofs, under eves, siding, windows, and decking). Home hardening standards started with a prohibition on new wooden roofs in the early nineties and were dramatically improved in 2008 to make homes that have done their defensible space ignition resistant. The standards are periodically updated to be improved even further. AB 2911 (Friedman), Chapter 641, Statutes of 2018, requires the SFM to make recommendations for another update by January 31, 2020. These standards have been shown to work. An analysis by the Sacramento Bee showed that approximately 51% of the 350 single-family homes built after 2008 in the path of the Camp Fire were undamaged. By contrast, only 18% of the 12,100 homes built prior to 2008 escaped damage. Factors that can cause post 2008 homes to combust include not having adequate defensible space and proximity to neighboring non-fire hardened homes.

In the informational hearing this committee held in February former fire Marshal Kate Dargan estimated there are 2 million homes in high fire threat areas that do not meet Chapter 7A building standards. According to the Building Industry Association, only 860,000 homes and apartments have been built statewide since the code went into effect. According to Paradise Town Councilman Michael Zuccolillo the average home in Paradise was built in the 1970s, which means most homes did not meet the 2008 standard and likely many homes still had wooden roofs. According to the SFM, property owners in high fire hazard zones who replace at least half their roof are required to install "fire-retardant" materials on the entire roof.

A few California cities have taken matters into their own hands. In 2008, the City Council in Big Bear Lake, a community of 5,200 in San Bernardino County, passed an ordinance declaring wood shake shingle roofs "a severe fire hazard and danger" and ordered homeowners to replace them by 2012. Armed with state and federal grants, it offered cash incentives of up to \$4,500 apiece for new roofs. Although the grant program has run out, local officials believe all wood roofs have been replaced in Big Bear Lake.

CAL FIRE's 45-day report to Governor Newsom called for identifying options for retrofitting homes to the new Wildland Urban Interface (WUI) Standards and included the following recommendations:

- a) CAL FIRE should identify options for incentivizing home hardening to create fire resistant structures within the WUI and with a focus on vulnerable communities;
- b) The Forest Management Task Force (FMTF) should immediately begin work to identify actions for retrofitting homes in the WUI with a focus on vulnerable communities; develop a comprehensive plan to retrofit existing homes to meet Chapter 7A building standards; and explore potential rebates or incentives for homeowners.
- c) Implement the requirement of AB 2911 to develop a list of low-cost retrofits that provide comprehensive fire risk reduction.

This bill requires home hardening retrofits in the VHFHSZ to meet many of the standards in the Chapter 7A building standards. In addition, it also provides loans and rebates for the costs of home hardening.

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5) AB 38. AB 38 is a complicated measure that deals with some of the most difficult and important issues in fire prevention, including improving the defensible space and retrofitting the estimated 2 million homes that are at great risk of burning down in a wildfire. Beside those issues, this bill sets up a complex new Board and 18 Districts to oversee and advise fire prevention work more broadly. Traditionally the NRA, CAL FIRE, SFM, the BOF, OPR, and CAL OES have been the main agencies to work on fire prevention and response. Due to the extreme nature of high intensity wildfires many more of the state agencies have become involved. The Board created by this bill would include state agencies such as the Health and Human Services Agency that traditionally has not been part of the fire prevention conversation. As the bill moves forward the author may wish to consult with the Administration on who should serve on this newly created Board and how the Board will interact with the FMTF, which seems to have duties that go beyond forestry management and overlap with this Board.

The 18 Districts, which in prior versions of the bill were given regulatory powers, now serve as a forum to gather relevant fire prevention and response actors together to plan, develop, and implement improvements for fire prevention and response within each District.

- 6) **Amendments**. The April 11th amendments to this bill appear to reverse amendments requested by the Assembly Government Organization Committee. The author may wish to consider restoring those amendments as a part of these committee amendments or another set of amendments before this bill is heard in the Assembly Appropriations Committee. The author and committee *may also wish to consider* the following amendments:
- a) Clarify the defensible space compliance requirements include the SRA requirements as well as the VHFHSZ requirements;
- b) Clarify the retrofit requirements include underfloor vents;
- c) Add the Secretary of the Environmental Protection Agency to the Board;
- d) Require the Governor to select the chair of the Board;
- e) Specify that members of the Board serve without compensation, but each of the public members shall be reimbursed for his or her actual and necessary expenses incurred in the performance of his or her duties;
- f) Specify the Board's public education campaign includes outreach about defensible space requirements, home hardening retrofits, and the Fund created by this bill;
- g) Revise the Districts' duties to include the following:
  - i) Review of each jurisdiction's safety element, Hazard Mitigation Plan, and Community Wildfire Protection Plan to identify improvements and outstanding recommendations and projects;
  - ii) Review of each jurisdiction's evacuation plans and emergency notification protocols;
  - iii) Identification of fire prevention organizational or capacity deficits within the District; and,
  - iv) Identification of projects that relevant state agencies should prioritize for local fire prevention assistance grants.

- h) Rename Fund to Fire Hardened Homes Revolving Loan and Rebate Fund;
- i) Limit loan and rebate eligibility to buildings within high fire hazard areas;
- j) Require the California Statewide Communities Development Authority to develop guidelines for loans and rebates subject to approval by the Board;
- k) Increase the income requirement for rebates from 50% to 80% of the median income; and,
- 1) Other technical clarifications.
- 7) **Double Referral**. This bill was also referred to the Assembly Government Organization Committee where it passed out with a 14-1 vote.
- 8) Related/Previous legislation.

AB 1516 (Friedman) makes various changes to improve defensible space requirements, electrical transmission or distribution lines' vegetation clearance requirements, and CAL FIRE local government technical assistance requirements with the intent to improve the fire safety of California communities. This bill is awaiting hearing in the Assembly Utilities and Energy Committee.

SB 190 (Dodd) requires the Office of the State Fire Marshal (SFM) to develop a model defensible space program, as specified, and requires the SFM to develop a Wildland-Urban Interface (WUI) Fire Safety Building Standards Compliance training manual. This bill is awaiting hearing in the Senate Appropriations Committee.

SB 247 (Dodd) requires CAL FIRE, on January 1, 2021, to provide a "trim list" to each electrical corporation identifying all trees and other vegetation in the vicinity of electrical lines or equipment owned by the electrical corporation requiring removal or trimming, including the extent of trimming required. This bill is awaiting hearing in the Senate Natural Resources and Water Committee.

AB 2911 (Friedman), Chapter 641, Statutes of 2018, Makes various changes to fire safety planning efforts, defensible space requirements, and electrical transmission or distribution lines' vegetation clearance requirements with the intent to improve the fire safety of California communities.

SB 1260 (Jackson), Chapter 624, Statutes of 2018, is an omnibus fire prevention and forestry management bill with the intent of promoting long-term forest health and wildfire resiliency. It makes various changes related to local fire planning, prescribed fire requirements, and broader fire prevention efforts.

SB 901 (Dodd), Chapter 626, Statutes of 2018, establishes a comprehensive framework to address and prevent catastrophic wildfires including prevention and planning by the state's electric utilities, management of the state's forests, chaparrals, and other lands to prevent and defend against wildfires, and standards to stabilize electrical corporations in the event of extensive liability resulting from claims under inverse condemnation.

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## **REGISTERED SUPPORT / OPPOSITION:**

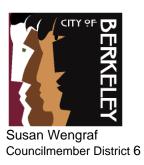
## **Support**

Allstate Insurance Company California League of Conservation Voters Federal Alliance for Safe Homes (FLASH) Insurance Institute for Business & Home Safety Pacific Association of Domestic Insurance Companies Pacific Forest Trust Personal Insurance Federation of California Sierra Club California State Farm Mutual Automobile Insurance Company The Nature Conservancy

## **Opposition**

None on file

Analysis Prepared by: Michael Jarred / NAT. RES. /



CONSENT CALENDAR May 14, 2019

To: Honorable Mayor and Members of the City Council

From: Councilmembers Susan Wengraf, Kate Harrison & Lori Droste

Subject: Referral to the Budget Process: Increased Funding for Neighborhood

Traffic Calming

## RECOMMENDATION

Refer to the Fiscal Year 2020/2021 Budget Process an increase in allocation for neighborhood traffic calming from the current 50 thousand dollars to 150 thousand dollars.

### FINANCIAL IMPLICATIONS

\$100,000 increase in funding

## **BACKGROUND**

The recurring annual allocation from the Capital Improvement Fund for traffic calming, data collection, studies and implementation is \$50,000. Council increased the amount to \$100,000 in the 2018/2019 and 2019/2010 budgets.

The need for increased traffic calming funds continues. Navigation tools and an increase in population have further exacerbated speeding and other traffic concerns. The requests from neighborhoods throughout the city for traffic calming measures, far exceeds the current allocation. We recommend an increase of \$100,000 for the 2020/2021 budget, for a total of \$150,000 for traffic calming.

## **ENVIRONMENTAL SUSTAINABILITY**

Reducing the impact of motor vehicles on roadways, residents, bicyclists and pedestrians is consistent with the goals of our Climate Action Plan.

### **CONTACT PERSON**

Councilmember Wengraf Council District 6 510-981-7160



CONSENT CALENDAR May 14, 2019

To: Honorable Mayor and Members of the City Council

From: Councilmembers Rigel Robinson, Kate Harrison, and Cheryl Davila

Subject: Pronouncement of May 15th, 2019 as a Day of Bloody Thursday

Remembrance and Commemoration of People's Park

## RECOMMENDATION

Adopt a Resolution pronouncing May 15th, 2019, as a Day of Bloody Thursday Remembrance, on which the People of Berkeley and the world may reflect upon the continuing history of the People's Park and its significance for our present society.

#### **BACKGROUND**

The Peace & Justice Commission advises the City Council on all matters relating to the City of Berkeley's role in issues of peace and social justice (Berkeley Municipal Code Chapter 3.68.070). At the April 8th meeting of the Peace & Justice Commission, the commission passed a resolution introduced by Commissioners Tregub and Han urging the council to pronounce May 15th, 2019 as a Day of Bloody Thursday Remembrance and Commemorating People's Park. However, the resolution would not reach the City Council in time for May 15th without being introduced as an urgency item at the Agenda Committee.

## **FINANCIAL IMPLICATIONS**

None.

## **ENVIRONMENTAL SUSTAINABILITY**

None.

## **CONTACT PERSON**

Councilmember Rigel Robinson, (510) 981-7170

#### Attachments:

1: Resolution

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

## PRONOUNCEMENT OF MAY 15TH, 2019 AS A DAY OF BLOODY THURSDAY REMEMBRANCE AND COMMEMORATION OF PEOPLE'S PARK

WHEREAS, the Peace and Justice Commission advises the City Council on all matters relating to the City of Berkeley's role in issues of peace and social justice (Berkeley Municipal Code Chapter 3.68.070); and

WHEREAS, May 15th, 2019, is the 50th anniversary of "Bloody Thursday" in Berkeley; and

WHEREAS, the world must long remember the events of that day, why those tragedies occurred, and their continuing relevance to our society; and

WHEREAS, on May 15th 1969 Berkeley Mayor Wallace Johnson and California Governor Ronald Reagan directed the California Highway Patrol and the Berkeley Police to surround the People's Park - then three weeks old - to fence it in and destroy it; and

WHEREAS, a spontaneous and militant protest that afternoon confronted those police and were greeted with clubs and CS gas (more commonly known as tear gas), sparking a rebellion in the streets; and

WHEREAS, during the ensuing melee, Governor Reagan's Secretary of State Edwin Meese directed the Alameda County Sheriffs force to suppress the rebellion; and

WHEREAS, the Sheriffs attacked the rebellion with CS gas, batons, and live fire of birdshot and buckshot, blinding Alan Blanchard, killing James Rector, and sending numerous others to the hospital; and

WHEREAS, Governor Reagan then ordered the National Guard into Berkeley and the Guard dropped CS gas from helicopters, imposed curfews and checkpoints, strung barbed wire across roads, and patrolled with loaded rifles and bayonets; and

WHEREAS, in the days that followed, after memorializing James Rector, activists defiantly created a separate park on Hearst St., then dubbed the People's Park Annex; and

WHEREAS, the Berkeley Police violently attacked the people who were building the People's Park Annex; and

WHEREAS, that park, the People's Park Annex, is today honored by the name Ohlone Park; and

WHEREAS, decades of research by journalist Seth Rosenfeld has exposed the attack on the Park as not merely a defense of University-owned land, but as part of a systematic program of political oppression of activists who were viewed as a threat to capital and to U.S. imperialism; and

WHEREAS, the founding organizers who sparked creation of the Park included Telegraph Avenue area business owners, property owners, students, other UC affiliates, and activist organizers; and

WHEREAS, the Park grew out of the civil rights movement, the anti-war movement, and the free speech movement; and

WHEREAS, it was envisioned as a true Free Speech forum, a cooperative project, much needed green and open space, an expression of hope for the oppressed, a tribute to the power of community, and a place of joy and celebration; and

WHEREAS, today those ideals are still practiced at the Park and define its daily life; and

WHEREAS, the founding ideals of the Park remain critically important today.

NOW THEREFORE, BE IT RESOLVED that the Berkeley City Council pronounces May 15th, 2019, as a Day of Bloody Thursday Remembrance, a day on which the People of Berkeley and the world may reflect upon the continuing history of the People's Park and its significance for our present society.

BE IT FURTHER RESOLVED that on this day we reflect upon the importance of Free Speech, cooperation, green and open space, hope and possibility for the future, the power of community, joy and celebration, justice, peace, and love.



Lori Droste
Councilmember, District 8

**CONSENT CALENDAR** 

May 14, 2019

To: Honorable Mayor and Members of the City Council

From: Councilmembers Bartlett, Droste, Kesarwani, Robinson

Item Description: Budget Referral: Missing Middle Housing Report

## RECOMMENDATION

Refer to the budget process \$125,000 for consultant costs to complete the Missing Middle Housing Report, which was passed by City Council on April 23, 2019.

## FISCAL IMPACTS OF THE RECOMMENDATION \$125,000

#### **CURRENT SITUATION AND ITS EFFECTS**

The Missing Middle Housing Report, and staffing/consulting fees necessary to cover its cost, are a Strategic Plan Priority Project, advancing our goal to create affordable housing and housing support service for our most vulnerable community members and champion and demonstrate social and racial equity.

#### **BACKGROUND**

On April 23, Council passed the Missing Middle Housing Report referral. This budget referral supports that item.

### **CONTACT PERSON**

Councilmember Lori Droste 510-981-7180



PUBLIC HEARING May 14, 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

Department

Subject: Published Charges: Mental Health Clinical Services

#### RECOMMENDATION

Conduct a Public Hearing and, upon conclusion, adopt a Resolution establishing Published Charges for Mental Health Clinical Services for FY 2019. Published Charges are effective July 1, 2018.

## FISCAL IMPACTS OF RECOMMENDATION

Approval of the requested action will enable Berkeley Mental Health (BMH) to comply with Short-Doyle/Medi-Cal (SD/MC) regulations and avoid federal Lower of Cost or Charges (LCC) audit disallowances. The State Department of Health Care Services will bill these charges as directed by the local mental health jurisdiction.

There is no net city cost associated with the recommended plan. Published Charges are utilized in the cost reporting process to establish Medi-Cal reimbursement for mental health services. The cost reporting process is the methodology the state and federal government require to show BMH's actual funding sources and uses and the services delivered. The cost report is based on expenses, services and funding for the previous fiscal year. In this case, the effective date of July 1, 2018 establishes the rates for the BMH's cost report for FY 2019. The City is reimbursed for allowable services at the lower of two rates— actual costs or Published Charges.

#### **CURRENT SITUATION AND ITS EFFECTS**

Berkeley Mental Health set Published Charges for FY 2018 and these were adopted by the City Council on May 15, 2018 through Resolution No. 68, 452-N.S. In the cost report claiming process, BMH is allowed to claim Medi-Cal revenue equal to the lesser of two amounts – actual costs for service provision or Published Charges. Throughout the year, BMH is reimbursed for Medi-Cal eligible services at an Interim Rate which is an amount based on the most recently approved cost report. In the Cost Report these payments are reconciled with the total revenue for which BMH is eligible. The actual costs for FY 2018 were adjusted by the Federal Home Health Agency Market Basket Index to set the proposed Published Charges for FY 2019. Current and proposed rates are detailed in Attachment 2.

Published Charges: Mental Health Clinical Services

PUBLIC HEARING May 14, 2019

## **BACKGROUND**

The Mental Health Division of the Health, Housing and Community Services Department utilizes a cost report process to claim Medi-Cal fees for eligible mental health and case management services. This revenue is used to fund mental health expenses for a wide variety of City mental health programs. The establishment of Published Charges allows for complying with SD/MC and LCC regulations in the claiming of these funds.

### **ENVIRONMENTAL SUSTAINABILITY**

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

## RATIONALE FOR RECOMMENDATION

Medi-Cal regulations require BMH to establish Published Charges at least annually. Federal requirements stipulate that Published Charges are determined at the mental health jurisdiction level. The recommended Published Charges comply with the SD/MC audit requirements.

As the lower of Published Charges or actual expenses are utilized in calculating the total Medi-Cal reimbursements due BMH in the Cost Report process, setting Published Charges helps the City maximize Medi-Cal revenue which supports BMH programs. The Published Charge rate does not affect the amount mental health consumers with Medi-Cal are charged for services – rather it only affects the amount BMH can charge Medi-Cal for these eligible services. For any consumer without Medi-Cal, BMH utilizes the Universal Mechanism for Determining Ability to Pay (UMDAP) and sets the fee at an affordable rate.

#### ALTERNATIVE ACTIONS CONSIDERED

The City can choose not to set Published Charges and continue to use the Interim Rate setting process with ACBHCS to determine Published Charges. If the City were to set Published Charges below the proposed rates, it is estimated that FY 2018 cost report derived Medi-Cal revenues will be below the actual cost associated with the delivery of such services.

#### CONTACT PERSON

Steven Grolnic-McClurg, Mental Health Division Manager, Health, Housing & Community Services Department, 510-981-5249

#### Attachments:

- 1: Resolution
  - Exhibit A: Table of City of Berkeley Medi-Cal Rates FY 2019 Published Charges
- 2. Table of City of Berkeley Medi-Cal Rates for FY 2018 and FY 2019 Published Charges
- 3. Notice of Public Hearing

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

## ESTABLISHING FY 2019 PUBLISHED CHARGES FOR MENTAL HEALTH CLINICAL SERVICES EFFECTIVE JULY 1, 2018

WHEREAS, Published Charges are necessary to ensure that the Mental Health Clinics continues to offer specialty mental health related services to the Berkeley and Albany communities consistent with its mission; and

WHEREAS, the Published Charges will allow the City of Berkeley's Mental Health Clinics to continue to meet all Federal, State and County regulatory requirements, while providing continued community access to specialty mental health related services.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the proposed Published Charges, detailed in Exhibit A for FY 2019 are hereby fixed and established, effective July 1, 2018, for mental health clinic services offered by the Mental Health Division's Clinics of the City's Department of Health, Housing & Community Services.

#### **Exhibits**

A: Table of City of Berkeley Medi-Cal Rates FY 2019 Published Charges

Exhibit A

Table of City of Berkeley Medi-Cal Rates FY 2019 Published Charges

# FY 2019 Published Charge

Mode	SFC	Services	Cost/Unit
15	1	Case Management & Brokerage	\$9.45
15	10	Mental Health Services	\$9.70
15	30	Evaluation	\$9.18
15	40	Mental Health Services	\$9.18
15	50	Mental Health Services	\$9.18
15	60	Medication	\$18.77
15	70	Crisis	\$8.67

Attachment 2

# PUBLISHED CHARGES FOR BERKELEY MENTAL HEALTH FOR FY 2018 AND FY 2019

Table of City of Berkeley Medi-Cal Rates FY 2019 Published Charges

			FY 2018 Published Charge	FY 2019 Published Charge
Mode	SFC	Services	Cost/Unit	Cost/Unit
15	1	Case Management & Brokerage	\$6.82	\$9.45
15	10	Mental Health Services	\$7.01	\$9.70
15	30	Evaluation	\$6.63	\$9.18
15	40	Mental Health Services	\$6.41	\$9.18
15	50	Mental Health Services	\$3.47	\$9.18
15	60	Medication	\$13.56	\$18.77
15	70	Crisis	\$6.26	\$8.67

# NOTICE OF PUBLIC HEARING BERKELEY CITY COUNCIL

# PROPOSED PUBLISHED CHARGES FOR BERKELEY MENTAL HEALTH

Notice is hereby given by the City Council of the City of Berkeley that a public hearing will be conducted by said City Council of the City of Berkeley at which time and place all persons may attend and be heard upon the following:

The Department of Health, Housing, and Community Services is proposing to establish Published Charges FY2019 for mental health and case management services.

			FY 2018 Published Charge	Proposed FY 2019 Published Charge
Mode	SFC	Services	Cost/Unit	Cost/Unit
15	1	Case Management & Brokerage	\$6.82	\$9.45
15	10	Mental Health Services	\$7.01	\$9.70
15	30	Evaluation	\$6.63	\$9.18
15	40	Mental Health Services	\$6.41	\$9.18
15	50	Mental Health Services	\$3.47	\$9.18
15	60	Medication	\$13.56	\$18.77
15	70	Crisis	\$6.26	\$8.67

The hearing will be held on May 14, 2019 at 6:00 p.m. in the School District Board Room, 1231 Addison Street. For further information, please contact Steven Grolnic-McClurg, Mental Health Manager at 510-981-5249.

A copy of the agenda material for this hearing will be available on the City's website at www.CityofBerkeley.info as of May 2, 2019.

Written comments should be mailed or delivered directly to the <u>City Clerk, 2180 Milvia Street, Berkeley, CA 94704</u>, in order to ensure delivery to all Council members and inclusion in the agenda packet.

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

the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or <a href="mailto:clerk@cityofberkeley.info">clerk@cityofberkeley.info</a> for further information.

If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Berkeley at, or prior to, the public hearing. Background information concerning this proposal will be available at the City Clerk Department and posted on the City of Berkeley webpage at least 12 days prior to the public hearing.

**Published:** May 3 and May 10, 2019 – The Berkeley Voice Per Government Code 6062A

I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on May 2, 2019.



PUBLIC HEARING May 14, 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: Fees: Public Health Clinic Services

#### RECOMMENDATION

Conduct a public hearing and upon conclusion, adopt a Resolution establishing a new fee schedule for Public Health Clinic services effective, July 1, 2019, and rescinding Resolution No. 68,449-N.S.

#### FISCAL IMPACTS OF RECOMMENDATION

The fiscal impact of these changes will result in the City of Berkeley being appropriately reimbursed for services, medications and laboratory tests provided by the City's Public Health Clinics. Services are priced at prevailing Medi-Cal rates. Medication fees are priced consistent with a Medi-Cal-determined dispensing fee. In some cases there are proposed increases in medication fees due to increased costs, while in other cases there are proposed decreases in medication fees due to decreased costs. The majority of the Clinic's lab tests are sent to outside laboratories for processing. The City of Berkeley pays for those tests that are not covered by Medi-Cal or FPACT (Family Planning, Access, Care and Treatment Program). The proposed changes to the lab fees reflect the actual lab fees charged by partner labs. In some cases there are proposed increases in lab fees due to increased costs, while in other cases there are proposed decreases in lab fees due to decreased costs. There is no net revenue gain resulting from these fee changes.

#### **BACKGROUND**

The Department of Health, Housing & Community Services (HHCS), Public Health Division operates the Ann Chandler Public Health Clinic (ACPHC) at 830 University Avenue. The ACPHC has offered free and low cost public health services since 1908. The ACPHC, according to Medi-Cal guidelines, must charge the same rate for the same service to all payers. Self-payment for services is on a sliding fee scale, which is based on federal poverty level guidelines. No one is denied services due to inability to pay.

The clinical services fees were last updated in July 2018. Approval of the proposed testing fee schedule will enable the Ann Chandler Public Health Clinic to continue to provide high quality and accessible public health services to the Berkeley community, including uninsured and self-pay patients.

Fees: Public Health Clinical Services

PUBLIC HEARING May 14, 2019

## **CURRENT SITUATION AND ITS EFFECTS**

The Ann Chandler Public Health Clinic provides services to prevent unplanned pregnancies, promote healthy relationships, and prevent sexually transmitted infections. These outcomes result in fewer births, lower rates of sexually transmitted infections and, a healthier population. Current medication and laboratory fees were reviewed and compared to current medication and laboratory costs. The Public Health Division charges clients and insurers the actual costs incurred for medications and laboratory tests provided. The proposed testing fees include increased fees and some reduced fees to reflect the actual lab costs. Service fees were compared to, and brought into alignment with current Medi-Cal rates, which remain below the Clinic's actual costs to provide these services.

#### **ENVIRONMENTAL SUSTAINABILITY**

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

#### RATIONALE FOR RECOMMENDATION

The fee changes are proposed to ensure that clients and insurers cover costs, and do not overpay, for any medications and laboratory tests provided as part of services at the Public Health Clinic. This change also ensures that we are compliant with Medi-Caldetermined fee.

## ALTERNATIVE ACTIONS CONSIDERED

Maintaining the current fees would result in the Ann Chandler Public Health Clinic absorbing a portion of the cost of medications and laboratory fees and in some cases, in clients paying more costs than necessary. If fees are left unchanged, FY 2020 revenue from medications and lab tests will be below the actual cost associated with the delivery of such services.

## **CONTACT PERSON**

Alvan Quamina, Health Services Supervisor, HHCS, 981-5314 Alexandra Deitch, Health Services Program Specialist, HHCS, 981-5379

#### Attachments:

1: Resolution

Exhibit A: Tables 1-12: Public Health Clinic Fee Schedule

- 2: List of Existing Public Health Clinic Charges and Proposed Charges
- 3: Public Hearing Notice

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

## ESTABLISHING FEES FOR PUBLIC HEALTH CLINICAL SERVICES EFFECTIVE JULY 1, 2019 AND RESCINDING RESOLUTION NO. 68,449–N.S

WHEREAS, fee increases are necessary to ensure that the Ann Chandler Public Health Clinic continues to offer tuberculosis testing and follow-up services and reproductive and sexual health related services to the Berkeley community consistent with its mission since 1908; and

WHEREAS, fees for such services were last updated in July 2018; and

WHEREAS, the cost of medications and laboratory fees, and of providing medical services have, on balance, increased since 2018; and

WHEREAS, the proposed changes in fees will allow the City of Berkeley's Ann Chandler Public Health Clinic to continue to meet all Federal, State and County health, safety and regulatory requirements, while providing continued community access to high-quality, comprehensive and confidential tuberculosis testing and reproductive sexual health services.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the fees listed in Exhibit A, Tables 1 through 12 below are hereby fixed and established, effective July 1, 2019, for clinical health services offered by the Ann Chandler Public Health Clinic of the City's Public Health Division in the Department of Health, Human, and Community Services.

BE IT FURTHER RESOLVED that Resolution No. 68,449-N.S. is hereby rescinded effective July 1, 2019.

**Exhibits** 

A: Public Health Clinic Fee Schedule

Exhibit A: Public Health Clinic Fee Schedule: Tables 1-12 for City Resolution

**Table 1: RSH Office Visits and Exams** 

Office Visit / Exam	СРТ	Charges
New Patient Brief Exam	99201	\$60.00
New Patient Limited	99202	\$91.00
New Patient Intermediate	99203	\$152.00
New Patient Comprehensive	99204	\$180.00
New Patient Complex	99205	\$218.00
Established Pt Minimal	99211	\$35.00
Established Pt Brief	99212	\$49.00
Established Pt Limited	99213	\$63.00
Established Pt Intermediate	99214	\$98.00
Established Pt – Comprehensive	99215	\$153.00
Counseling 15 minutes	99401	\$29.00
Counseling 30 minutes	99402	\$44.00
Counseling 45 minutes	99403	\$58.00

**Table 2: RSH Contraceptive Methods** 

Methods	СРТ	Charges
Birth Control Pills (BCPs)	S4993	\$14.00
Depo Provera 150 mg	J3490U8	\$60.00
Diaphragm / Cervical Cap		\$22.00
Implant Nexplanon	J7307	\$867.00
IUD Mirena	J7302	\$768.00
IUD Paraguard	J7300	\$673.00
IUD Skyla	J7301	\$997.00
Plan B One Step	J3490U5	\$21.00
Ella Emergency Contraceptive	J3490U6	\$37.00

Hormonal Patch (quantity=1)	J7304	\$36.00
NuvaRing (quantity=1)	J7303	\$16.25

**Table 3: RSH Procedures and Supplies** 

Table 5: North Toccaules and Supplies		
Procedures	CPT	Charges
Colpo w/biopsy of the cervix & endocervical curettage	57454AG	\$175.00
Colpo with biopsy cervix	57455AG	\$160.00
Colpo w/o biopsy	57452AG	\$107.00
Cautery cervix electro/thermal	57510AG	\$92.00
Cryosurgery/cautery cervix	57511AG	\$103.00
Cervical biopsy	57500AG	\$58.00
Endometrial sampling	58100AG	\$107.00
Diaphragm/cap fitting	57170AG	\$62.00
IUD insertion	58300AG	\$168.00
IUD removal	58301AG	\$89.00
Implant insertion	11981AG	\$209.00
Implant removal	11976AG	\$155.00
Implant removal & reinsertion	11977AG	\$189.00
Lesion destruction cryo (anal)*	46916AG	\$94.00
Lesion destruction chem (anal)*	46900AG	\$94.00
Lesion destruction - chem (penile)	54050AG	\$87.00
Lesion destruction - cryo (penile)	54056AG	\$95.00
Lesion destruction (vulval)	56501AG	\$111.00
Lesion destruction (vaginal)	57061AG	\$87.00

**Table 4: RSH Supplies** 

Supplies	СРТ	Charges
Colpo w/biopsy & ECC supplies	57454UA	\$25.00
Colpo with biopsy supplies	57455UA	\$25.00

	1	İ
Colpo w/o bx supplies	57452UA	\$25.00
Cryo supplies	57511UA	\$6.00
Cervical biopsy supplies	57500UA	\$25.00
Endometrial sample supplies	58100UA	\$25.00
IUD insertion supplies	58300UA	\$10.00
IUD removal supplies	58301UA	\$10.00
Implant removal supplies	11976UA	\$12.00
Lesion destruction supplies (anal)*	54050UA	\$5.00
Lesion dest. supplies - chem (pen)	54050UA	\$5.00
Lesion dest. Supplies - cryo (pen)	54056UA	\$5.00
Lesion destruction supplies (vulv)	56501UA	\$10.00
Lesion destruction supplies (vag)	57061UA	\$10.00

Table 5: RSH Internal Laboratory Tests

RSH Internal Labs	СРТ	Charges
Urine pregnancy test	81025	\$12.00
pH, body fluid, NOS	83986TC	\$10.00
Hemoglobin	85018TC	\$16.00
Urine dip stick	81002TC	\$7.00
Wet mount	Q0111TC	\$24.00
HIV I/II Rapid	86703QW	\$16.00
Collect & handle venipuncture blood specimen	99000	\$15.00

**Table 6: RSH External Laboratory Tests\*** 

Table 6: Nort External Eaboratory Tests			
RSH External Labs**	СРТ	Charges	
CT, RNA, TMA, Urogen	87491	\$28.00	
GC, RNA, TMA, Urogen	87591	\$28.00	
CT culture	87110	\$26.00	
GC culture	87081	\$15.00	

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Cult, HSV+typing	87255	\$13.00
Herpes culture w/ reflex to type	87252	\$14.00
HSV types 1&2 Reflex for pos HSV	87140	\$92.00
RPR	86592	\$5.00
RPR titer	86593	\$13.00
TPPA (reflex) for positive RPR	86781	\$7.00
CYTYC PAP & RVW	88175	\$35.00
HPV RNA HR E6/E7 TMA	87624	\$49.00
Urine culture	87086	\$9.00
Glucose (fasting)	82947	\$5.00
Lipid profile	80061	\$9.00
HIV-1/2 Antigen and Antibodies, 4th gen, w/reflexes	87389	\$16.00
Virology-HIV2 Ab EIA	86702	\$54.00
CT RNA, TMA Rectal	87491	\$28.00
GC RNA, TMA Rectal	87591	\$28.00
GC RNA, TMA Throat	87591	\$28.00
Trichomonas Vag RNA, QL	87661	\$156.00
Hemoglobin	85018	\$5.00
Hematocrit	85014	\$5.00
CBC (H/H, RBC, WBC, PLT) (DIFF/PLT)	85025	\$5.00
Glucose (fasting)	82947	\$5.00
Lipid profile	80061	\$9.00

<sup>\*</sup>Quest charges to COB

**Table 7: RSH Medications** 

RSH Medications	СРТ	Per	Charges
Acyclovir, 400mg tabs	S5000	15	\$3.18
Acyclovir, 400mg tabs	S5000	30	\$3.35
Acyclovir, 400mg tabs	S5000	60	\$3.70

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Azithromycin, 500 mg tabs	Q0144	2	\$3.94
Azithromycin, 1 gm pkt	Q0144	1	\$9.73
Cefixime, 400mg tabs	S5000	1	\$12.06
Ceftriaxone (Rocephin) 250mg inj	J0696	1	\$5.27
Ciprofloxacin, 250 mg tabs	S5000	6	\$3.56
Clotrimazole Cream 1%, 15 gm tube	S5000	1	\$2.53
Clotrimazole Cream 1%, 45 gm tube	S5000	1	\$4.46
Doxycycline, 100mg tabs	S5000	14	\$3.25
Doxycycline, 100mg tabs	S5000	28	\$3.50
Estradiol, .5 mg tabs	S5000	10	\$3.36
Estradiol, .5 mg tabs	S5000	20	\$3.72
Fluconazole, 150mg tabs	S5000	1	\$3.73
HPV vaccine	90649	1	\$225.00
Imiquimod (Aldara 5%), .25 gm packets	S5001	12	\$12.58
Metronidazole, 500mg tabs	S5000	4	\$3.15
Metronidazole, 500mg tabs	S5000	14	\$3.54
Metronidazole, 500mg tabs	S5000	28	\$4.07
Metronidazole Gel (Metrogel), 0.75% 70 gm tube	S5001	1	\$14.17
Miconazole cream 2%, 15 gm tube	S5000	1	\$6.00
Naproxen, 500 mg	80329	10	\$3.51
Penicillin (Bicillin) 1.2MUs inj	J0561	24	\$4.66
Septra (SMX/TMP), 800/160 mg tabs	S5000	6	\$3.29

**Table 8: TB Skin Testing** 

Federal Povery Levels	СРТ	Charges
0% - 100%	86580	\$9.00
101% - 125%	86580	\$15.00
126% - 150%	86580	\$20.00
151% - 200%	86580	\$24.00

201% - 225%	86580	\$30.00
226% - 250%	86580	\$32.00
over 250%	86580	\$37.00

<sup>\*</sup>Add'l discount applies 2 or more members of a household receive IZ or TB services during the same visit.

Table 9: TB Services - Office Visits & Exams

TB Office Visit/Exam	СРТ	Charges
New Patient Brief Exam	99201	\$60.00
New Patient Limited	99202	\$91.00
New Patient Intermediate	99203	\$152.00
New Patient Comprehensive	99204	\$180.00
New Patient Complex	99205	\$218.00
Established Pt Minimal	99211	\$35.00
Established Pt Brief	99212	\$49.00
Established Pt Limited	99213	\$63.00
Established Pt Intermediate	99214	\$98.00
Established Pt – Comprehensive	99215	\$153.00

**Table 10: TB Services - Internal Labs** 

TB Internal Labs	СРТ	Charges
Urine pregnancy test	81025	\$12.00
Urine dip stick	81002TC	\$7.00
Collect & handle blood specimen	99000	\$15.00

Table 11: TB Services - External Labs & Radiology

TB External Labs* & Radiology	СРТ	Charges
CBC, complete w/ diff	85025	\$5.00
Hep B surface antigen	87340	\$6.00
Hep C antibody	86803	\$6.00

Hepatic function	80076	\$4.00
HIV-1/2 Antigen and Antibodies, 4th gen, w/reflexes	87389	\$16.00
Metabolic panel, comprehensive	80053	\$6.00
Metabolic panel, basic	80048	\$5.00
Quantiferon	86480	\$51.00
Sputum induction		\$329.00
Sputum smear & culture (x3)	87070	\$37.00
X-ray, chest	71010	\$21.00

<sup>\*</sup>Quest charges to COB

**Table 12: TB Services - Medications** 

TB Medications	Per	Charges
Isoniazid, 300mg tabs	30	\$2.00
Rifampin, 300mg tabs	60	\$9.99
Pyrazinamide, 500mg tabs	90	\$117.47
Ethambutol, 400mg tabs	90	\$19.64
Pyridoxine, 50mg tabs	30	\$2.38

Attachment 2 List of Existing Public Health Clinic Charges and Proposed Charges

**Table 1: RSH Office Visits and Exams** 

Table 1. Non onice visits and Exe	1		
Office Visit / Exam	СРТ	Charges	Proposed
New Patient Brief Exam	99201	\$49.00	\$60.00
New Patient Limited	99202	\$91.00	\$91.00
New Patient Intermediate	99203	\$152.00	\$152.00
New Patient Comprehensive	99204	\$178.00	\$180.00
New Patient Complex	99205	\$218.00	\$218.00
Established Pt Minimal	99211	\$35.00	\$35.00
Established Pt Brief	99212	\$49.00	\$49.00
Established Pt Limited	99213	\$63.00	\$63.00
Established Pt Intermediate	99214	\$96.00	\$98.00
Established Pt – Comprehensive	99215	\$153.00	\$153.00
Counseling 15 minutes	99401	\$29.00	\$29.00
Counseling 30 minutes	99402	\$44.00	\$44.00
Counseling 45 minutes	99403	\$58.00	\$58.00

**Table 2: RSH Contraceptive Methods** 

Table 2. Not Fortiadoptive metrodo				
Methods	СРТ	Charges	Proposed	
Birth Control Pills (BCPs)	S4993	\$14.00	\$14.00	
Depo Provera 150 mg	J3490U8	\$62.00	\$60.00	
Diaphragm / Cervical Cap		\$22.00	\$22.00	
Implant Nexplanon	J7307	\$927.00	\$867.00	
IUD Mirena	J7302	\$752.00	\$768.00	
IUD Paraguard	J7300	\$694.00	\$673.00	
IUD Skyla	J7301	\$932.00	\$997.00	
Plan B One Step	J3490U5	\$25.00	\$21.00	
Ella Emergency Contraceptive	J3490U6	\$25.00	\$37.00	
Hormonal Patch (quantity=1)	J7304	\$32.00	\$36.00	

NuvaRing (quantity=1)	J7303	\$46.00	\$16.25
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**Table 3: RSH Procedures and Supplies** 

Table 3: RSH Procedures and Supplies					
Procedures	СРТ	Charges	Proposed		
Colpo w/biopsy of the cervix & endocervical curettage	57454AG	\$175.00	\$175.00		
Colpo with biopsy cervix	57455AG	\$160.00	\$160.00		
Colpo w/o biopsy	57452AG	\$107.00	\$107.00		
Cautery cervix electro/thermal	57510AG	\$92.00	\$92.00		
Cryosurgery/cautery cervix	57511AG	\$103.00	\$103.00		
Cervical biopsy	57500AG	\$58.00	\$58.00		
Endometrial sampling	58100AG	\$107.00	\$107.00		
Diaphragm/cap fitting	57170AG	\$62.00	\$62.00		
IUD insertion	58300AG	\$168.00	\$168.00		
IUD removal	58301AG	\$89.00	\$89.00		
Implant insertion	11981AG	\$209.00	\$209.00		
Implant removal	11976AG	\$155.00	\$155.00		
Implant removal & reinsertion	11977AG	\$189.00	\$189.00		
Lesion destruction cryo (anal)*	46916AG	\$94.00	\$94.00		
Lesion destruction chem (anal)*	46900AG	\$94.00	\$94.00		
Lesion destruction - chem (penile)	54050AG	\$87.00	\$87.00		
Lesion destruction - cryo (penile)	54056AG	\$95.00	\$95.00		
Lesion destruction (vulval)	56501AG	\$111.00	\$111.00		
Lesion destruction (vaginal)	57061AG	\$87.00	\$87.00		

Table 4: RSH Supplies

Supplies	СРТ	Charges	Proposed
Colpo w/biopsy & ECC supplies	57454UA	\$25.00	\$25.00
Colpo with biopsy supplies	57455UA	\$25.00	\$25.00
Colpo w/o bx supplies	57452UA	\$25.00	\$25.00

Cryo supplies	57511UA	\$25.00	\$6.00
Cervical biopsy supplies	57500UA	\$25.00	\$25.00
Endometrial sample supplies	58100UA	\$25.00	\$25.00
IUD insertion supplies	58300UA	\$25.00	\$10.00
IUD removal supplies	58301UA	\$19.00	\$10.00
Implant removal supplies	11976UA	\$42.00	\$12.00
Implant insert supplies	11981UA	\$45.00	Discontinued
Lesion destruction supplies (anal)*	54050UA	\$10.00	\$5.00
Lesion dest. supplies - chem (pen)	54050UA	\$10.00	\$5.00
Lesion dest. Supplies - cryo (pen)	54056UA	\$10.00	\$5.00
Lesion destruction supplies (vulv)	56501UA	\$15.00	\$10.00
Lesion destruction supplies (vag)	57061UA	\$15.00	\$10.00

**Table 5: RSH Internal Laboratory Tests** 

RSH Internal Labs	СРТ	Charges	Proposed
Urine pregnancy test	81025	\$12.00	\$12.00
pH, body fluid, NOS	83986TC	n/a	\$10.00
Hemoglobin	85018TC	\$16.00	\$16.00
Urine dip stick	81002TC	\$7.00	\$7.00
Wet mount	Q0111TC	\$24.00	\$24.00
HIV I/II Rapid	86703QW	\$16.00	\$16.00
Collect & handle venipuncture blood		<b>A</b> 1 = 0.0	
specimen	99000	\$15.00	\$15.00

Table 6: RSH External Laboratory Tests\*

RSH External Labs**	СРТ	Charges	Proposed
CT, RNA, TMA, Urogen	87491	\$28.00	\$28.00
GC, RNA, TMA, Urogen	87591	\$28.00	\$28.00
CT culture	87110	\$26.00	\$26.00
GC culture	87081	\$15.00	\$15.00

I	1 1		
Cult, HSV+typing	87255	\$13.00	\$13.00
Herpes culture w/ reflex to type	87252	\$14.00	\$14.00
HSV types 1&2 Reflex for pos HSV	87140	\$92.00	\$92.00
RPR	86592	\$5.00	\$5.00
RPR titer	86593	\$13.00	\$13.00
TPPA (reflex) for positive RPR	86781	\$7.00	\$7.00
Pap, thin layer CYTYC PAP & RVW	88175	\$35.00	\$35.00
High Risk HPV	87621	\$49.00	Discontinued
HPV RNA HR E6/E7 TMA	87624	n/a	\$49.00
Urine culture	87086	\$9.00	\$9.00
Glucose (fasting)	82947	\$5.00	\$5.00
Lipid profile	80061	\$9.00	\$9.00
HIV-1/2 Antigen and Antibodies, 4th gen, w/reflexes	87389	\$16.00	\$16.00
Virology-HIV2 Ab EIA	86702	\$54.00	\$54.00
CT RNA, TMA Rectal	87491	\$28.00	\$28.00
GC RNA, TMA Rectal	87591	\$28.00	\$28.00
GC RNA, TMA Throat	87591	\$28.00	\$28.00
Trichomonas Vag RNA, QL	87661	n/a	\$156.00
Hemoglobin	85018	n/a	\$5.00
Hematocrit	85014	n/a	\$5.00
CBC (H/H, RBC, WBC, PLT) (DIFF/PLT	85025	n/a	\$5.00
Glucose (fasting)	82947	\$5.00	\$5.00
Lipid profile	80061	\$9.00	\$9.00

# \*Quest charges to COB

**Table 7: RSH Medications** 

RSH Medications	СРТ	Per	Charges	Proposed
Acyclovir, 400mg tabs	S5000	15	\$3.98	\$3.18
Acyclovir, 400mg tabs	S5000	30	\$4.97	\$3.35

Acyclovir, 400mg tabs	S5000	60	\$6.94	\$3.70
Azithromycin, 500 mg tabs	Q0144	2	\$3.64	\$3.94
Azithromycin, 1 gm pkt	Q0144	1	n/a	\$9.73
Cefixime, 400mg tabs	S5000	1	\$17.17	\$12.06
Ceftriaxone (Rocephin) 250mg inj	J0696	1	\$6.03	\$5.27
Ciprofloxacin, 250 mg tabs	S5000	6	\$3.32	\$3.56
Clotrimazole Cream 1%, 15 gm tube	S5000	1	n/a	\$2.53
Clotrimazole Cream 1%, 45 gm tube	S5000	1	\$4.62	\$4.46
Doxycycline, 100mg tabs	S5000	14	\$16.46	\$3.25
Doxycycline, 100mg tabs	S5000	28	\$29.92	\$3.50
Estradiol, .5 mg tabs	S5000	10	n/a	\$3.36
Estradiol, .5 mg tabs	S5000	20	n/a	\$3.72
Fluconazole, 150mg tabs	S5000	1	\$3.15	\$3.73
HPV vaccine	90649	1	n/a	\$225.00
Imiquimod (Aldara 5%), .25 gm packets	S5001	12	\$2.12	\$12.58
Metronidazole, 500mg tabs	S5000	4	\$3.53	\$3.15
Metronidazole, 500mg tabs	S5000	14	\$4.82	\$3.54
Metronidazole, 500mg tabs	S5000	28	\$6.64	\$4.07
Metronidazole Gel (Metrogel), 0.75% 70 gm tube	S5001	1	\$2.71	\$14.17
Miconazole cream 2%, 15 gm tube	S5000	1	\$3.86	\$6.00
Naproxen, 500 mg	80329	10	n/a	\$3.51
Penicillin (Bicillin) 1.2MUs inj	J0561	24	\$9.30	\$4.66
Septra (SMX/TMP), 800/160 mg tabs	S5000	6	\$3.36	\$3.29
Terconazole .8% Vag Cream, 20 gm	S5000	4	\$21.00	Discontinued

Table 8: TB Skin Testing

Federal Povery Levels	СРТ	Charges	Proposed
0% - 100%	86580	\$9.00	\$9.00
101% - 125%	86580	\$15.00	\$15.00

126% - 150%	86580	\$20.00	\$20.00
151% - 200%	86580	\$24.00	\$24.00
201% - 225%	86580	\$30.00	\$30.00
226% - 250%	86580	\$32.00	\$32.00
over 250%	86580	\$37.00	\$37.00

<sup>\*</sup>Add'l discount applies 2 or more members of a household receive IZ or TB services during the same visit.

Table 9: TB Services - Office Visits & Exams

TB Office Visit/Exam	СРТ	Charges	Proposed
New Patient Brief Exam	99201	\$49.00	\$60.00
New Patient Limited	99202	\$91.00	\$91.00
New Patient Intermediate	99203	\$152.00	\$152.00
New Patient Comprehensive	99204	\$178.00	\$180.00
New Patient Complex	99205	\$218.00	\$218.00
Established Pt Minimal	99211	\$35.00	\$35.00
Established Pt Brief	99212	\$49.00	\$49.00
Established Pt Limited	99213	\$63.00	\$63.00
Established Pt Intermediate	99214	\$96.00	\$98.00
Established Pt – Comprehensive	99215	\$153.00	\$153.00

**Table 10: TB Services - Internal Labs** 

TB Internal Labs	СРТ	Charges	Proposed
Urine pregnancy test	81025	\$12.00	\$12.00
Urine dip stick	81002TC	\$7.00	\$7.00
Collect & handle blood specimen	99000	\$15.00	\$15.00

Table 11: TB Services - External Labs & Radiology

TB External Labs* & Radiology	СРТ	Charges	Proposed
CBC, complete w/ diff	85025	\$5.00	\$5.00
Hep B surface antigen	87340	\$6.00	\$6.00

Hep C antibody	86803	\$6.00	\$6.00
Hepatic function	80076	\$4.00	\$4.00
HIV-1/2 Antigen and Antibodies, 4th gen, w/reflexes	87389	\$16.00	\$16.00
Metabolic panel, comprehensive	80053	\$6.00	\$6.00
Metabolic panel, basic	80048	\$5.00	\$5.00
Quantiferon	86480	\$51.00	\$51.00
Sputum induction		\$329.00	\$329.00
Sputum smear & culture (x3)	87070	\$37.00	\$37.00
X-ray, chest	71010	\$21.00	\$21.00

<sup>\*</sup>Quest charges to COB

Table 12: TB Services - Medications

TB Medications	Per	Charges	Proposed
Isoniazid, 300mg tabs	30	\$3.00	\$2.00
Isoniazid 100mg tabs	100	<del>\$3.00</del>	Discontinued
Rifampin, 300mg tabs	60	\$78.00	\$9.99
Pyrazinamide, 500mg tabs	90	\$47.00	\$117.47
Ethambutol, 400mg tabs	90	\$87.00	\$19.64
Pyridoxine, 50mg tabs	30	\$2.00	\$2.38

# NOTICE OF PUBLIC HEARING BERKELEY CITY COUNCIL

### FEES: PUBLIC HEALTH CLINICAL SERVICES

Notice is hereby given by the City Council of the City of Berkeley that a public hearing will be conducted by said city council of the City of Berkeley at which time and place all persons may attend and be heard upon the following:

The Department of Health, Housing, and Community Services is proposing to increase, and in some cases decrease, fees for medical services, medications and laboratory tests effective July 1, 2019. The Department of Health, Housing and Community Services operates the Ann Chandler Public Health Clinic at 830 University Avenue. The Ann Chandler Public Health Clinic has offered free and low cost public health services since 1908.

#### **Current Fees**

### **Proposed Fees**

See Tables 1-12 below

See Tables 1-12 below

The hearing will be held on May 14, 2019 at 6:00 p.m. in the School District Board Room, 1231 Addison Street.

For further information, please contact Alvan Quamina, Health, Housing, and Community Services at (510) 981-5314.

A copy of the agenda material for this hearing will be available on the City's website at <a href="https://www.CityofBerkeley.info">www.CityofBerkeley.info</a> as of **May 2, 2019.** 

Written comments should be mailed or delivered directly to the <u>City Clerk, 2180 Milvia Street, Berkeley, CA 94704</u>, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record. If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or clerk@cityofberkeley.info for further information.

If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Berkeley at, or prior to, the public hearing. Background information concerning this proposal will be available at the City Clerk Department and posted on the City of Berkeley webpage at least 12 days prior to the public hearing.

Published:	May 3 and May 10, 2019 - The Berkeley Voice
posted at the	ify that the Notice for this Public Hearing of the Berkeley City Council was e display case located near the walkway in front of Council Chambers, 2134 r King Jr. Way, as well as on the City's website, on May 2, 2019.
Mark Num	nainville, City Clerk

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# List of Existing Public Health Clinic Charges and Proposed Charges

**Table 1: RSH Office Visits and Exams** 

Office Visit / Exam	СРТ	Charges	Proposed
New Patient Brief Exam	99201	\$49.00	\$60.00
New Patient Limited	99202	\$91.00	\$91.00
New Patient Intermediate	99203	\$152.00	\$152.00
New Patient Comprehensive	99204	\$178.00	\$180.00
New Patient Complex	99205	\$218.00	\$218.00
Established Pt Minimal	99211	\$35.00	\$35.00
Established Pt Brief	99212	\$49.00	\$49.00
Established Pt Limited	99213	\$63.00	\$63.00
Established Pt Intermediate	99214	\$96.00	\$98.00
Established Pt – Comprehensive	99215	\$153.00	\$153.00
Counseling 15 minutes	99401	\$29.00	\$29.00
Counseling 30 minutes	99402	\$44.00	\$44.00
Counseling 45 minutes	99403	\$58.00	\$58.00

**Table 2: RSH Contraceptive Methods** 

Methods	СРТ	Charges	Proposed
Birth Control Pills (BCPs)	S4993	\$14.00	\$14.00
Depo Provera 150 mg	J3490U8	\$62.00	\$60.00
Diaphragm / Cervical Cap		\$22.00	\$22.00
Implant Nexplanon	J7307	\$927.00	\$867.00
IUD Mirena	J7302	\$752.00	\$768.00
IUD Paraguard	J7300	\$694.00	\$673.00
IUD Skyla	J7301	\$932.00	\$997.00
Plan B One Step	J3490U5	\$25.00	\$21.00
Ella Emergency Contraceptive	J3490U6	\$25.00	\$37.00
Hormonal Patch (quantity=1)	J7304	\$32.00	\$36.00
NuvaRing (quantity=1)	J7303	\$46.00	\$16.25

**Table 3: RSH Procedures and Supplies** 

Page 1 and Procedures and Supplies	OPT	01	<b>D</b>
Procedures	CPT	Charges	Proposed
Colpo w/biopsy of the cervix & endocervical curettage	57454AG	\$175.00	\$175.00
Colpo with biopsy cervix	57455AG	\$160.00	\$160.00
Colpo w/o biopsy	57452AG	\$107.00	\$107.00
Cautery cervix electro/thermal	57510AG	\$92.00	\$92.00
Cryosurgery/cautery cervix	57511AG	\$103.00	\$103.00
Cervical biopsy	57500AG	\$58.00	\$58.00
Endometrial sampling	58100AG	\$107.00	\$107.00
Diaphragm/cap fitting	57170AG	\$62.00	\$62.00
IUD insertion	58300AG	\$168.00	\$168.00
IUD removal	58301AG	\$89.00	\$89.00
Implant insertion	11981AG	\$209.00	\$209.00
Implant removal	11976AG	\$155.00	\$155.00
Implant removal & reinsertion	11977AG	\$189.00	\$189.00
Lesion destruction cryo (anal)*	46916AG	\$94.00	\$94.00
Lesion destruction chem (anal)*	46900AG	\$94.00	\$94.00
Lesion destruction - chem (penile)	54050AG	\$87.00	\$87.00
Lesion destruction - cryo (penile)	54056AG	\$95.00	\$95.00
Lesion destruction (vulval)	56501AG	\$111.00	\$111.00
Lesion destruction (vaginal)	57061AG	\$87.00	\$87.00

**Table 4: RSH Supplies** 

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Supplies	CPT	Charges	Proposed
Colpo w/biopsy & ECC supplies	57454UA	\$25.00	\$25.00
Colpo with biopsy supplies	57455UA	\$25.00	\$25.00
Colpo w/o bx supplies	57452UA	\$25.00	\$25.00
Cryo supplies	57511UA	\$25.00	\$6.00

Cervical biopsy supplies	57500UA	\$25.00	\$25.00
Endometrial sample supplies	58100UA	\$25.00	\$25.00
IUD insertion supplies	58300UA	\$25.00	\$10.00
IUD removal supplies	58301UA	\$19.00	\$10.00
Implant removal supplies	11976UA	\$42.00	\$12.00
Implant insert supplies	11981UA	<del>\$45.00</del>	Discontinued
Lesion destruction supplies (anal)*	54050UA	\$10.00	\$5.00
Lesion dest. supplies - chem (pen)	54050UA	\$10.00	\$5.00
Lesion dest. Supplies - cryo (pen)	54056UA	\$10.00	\$5.00
Lesion destruction supplies (vulv)	56501UA	\$15.00	\$10.00
Lesion destruction supplies (vag)	57061UA	\$15.00	\$10.00

**Table 5: RSH Internal Laboratory Tests** 

RSH Internal Labs	СРТ	Charges	Proposed
Urine pregnancy test	81025	\$12.00	\$12.00
pH, body fluid, NOS	83986TC	n/a	\$10.00
Hemoglobin	85018TC	\$16.00	\$16.00
Urine dip stick	81002TC	\$7.00	\$7.00
Wet mount	Q0111TC	\$24.00	\$24.00
HIV I/II Rapid	86703QW	\$16.00	\$16.00
Collect & handle venipuncture blood specimen	99000	\$15.00	\$15.00

Table 6: RSH External Laboratory Tests\*

RSH External Labs**	СРТ	Charges	Proposed
CT, RNA, TMA, Urogen	87491	\$28.00	\$28.00
GC, RNA, TMA, Urogen	87591	\$28.00	\$28.00
CT culture	87110	\$26.00	\$26.00
GC culture	87081	\$15.00	\$15.00
Cult, HSV+typing	87255	\$13.00	\$13.00

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Herpes culture w/ reflex to type	87252	\$14.00	\$14.00
HSV types 1&2 Reflex for pos HSV	87140	\$92.00	\$92.00
RPR	86592	\$5.00	\$5.00
RPR titer	86593	\$13.00	\$13.00
TPPA (reflex) for positive RPR	86781	\$7.00	\$7.00
Pap, thin layer CYTYC PAP & RVW	88175	\$35.00	\$35.00
High Risk HPV	87621	\$49.00	Discontinued
HPV RNA HR E6/E7 TMA	87624	n/a	\$49.00
Urine culture	87086	\$9.00	\$9.00
Glucose (fasting)	82947	\$5.00	\$5.00
Lipid profile	80061	\$9.00	\$9.00
HIV-1/2 Antigen and Antibodies, 4th gen, w/reflexes	87389	\$16.00	\$16.00
Virology-HIV2 Ab EIA	86702	\$54.00	\$54.00
CT RNA, TMA Rectal	87491	\$28.00	\$28.00
GC RNA, TMA Rectal	87591	\$28.00	\$28.00
GC RNA, TMA Throat	87591	\$28.00	\$28.00
Trichomonas Vag RNA, QL	87661	n/a	\$156.00
Hemoglobin	85018	n/a	\$5.00
Hematocrit	85014	n/a	\$5.00
CBC (H/H, RBC, WBC, PLT) (DIFF/PLT)	85025	n/a	\$5.00
Glucose (fasting)	82947	\$5.00	\$5.00
Lipid profile	80061	\$9.00	\$9.00

# \*Quest charges to COB

**Table 7: RSH Medications** 

RSH Medications	СРТ	Per	Charges	Proposed
Acyclovir, 400mg tabs	S5000	15	\$3.98	\$3.18
Acyclovir, 400mg tabs	S5000	30	\$4.97	\$3.35
Acyclovir, 400mg tabs	S5000	60	\$6.94	\$3.70

Azithromycin, 500 mg tabs	Q0144	2	\$3.64	\$3.94
Azithromycin, 1 gm pkt	Q0144	1	n/a	\$9.73
Cefixime, 400mg tabs	S5000	1	\$17.17	\$12.06
Ceftriaxone (Rocephin) 250mg inj	J0696	1	\$6.03	\$5.27
Ciprofloxacin, 250 mg tabs	S5000	6	\$3.32	\$3.56
Clotrimazole Cream 1%, 15 gm tube	S5000	1	n/a	\$2.53
Clotrimazole Cream 1%, 45 gm tube	S5000	1	\$4.62	\$4.46
Doxycycline, 100mg tabs	S5000	14	\$16.46	\$3.25
Doxycycline, 100mg tabs	S5000	28	\$29.92	\$3.50
Estradiol, .5 mg tabs	S5000	10	n/a	\$3.36
Estradiol, .5 mg tabs	S5000	20	n/a	\$3.72
Fluconazole, 150mg tabs	S5000	1	\$3.15	\$3.73
HPV vaccine	90649	1	n/a	\$225.00
Imiquimod (Aldara 5%), .25 gm packets	S5001	12	\$2.12	\$12.58
Metronidazole, 500mg tabs	S5000	4	\$3.53	\$3.15
Metronidazole, 500mg tabs	S5000	14	\$4.82	\$3.54
Metronidazole, 500mg tabs	S5000	28	\$6.64	\$4.07
Metronidazole Gel (Metrogel), 0.75% 70 gm tube	S5001	1	\$2.71	\$14.17
Miconazole cream 2%, 15 gm tube	S5000	1	\$3.86	\$6.00
Naproxen, 500 mg	80329	10	n/a	\$3.51
Penicillin (Bicillin) 1.2MUs inj	J0561	24	\$9.30	\$4.66
Septra (SMX/TMP), 800/160 mg tabs	S5000	6	\$3.36	\$3.29
Terconazole .8% Vag Cream, 20 gm	S5000	4	<del>\$21.00</del>	Discontinued

Table 8: TB Skin Testing

Federal Povery Levels	СРТ	Charges	Proposed
0% - 100%	86580	\$9.00	\$9.00
101% - 125%	86580	\$15.00	\$15.00
126% - 150%	86580	\$20.00	\$20.00

151% - 200%	86580	\$24.00	\$24.00
201% - 225%	86580	\$30.00	\$30.00
226% - 250%	86580	\$32.00	\$32.00
over 250%	86580	\$37.00	\$37.00

<sup>\*</sup>Add'l discount applies 2 or more members of a household receive IZ or TB services during the same visit.

Table 9: TB Services - Office Visits & Exams

TB Office Visit/Exam	СРТ	Charges	Proposed
New Patient Brief Exam	99201	\$49.00	\$60.00
New Patient Limited	99202	\$91.00	\$91.00
New Patient Intermediate	99203	\$152.00	\$152.00
New Patient Comprehensive	99204	\$178.00	\$180.00
New Patient Complex	99205	\$218.00	\$218.00
Established Pt Minimal	99211	\$35.00	\$35.00
Established Pt Brief	99212	\$49.00	\$49.00
Established Pt Limited	99213	\$63.00	\$63.00
Established Pt Intermediate	99214	\$96.00	\$98.00
Established Pt – Comprehensive	99215	\$153.00	\$153.00

**Table 10: TB Services - Internal Labs** 

TB Internal Labs	СРТ	Charges	Proposed
Urine pregnancy test	81025	\$12.00	\$12.00
Urine dip stick	81002TC	\$7.00	\$7.00
Collect & handle blood specimen	99000	\$15.00	\$15.00

Table 11: TB Services - External Labs & Radiology

TB External Labs* & Radiology	СРТ	Charges	Proposed
CBC, complete w/ diff	85025	\$5.00	\$5.00
Hep B surface antigen	87340	\$6.00	\$6.00
Hep C antibody	86803	\$6.00	\$6.00

Hepatic function	80076	\$4.00	\$4.00
HIV-1/2 Antigen and Antibodies, 4th gen,			
w/reflexes	87389	\$16.00	\$16.00
Metabolic panel, comprehensive	80053	\$6.00	\$6.00
Metabolic panel, basic	80048	\$5.00	\$5.00
Quantiferon	86480	\$51.00	\$51.00
Sputum induction		\$329.00	\$329.00
Sputum smear & culture (x3)	87070	\$37.00	\$37.00
X-ray, chest	71010	\$21.00	\$21.00

<sup>\*</sup>Quest charges to COB

**Table 12: TB Services - Medications** 

TB Medications	Per	Charges	Proposed
Isoniazid, 300mg tabs	30	\$3.00	\$2.00
Isoniazid 100mg tabs	100	<del>\$3.00</del>	Discontinued
Rifampin, 300mg tabs	60	\$78.00	\$9.99
Pyrazinamide, 500mg tabs	90	\$47.00	\$117.47
Ethambutol, 400mg tabs	90	\$87.00	\$19.64
Pyridoxine, 50mg tabs	30	\$2.00	\$2.38



Office of the City Manager

PUBLIC HEARING May 14, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Dave Brannigan, Fire Chief

Subject: Ambulance User Fee Adjustment

#### RECOMMENDATION

Conduct a public hearing and upon conclusion, adopt a Resolution adjusting the Ambulance User Fee to match Alameda County's approved ambulance user fee schedule made effective September 1, 2018, for the Cities of Alameda, Albany, Berkeley, and Piedmont. The increase would be included as an updated addendum to the Ambulance Provider Agreement, and rescinding Resolution 67,979–N.S.

### FISCAL IMPACTS OF RECOMMENDATION

The Alameda County Health Care Services Agency notified the City on October 25, 2018 that they had approved an increase in the Bundled Base Rate User Fee that may be charged by the County's 911 Ambulance Transport Service Provider. Under the terms of the of Berkeley's Emergency Medical Services Ambulance Transport Services Agreement, the City may increase its Bundled Base Rate to \$2,181.38, Mileage to \$50.71, Oxygen to \$167.91, and Treatment/Non-Transport to \$450.77 beginning September 1, 2018. The City will increase its rate effective July 1, 2019 and will not apply the increase retroactively. These adjustments account for the increased cost of ambulance transport, paramedic services, and medical equipment/supplies.

	Existing	Proposed (Effective July 1, 2019)	Change
Base Rate	\$2,054.00	\$2,181.38	6.18%
Mileage	\$48.81	\$50.71	3.89%
Oxygen	\$161.61	\$167.91	3.90%
Treatment / Non-Transport *	\$483.44	\$450.77	-6.76%

<sup>\*</sup>For patients who receive a medical intervention, such as intravenous medication administration, and subsequently refuse transport.

In FY 2018, the ambulance billing revenue collected was \$4.34 million. The current revenue projection with existing fees for FY 2019 is \$4 million based on annualized February to-date deposits. The FY 2019 to-date is showing a decreasing trend, even

with a consistent transport volume, because of higher deductible insurance plans, a higher number of transports reimbursed by Medicare & MediCal, and higher uncollectible rates. The proposed base rate increase would take effect on July 1, 2019.

Based on an estimated 7,000 transports per year, the newly proposed fee increase could increase the ambulance billing revenue by approximately \$75,000 a year.

In FY 2018, the Fire Department's Emergency Medical Services Division (EMS) expended \$13.0 million. \$3.0 million or 22.7% was funded by the General Fund. \$4.34 million or 33.3% was funded by ambulance fee collections. The collected fees were deposited into the General Fund.

#### **CURRENT SITUATION AND ITS EFFECTS**

Under the terms of the Alameda County Ambulance Provider Agreement contract, Alameda County Board of Supervisors is responsible for setting and approving any fees that are applicable to all contracted departments. The increases are either COLA or base rate adjustments. For the City of Berkeley, the last rate increase was approved by the City Council on May 16, 2017 (Resolution 67,979–N.S.); and the rate increase was made effective July 1, 2017.

Berkeley's FY 2018 payer mix was made up of 70.5% Medicare and MediCal, 16.5% private insurance, and 13.0% consisted of self-pay, auto insurance, workers compensation, and/or some other forms medical insurance. The proposed rate increase will not increase collections or reimbursement from Medicare and MediCal because their allowable reimbursements are capped below \$600 per transport. Private insurance is the only payer from which additional revenues could be collected under the proposed rate increase. However, higher deductible plans will increase patient liability which could negatively impact collections.

#### BACKGROUND

Alameda County EMS is responsible for the procurement of emergency ambulance services for the local EMS system. The Berkeley Fire Department has contracted with Alameda County as the emergency transport provider for Berkeley since 1977. Albany, Piedmont, Alameda City, and Paramedics Plus serves as the ambulance transport providers for other parts of Alameda County. The contract will expire on June 30, 2019 and a new contract is currently under negotiation. Under the current contract, all transport providers, including Berkeley, are in the Alameda County Emergency Medical Services District, and authorized by the Alameda County Board of Supervisors through individual service contracts. Since 1986, the Berkeley Fire Department has provided ambulance transport service at the Advanced Life Support (ALS) or paramedic level.

Under the terms of the Alameda County Ambulance Provider Agreement contract, Alameda County Board of Supervisors is responsible for setting and approving any fees that are applicable to all contracted agencies. The increases are either COLA or base rate adjustments.

## **ENVIRONMENTAL SUSTAINABILITY**

There are no identifiable environmental effects or opportunities associated with the action requested in this report.

### RATIONALE FOR RECOMMENDATION

The Berkeley Fire Department is seeking Council approval to increase the base rate for ambulance user fees to match those approved by Alameda County and made September 1, 2018. Presently, periodic rate increases helps to recoup increasing costs incurred for providing ambulance services.

Government Code Section 6062(a) dictates the manner of publication for fee increase public hearings.

## **ALTERNATIVE ACTIONS CONSIDERED**

Continue with the existing User Fee Schedule which was approved by the Alameda County Board of Supervisors and made effective November 1, 2016.

# **CONTACT PERSON**

Dave Brannigan, Fire Chief, Fire, 981-5500 Abe Roman, Deputy Fire Chief, 981-5502

#### Attachments:

- 1: Resolution
- 2: Public Hearing Notice

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

#### AMBULANCE USER FEE ADJUSTMENT

WHEREAS, the County of Alameda and the City of Berkeley have entered into an initial Ambulance provider Agreement dated June 1, 1984. The agreement will expire on June 30, 2019 and a new contract is currently under negotiation; and

WHEREAS, the County of Alameda Board of Supervisors sets the rates for emergency ambulance transport; and

WHEREAS, the revenue collected will be deposited into General Fund revenue account 010-6405-341-7900, and

WHEREAS, the County of Alameda Board of Supervisors established and approved the following new Contractor's User Fee schedule for ambulance transport providers. The rates were made effective September 1, 2018.

	Existing	New User Fee Schedule
Base Rate	\$2,054.50	\$2,181.38
Mileage	\$48.81	\$50.71
Oxygen	\$161.61	\$167.91
Treatment / Non-Transport	\$483.44	\$450.77

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the new ambulance user fee schedule is adopted in accordance with the rates established by the County of Alameda, effective July 1, 2019, as follows:

	User Fee Schedule
Base Rate	\$2,181.38
Mileage	\$50.71
Oxygen	\$167.91
Treatment / Non-Transport	\$450.77

BE IT FURTHER RESOLVED that Resolution No. 67,979-N.S. is rescinded, effective July 1, 2019.

# NOTICE OF PUBLIC HEARING BERKELEY CITY COUNCIL AMBULANCE USER FEE ADJUSTMENT

Notice is hereby given by the City Council of the City of Berkeley that a public hearing will be conducted by said city council of the City of Berkeley at which time and place all persons may attend and be heard upon the following:

The Fire Department is proposing to increase the Ambulance User Fee rates to match the ambulance transport provider fees set forth and approved by the County of Alameda.

In FY 2018, the Fire Department's Emergency Medical Services Division (EMS) expended \$13.0 million. \$3.0 million or 22.7% was funded by the General Fund. \$4.34 million or 33.3% was funded by ambulance fee collections. The projected FY 2019 ambulance fees is \$4.0 million. Collected ambulance fees are deposited into a General Fund revenue account.

The County of Alameda has established and approved a new base rate Contractor's User Fee schedule for ambulance transport providers effective September 1, 2018. The City of Berkeley fee increase would be effective July 1, 2019.

	Rates Approved by Alameda County and Made Effective November 1, 2016	Rates Approved by Alameda County and Made Effective September 1, 2018
Base Rate	\$2,054.50	\$2,181.38
Mileage	\$48.81	\$50.71
Oxygen	\$161.61	\$167.91
Treatment / Non-Transport	\$483.44	\$450.77

The hearing will be held on May 14, 2019 at 6:00 p.m. in the School District Board Room, 1231 Addison Street.

For further information, please contact Abe Roman, Deputy Fire Chief, at (510) 981-3473.

A copy of the staff report for this hearing will be available on the City's website at <a href="https://www.CityofBerkeley.info">www.CityofBerkeley.info</a> as of **May 2, 2019.** 

Written comments should be mailed or delivered directly to the <u>City Clerk, 2180 Milvia Street, Berkeley, CA 94704</u>, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become

#### Page 6 of 6

part of the public record. If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or clerk@cityofberkeley.info for further information.

If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Berkeley at, or prior to, the public hearing. Background information concerning this proposal will be available at the City Clerk Department and posted on the City of Berkeley webpage at least 10 days prior to the public hearing.

Published:	May 3 and May 10, 2019 - The Berkeley Voice Per Government Code 6062A
posted at the	ify that the Notice for this Public Hearing of the Berkeley City Council was e display case located near the walkway in front of the Maudelle Shirek Martin Luther King Jr. Way, as well as on the City's website, on May 2,
Mark Numair	ville, City Clerk



PUBLIC HEARING May 14, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Scott Ferris, Director, Parks Recreation and Waterfront

Subject: Selected Camp Program Fee Increases

#### RECOMMENDATION

Conduct a public hearing and upon conclusion, adopt a Resolution approving new fees and increasing current fees for select camp programs and rescinding Resolution No. 68,450-N.S. and all amendatory resolutions.

#### FISCAL IMPACTS OF RECOMMENDATION

The proposed new fees and fee increases will provide additional revenue to the Camps Fund which will offset the cost of delivering these programs. These new and increases to existing fees would cumulatively raise an estimated \$72,049 in annual revenue to the Camps Fund, of which an estimated \$38,197 would come from Echo Lake fee changes; and \$33,851 would come from Berkeley Day Camp fees. These fee increases help the City recover a greater share of the camps' operating costs, (see Table 1).

Table 1 - Impact of Fee Increases on the Camps Fund

FY 2020	Without fee increase	With fee increase	Change
Total Revenues*	\$917,082	\$989,130	\$72,049
Total Expenditures*	\$1,139,707	\$1,139,707	-
Deficit	(\$222,626)	(\$150,577)	

<sup>\*</sup>Excludes Berkeley Tuolumne Camp and Cazadero capital projects.

#### **CURRENT SITUATION AND ITS EFFECTS**

On May 15, 2018, Council adopted an updated Fee Schedule for the Recreation Division programs (Resolution No. 68,450-N.S.). The City periodically reviews all recreation fees in an effort to keep programs and facilities accessible to residents while accounting for increased costs to deliver those services.

The City awards scholarships to every applicant who meets the eligibility requirements, which include Berkeley residency. Income eligibility is based on the Federal Low-Income guidelines, and fee reduction is generally a 50% reduction in fees, though 100%

fee waivers are also available. In 2018, the City provided \$62,443 in fee waivers to Berkeley residents for Echo Lake and Berkeley Day Camp programs.

Fee changes are proposed to go into effect September 1, 2019.

#### **Camp Programs**

Costs to accommodate camp programs continue to exceed the revenue received by program fees. The City needs to recover a greater share of camp program costs since the loss of Berkeley Tuolumne Camp in the Rim Fire of 2013. The Camps Fund no longer has the capacity to subsidize programs. Fee increases are proposed to the following programs along with two new fee schedules. The proposed changes are detailed in Attachment 1, with fee comparisons in Attachment 2.

- Berkeley Echo Lake Youth Camp Fees -5 day session A 14% increase is proposed which would increase the resident rate from \$525 to \$600. The last fee increase was a 6.5% increase in 2017. Since that time, Echo Lake Camp program delivery and facility operation expenses have increased, due in large part to increases in the cost of part-time, seasonal labor, utilities, food, and online registration credit card transaction fees. Costs to accommodate camp programs continue to exceed fee revenue. This proposed increase would keep Echo Lake Youth Camp 5-day session fees in the mid-price range for comparable camps in the area. In recent years, demand for Youth Camp has exceeded space available and PRW retains a significant waiting list. See Attachment 2, Table 1 for fee comparisons.
- Berkeley Echo Lake Youth Camp Fee 7 day session (New Fee)— This is the initial adoption of a new fee for a 7-Day Echo Lake Youth Camp program. Echo Lake Youth Camp currently offers sessions of 5-days in length. Due to an increase in demand for extended stay overnight residential camp programs, staff intend to offer a new 7-Day length program beginning in FY 2020. This will allow for expanded program opportunities focused on environmental stewardship and out of camp experiences such as hiking, backpacking, and extended stay programs. This proposed rate is proportional to the 5-day rate, with both equivalent to \$120/day for residents. See Attachment 2, Table 1 for fee comparisons.
- Berkeley Echo Lake Camp Counselor-In-Training (CIT) Fee per 1 week session A 10% increase is proposed which would increase the resident fee from \$250 to \$275. The last fee increase was a 3% increase in 2017. Since that time, Echo Lake Camp program delivery and facility operation expenses have increased, due in large part to increases in the cost of part-time, seasonal labor, bus transportation, utilities, food, and online registration credit card transaction fees. Costs to accommodate camp programs continue to exceed fee revenue. See Attachment 2, Table 2 for fee comparisons.

- Berkeley Echo Lake Camp Counselor-In-Training (CIT) Fee (New Fee) per 2-week session In 2013, Berkeley Tuolumne Camp was substantially destroyed by the Rim Fire. As such, City of Berkeley Resident Camp operations shifted to Echo Lake Camp, which added a new offering of Camp sessions. Historically, Berkeley Tuolumne Camp offered a two-week CIT program. As we move closer to the rebuild of Berkeley Tuolumne Camp, it is necessary to develop our CIT programs in a way that will benefit future staff recruitment efforts for both Berkeley Echo Lake Camp and Berkeley Tuolumne Camp. The fee is proposed to be \$400 for residents, which represents a lower average cost than the 1-week CIT fee. However, by offering a 2-week CIT session, we will give our CIT participants the chance to gain more in-depth, quality job skills that will translate into quality camp staff candidates in the future. See Attachment 2, Table 2 for fee comparisons.
- Berkeley Echo Lake Family Camp Fee per day An increase of 10% is proposed which would increase the adult resident rate by \$10/day. The last fee increase was a 3% increase in 2017. Since that time, Echo Lake Family Camp program delivery and facility operation expenses have increased and are projected to increase over the next few years. These include significant increases to the cost of part-time seasonal labor, food, utilities, and overall camp operations. Costs to accommodate camp programs continue to exceed fee revenue. See Attachment 2, Table 3 for fee comparisons.
- Berkeley Echo Lake Group Rental Rates Fee per day An increase of 10% is proposed which would increase the resident rate by \$5/day for an adult. The last fee increase was a 3% increase in 2017. Since that time, Echo Lake Camp program delivery and facility operation expenses have increased, due in large part to increases in the cost of part-time, seasonal labor, food, utilities, and overall camp operations. Costs to accommodate camp programs continue to exceed fee revenue.
- Berkeley Day Camp Fee An increase of 15% is proposed which would increase the resident rate from \$174 to \$200 for a 5-day session. All program costs have increased, including employee wages and benefits, supplies, transportation, and snacks. Berkeley Day Camp continues to be one of the only outdoor-based adventure day camps in the area that provides camper transportation from convenient locations throughout the City. Even with this proposed fee increase, Berkeley Day Camp will continue to be one of the most affordable camps in the area. Costs to accommodate camp programs continue to exceed fee revenue. See Attachment 2, Table 4 for fee comparisons.

Attachment 1 shows the current vs. proposed fees.

#### **BACKGROUND**

All camp programs are run out of the Camp Fund which requires all expenditures be recovered by program revenue. An increase in fees is required to cover program

expenditures. The Camps Fund is required to be self-supporting and does not receive any revenue from the General Fund.

The proposed fees were brought before the regular meetings of the Children, Youth and Recreation Commission on April 22, 2019 and the Parks & Waterfront Commission on April 10, 2019.

#### **ENVIRONMENTAL SUSTAINABILITY**

The proposed fee increases will support sustainability in these camp programs which provide direct and indirect environmental benefits. Camp programs connect the community with the environment, emphasize the importance of environmental stewardship, and often teach youth and community members about our local environmental resources and how to preserve them.

### **CONTACT PERSON**

Christina Erickson, Deputy Director, 981-6703 Denise Brown, Youth and Recreation Services Manager, 981-6707

#### Attachments:

- 1. Recreation Fees: Current vs. Proposed
- 2. Fee Comparisons
- 3. Resolution
  - Exhibit A: Fee Schedule
- 4. Notice of Public Hearing

# **ATTACHMENT 1**

# Recreation Fee Schedule: Current vs. Proposed

Program Area	Unit of Measure	Resident (current fee)	Resident (proposed fee)	Non- Resident (current fee)	Non- Resident (proposed fee)
I. FACILITY RENTAL CHARGES					
<ol> <li>Room Rentals - Regular Hours (1 h James Kenney (JK) Live Oak (LO) F</li> </ol>				um)	
A. Youth, Senior, Disabled					
Regular Hours	Hour	\$41		\$49	
Non-Regular Hours	Hour	\$61		\$73	
B. All Other					
Auditorium (FA) & Social Hall (L0)					
Regular Hours	Hour	\$67		\$80	
Non-Regular Hours	Hour	\$82		\$98	
Fireside Room (LO) & Community Room (JK)					
Regular Hours	Hour	\$52		\$62	
Non-Regular Hours	Hour	\$67		\$80	
Game Room (FA, MLK) Arts & Crafts Room (FA, JK, LO) Meeting Room (JK, LO, MLK)					
Regular Hours	Hour	\$46		\$55	
Non-Regular Hours	Hour	\$62		\$74	
C. Multi Room Discount					
2nd room	Rental	-25%		-25%	
3rd room, each additional room	Rental	-50%		-50%	
D. Gym Rentals (JK, MLK)					
Regular Hours	Hour	\$64		\$77	
Non-Regular Hours		\$75		\$90	
E. Filming Fee					•
Parks and Facilities	½ Day	\$400		\$400	
	Full Day	\$800		\$800	

Program Area	Unit of Measure	Resident (current fee)	Resident (proposed fee)	Non- Resident (current fee)	Non- Resident (proposed fee)
F. Surcharges					
Table & Chair Set-Up	Rental	\$63		\$76	
Kitchen Use	Rental	\$86		\$103	
Small Storage Room	Month	\$21		\$25	
Large Storage Room	Month	\$31		\$37	
Stage Use w/Room Rental	Hour	\$26		\$31	
P/A system & staff operation	Hour	\$42		\$50	
Cleaning/Damage Deposit All Rentals (Refundable)	Rental	\$200		\$200	
2. City Athletic Fields					
A. Cedar Rose, Codornices, G Parks, Thousand Oaks	endale-LaLoma, (	Grove, James Ke	enney, Ohlon	e, San Pablo, V	Villard, Rosa
Youth non-profit leagues	2-Hours	\$36		\$43	
Adults, for-profits, private schools	2-Hours	\$72		\$86	
Maintenance Deposit		40% of fee			
B. Gabe's Fields at Harrison	Park, Natural Tur	f			
Youth non-profit leagues	2-Hours	\$29		\$35	
Adults, for-profits, private schools	2-Hours	\$72		\$86	
C. Gilman Fields, Natural Tu	ırf		I	<u> </u>	
Youth non-profit leagues	2-Hours	\$29		\$35	
Adults, for-profits, private schools	2-Hours	\$72		\$86	
D. Gilman Fields, Synthetic	Γurf		I	<u> </u>	
Youth non-profit leagues	2-Hours	\$40		\$48	
Adults, for-profits, private schools	2-Hours	\$91		\$109	
E. Sports Field User Fines (F	olicy Violations: Ap	oplicable to All At	⊥ hletic Fields)		
Playing on Closed Grass Fields	1 <sup>st</sup> Offense	\$250		\$250	
	2 <sup>nd</sup> Offense	\$500		\$500	
Running practices in main goal areas	1 <sup>st</sup> Offense within 12 mo	\$50		\$50	
	2 <sup>nd</sup> Offense within 12 mo	\$100		\$100	

Program Area	Unit of Measure	Resident (current fee)	Resident (proposed fee)	Non- Resident (current fee)	Non- Resident (proposed fee)
	3 <sup>rd</sup> Offense within 12 mo	\$200		\$200	
Dogs, Alcohol, Trash, Wheeled vehicles	Incident				
Field Monitor	Hourly	\$25		\$25	
F. Additional Rules (Applicate	ole to all athletic fiel	ds)			
Weekday slots used befo	re 3:30pm through	out the year are	discounted 50	%	
Weekday slots 5:30pm-7:	00pm are charged	as full two-hour	slot		
All other slots are pro-rate	ed in 30 minute incr	ements			
3. Skate Park Rental (only available A	M hours)				
<b>A. Morning Hours</b> (includes 2 staff members)	Hour	\$250		\$300	
<b>B. Birthday Party</b> (includes 2 staff members & lesson)	Hour	\$350		\$420	
Cleaning/Damage Deposit (refundable)	Rental	\$200		\$200	
4. Tennis Courts					
A. Day Use (All Courts): Cedar Rose Strawberry Creek, Willard	e, Grove, James Ke	nney, Live Oak,	Rose Garden	, Roy Oakes, Sa	an Pablo,
Adult	Hour	\$7		\$8	
Youth, Senior, Disabled	Hour	\$5		\$6	
B. Night Use/Lighted Courts: Ceda Willard	ır Rose, Grove, Jan	nes Kenney, Live	e Oak, San Pa	ablo, Strawberry	Creek,
Adult	Hour	\$10		\$12	
Youth, Senior, Disabled	Hour	\$9		\$11	
5. Swim Centers (1-hour minimum) Ki	ng, West Campus				
1-35 people	Hour	\$100		\$120	
36-70 people	Hour	\$145		\$174	
71-100 people	Hour	\$177		\$212	

Program Area	Unit of Measure	Resident (current fee)	Resident (proposed fee)	Non- Resident (current fee)	Non- Resident (proposed fee)
Cleaning/Damage Deposit (refundable)	Rental	\$200		\$200	
6. Picnic Areas (4-hour minimum)					
A. Aquatic Park	4-hours	\$45		\$54	
B. Cedar Rose	4-hours	\$30		\$36	
C. Codornices Park Area 1	4-hours	\$75		\$90	
D. Codornices Park Area 2	4-hours	\$60		\$72	
E. Cragmont	4-hours	\$45		\$54	
F. Grove	4-hours	\$30		\$36	
G. James Kenney	4-hours	\$45		\$54	
H. King School	4-hours	\$30		\$36	
I. Live Oak Park (Areas 1 & 2)	4-hours	\$60		\$72	
J. Ohlone Park @ McGee	4-hours	\$45		\$54	
K. San Pablo Park	4-hours	\$30		\$36	
L. Strawberry Creek	4-hours	\$30		\$36	
M. Shorebird Park: Areas 1, 2	4-hours	\$60		\$60	
N. Shorebird Park: Area 3	4-hours	\$45		\$45	
O. Cesar Chavez: Area 1	4-hours	\$45		\$45	
P. Cesar Chavez: Area 2 (large picnic area)	4-hours	\$200		\$200	
Q. Bounce House Permit	Per Use	\$20		\$25	

A. Special Events			
1-99 Participants	Day	\$180	\$350
100-249 Participants	Day	\$270	\$500
250-499 Participants	Day	\$350	\$700
500+ Participants	Day	\$550	\$1000
Cleaning/Damage Deposit (refundable)	Day	\$700	\$700
pecial Events – Additional Days			
1-99 Participants	Day	\$170	\$340
100-249 Participants	Day	\$230	\$460
250-499 Participants	Day	\$250	\$600
500+ Participants	Day	\$450	\$900
B. John Hinkel Amphitheater	Day	\$120	\$144
Cleaning/Damage Deposit (refundable)		\$350	\$350
C. Camp Day Use Fee			
1-50 Participants	Day	\$50	\$50
51-100 Participants	Day	\$100	\$100
101-150 Participants	Day	\$150	\$150
<b>D. Small Turf Areas in Park</b> Ohlone Park, Aquatic Par			Fri only; Max 3 days per week): ark
	2-Hours	\$25	\$30
Weddings (4-hour minimum)		,	, ,

Each Additional Hour (after 4 hours)	Hour	\$170	\$204
B. Cragmont, Live Oak Park, & John Hinkel (outside areas)	4-Hours	\$450	\$540
Each Additional Hour (after 4 hours)	Hour	\$75	\$90
C. Spinnaker Way Vista	4-Hours	\$750	\$750
Each Additional Hour (after 4 hours)	Hour	\$170	\$170
D. Yacht Club Point	4-Hours	\$750	\$750
Each Additional Hour (after 4 hours)	Hour	\$170	\$170
Cleaning/Damage Deposit (refundable)	Rental	\$700	\$700
II. SWIM CENTER FEES			
1. Admissions (Public & Family Swim,	Laps)		
Adult (Drop-in)	Swim	\$6	\$6
Adult (10-Swim Card)	10-Swims	\$51	\$51
Adult (Monthly)	Month	\$73	\$73
Youth, Senior, Disabled (Drop-In)	Swim	\$3	\$3
Youth Senior Disabled (10-Swim Card)	10-Swims	\$22	\$22
Youth Senior Disabled (Monthly Card)	Month	\$37	\$37
2. Red Cross Swim Sessions			
Adult	Session	\$75	\$90
Youth, Senior, Disabled	Session	\$72	\$84
Organized Youth Groups (Residents only)			
10-15 participants	Session	\$65	-

16-21 participants	Session	\$62		-	
22-32 participants	Session	\$54		-	
33-43 participants	Session	\$48		-	
44-54 participants	Session	\$39		-	
55+ participants	Session	\$37		-	
3. Premium Classes					
Continuous & Coached Workouts: water	aerobics, parent/to	ot, stroke techniqu	ue, Master Sw	vim	
Adult (Drop-in)	Swim	\$7		\$7	
Adult (10-Swim Card	10-Swims	\$66		\$66	
Adult (Monthly)	Month	\$82		\$82	
Youth, Senior, Disabled (Drop-In)	Swim	\$5		\$5	
Youth Senior Disabled (10-Swim Card)	10-Swims	\$40		\$40	
Youth Senior Disabled (Monthly Card)	Session	\$57		\$57	
4. Private Swim Lessons (1/2 hour ses	sion)				
Individual (One-on-One)	Lesson	\$30		\$36	
Semi-Private Lesson (2 or more Participants)	Lesson	\$50		\$60	
III. RECREATION PROGRAMS					
1. Sports					
A. Adult Softball League					
4 Game Season	Team	\$320		\$384	
8 Game Season	Team	\$640		\$715	
10 Game Season	Team	\$800		\$875	
•				·	

B. Adult Basketball League			
8 Game Season	Team	\$560	\$635
10 Game Season	Team	\$700	\$775
C. Adult Volleyball League			
8 Game Season	Team	\$320	\$384
10 Game Season	Team	\$400	\$475
12 Game Season	Team	\$480	\$555
15 Game Season	Team	\$600	\$675
D. Open Gym Volleyball	Drop-In	\$5	\$5
E. Youth Baseball			
Individual	Session	\$51	\$61
F. Youth Hoops League			
Individual	Session	\$30	\$36
G. Youth Twilight Basketball			
Individual	Session	\$27	\$32
H. Youth Flag Football League			
Individual	Session	\$30	\$36
I. Tennis Lessons			
Youth	Session	\$73	\$88
Adult	Session	\$107	\$128
J. Skate Park Lessons & Cla	asses		
Full Day	Session	\$258	\$310

1/2 Day Camp	Session	\$195		\$234	
Park Introduction	Session	\$11		\$13	
Trick Clinic	Session	\$11		\$13	
Private Lessons	Hour	\$43		\$52	
Group Lessons	Session	\$108		\$130	
2. Programs at Centers	I		1		
A. After School Program Re	egistration Fee (F	Frances Albrier, Ja	ames Kenney)	)	
Individual	Week	\$25		\$30	
B. Con	⊔ nmunity Center C	Lamp Programs	⊥ (Winter, Sprin	g, Summer)	
	00.1	<b>D</b> 404		<b>D</b> 404	
Core	30 hours	\$101		\$121	
AM Extended Care	5 hours	\$10		\$12	
PM Extended Care	15 hours	\$30		\$36	
3. Camp Programs					
A. Berkeley Day Camp					
Youth Core Program	5-Days	\$174	\$200	\$209	\$240
AM Extended Care	5-Days	\$44	\$51	\$53	\$61
PM Extended Care	5-Days	\$69	\$79	\$83	\$95
Counselor-In-Training	10-days	\$194		\$232	
Surcharges					
Changed Reservation	Per Change	\$0		\$0	
Cancelled Reservation	Session	25%		25%	
B. Echo Lake Camp					

	T		T		T
Berkeley Echo Lake Family Camp					
Adult (15+)	Day	\$98	\$108	\$108	\$120
Youth (7-14)	Day	\$65	\$72	\$72	\$80
Child (3-6)	Day	\$49	\$54	\$54	\$60
Counselor-In-Training	1-week	\$258	\$275	\$275	\$300
Counselor-In-Training	2-week		\$400		\$440
Echo Lake Youth Camp					
5-Day Program	5-Days	\$525	\$600	\$577	\$660
7-Day Program	7-Days		\$840		\$924
Counselor-In-Training	1-Week	\$250	\$275	\$275	\$300
Counselor-In-Training	2-Week		\$400		\$440
50+ Camp	Weekend	\$183		\$201	
50+ Camp	4-days	\$229		\$252	
Work Weekend	Weekend	\$0		\$0	
Group Rental Rates					
Adult (15+)	Day	\$61	\$67	\$67	\$74
Youth (7-14)	Day	\$52	\$57	\$57	\$63
Child (3-6)	Day	\$38	\$42	\$42	\$46
Surcharges					
Cleaning/Damage Deposit (Refundable)	Rental	\$300		\$300	
Tent Single Occupancy	Per person per day	\$200		\$220	
	I.	l	I	l	

Tent Double Occupancy	Per person per day	\$63	\$70
Change Reservation (30 days or more before arrival)	Reservation	\$100	\$100
Cancel Reservation (30 days or more before arrival)	Reservation	25% of reservation fee not to exceed \$150	
Cancel Reservation (due to emergency or illness, with Dr's excuse)	Reservation	No charge	
Late Fee		\$75 if balance is not paid by date specified	
4. Waterfront Programs			
A. Adventure Playground			
Individual Admission (anyone over 1 year old)	Day	\$1	\$1
Group size 5-10	2-hours	\$75	\$75
Group size 11-20	2-hours	\$105	\$105
Group size 21-30	2-hours	\$150	\$150
Group size 31-40	2-hours	\$180	\$180
B. Education Programs			
Animal	Session	\$200	\$200
Low Tide	Session	\$200	\$200
Research Boat Trip	Session	\$225	\$225
Sail Boat Trip	Session	\$255	\$255
Docent Training	Session	\$65	\$65
Special Program Request	Hour	\$65	\$65
Marine Biology	4-Days	\$75	\$75

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PUBLIC HEARING May 14, 2019

Marine Biology	8-Days	\$150	\$150	
Boating	4-Days	\$150	\$150	
Canoeing	3-Days	\$55	\$55	

# **ATTACHMENT 2**

Table 1: Berkeley Echo Lake Youth Camp Fee Comparisons for 5 and 7 day sessions

Program	Resident Fee	Non- Resident Fee	Program Length	Average Daily Fee
YMCA Camp Ravencliff (Full – Week)	\$550.00	\$660.00	7-Day	\$78.57 \$94.28
YMCA Camp Ravencliff (Mini-Camp)	\$400.00	\$485.00	5-Day	\$80.00 \$97.00
YMCA Camp Loma Mar	\$720.00	NA	8-Day	\$90.00
Berkeley Echo Lake Youth Camp (proposed)	\$600.00	\$660.00	5-Day	Res: \$120.00 Non: \$132.00
Berkeley Echo Lake Youth Camp (proposed)	\$840.00	\$924.00	7-Day	Res: \$120.00 Non: \$132.00
Cazadero Music Camp	\$825	NA	6-Day	\$137.50
Camp Unalayee	\$2,100	NA	15-Day	\$140.00
Camp Chrysalis	\$1,750.00	NA	12-Day	\$145.83
Trackers Earth (Adventure Expeditions)	\$1,831.50	NA	12-Day	\$152.63
Camp Winnarainbow (Two Week)	\$1,990.00	NA	13-Days	\$153.07
Camp Winnarainbow (One Week)	\$995.00	NA	5-Days	\$199.00
Trackers Earth (Backpacking Expeditions)	\$1,038.00	NA	5-Day	\$207.60
Camp Common Ground	sliding scale – full cost is \$2,600	NA	12-Day	\$216.67
Camp Tawonga (A Taste of Camp)	\$1,415.00	NA	6-Days	\$235.66
Mountain Camp	\$2,025	NA	7-Day	\$289.29

Table 2: Berkeley Echo Lake Youth Camp Counselor-In-Training (CIT) Fee Comparisons for 1 and 2 week sessions

Counselor-In-Training Program	Resident Fee	Non-resident Fee	Program Length
YMCA Camp Ravencliff	\$200.00		1-week
YMCA Camp Loma Mar	\$200.00		1-week
Berkeley Echo Lake Youth Camp	\$275	\$300.00	1-Week
Berkeley Echo Lake Youth Camp	\$400.00	\$440.00	2-Week
Cazadero Music Camp	\$0 - Volunteer		Unspecifiec
Camp Unalayee	\$2,100		2-Week

Camp Winnarainbow	\$1,990.00	2-weeks
(One Week)		
Camp Tawonga	\$3,995.00	3-weeks
(A Taste of Camp)		
Mountain Camp	\$3,550.00	2-weeks

#### Table 3: Berkeley Echo Lake Family Camp Fees – per day Fee Comparisons

Note: This analysis compares the total combined fee for a Family Camp stay during primary program periods for a 3-night/4-day stay for a family of four Residents, assuming two adults, a 14-year old, and 7-year old camper. Other programs have a variety of fees, including separate meal plans, capital improvement recovery surcharges, and fees for electricity or other special accommodations. This analysis assumes base program accommodations with meal plan for length of stay. Session fees are pro-rated.

Program	Rate
Camp Sacramento	\$1,156.00
San Jose Family Camp at Yosemite	\$1,180.00
Camp Concord	\$1,201.80
Camp Mather	\$1,224.00
Berkeley Echo Lake Family Camp (proposed)	\$1,368.00
Oakland Feather River Camp	\$1,448.00
Lair of the Bear (UC Berkeley)	\$1,704.73

**Table 4: Berkeley Day Camp Fees Fee Comparisons** 

Day Camp Program Name	Location	Activities Provided	Transport ation Provided	Program Hours (Core)	Fee Per Week (Core)	Fee Per Hour of Program		
City of Berkeley Day	Tilden Park / Berkeley	Cooking, hiking, swimming,	Yes	9:00am-	Resident (proposed) \$200.00	\$6.15		
Camp	Marina sports, arts and crafts 3		3:30pm	Non-Resident (proposed) <b>\$220</b>	\$7.38			
City of	Dorkolov	Sports, cooperative games			Resident \$101	\$3.67		
Berkeley Community Center Camp	Berkeley Community Centers	Sports, cooperative games, arts and crafts, swimming, field trips, hiking	No	No	No	9:00am- 3:00pm	Non-Resident \$121	\$4.03
YMCA	Berkeley	Swimming & Field trips	No	9:00am-	\$325.00 non-member	\$9.29		
				4:00pm	\$295.00 member	\$8.43		

Blue & Gold Camp	Golden Bear Rec Center / Strawberry Canyon Rec Area	Sports, gymnastics, martial arts, yoga, arts and crafts, cooperative games, swimming (2- week sessions)	No	7:30am- 4:00pm	\$407	\$9.58
Kids for the Bay	Bay shore/ Marina	Science, botanical gardens, plant education	Special Trips Only	8:30am- 4:00pm	\$390.00	\$10.40
Galileo	Berkeley	Science project weekly, cooking, hiking, swimming, sports, arts and crafts	No	9:00am- 3:00pm	\$449.00	\$14.96
Monkey Business	Tilden Park	Cooking, hiking, swimming, sports, arts and crafts	No	8:30am - 3:30pm	\$480.00	\$13.70
Sarah Science	Tilden Park	Science project weekly, cooking, hiking, swimming, sports, arts and crafts	No	9:00am- 3:00pm	\$515.00	\$17.17
Trackers	Marina	Archery, Survival, hiking, swimming, sports, arts and crafts	Yes	8:30am- 4:00pm	\$522.00	\$13.90

### **ATTACHMENT 3**

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

ESTABLISHING FEES FOR PARKS AND RECREATION PROGRAMS AND FACILITIES AND RESCINDING RESOLUTION NO. 68,450-N.S.

WHEREAS, on May 15, 2018 Council adopted the new Fee Schedule for Recreation Division programs (Resolution No. 68,450-N.S.); and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the rates and charges set forth in Exhibit A are hereby fixed and established for the parks and recreation programs and facilities and shall be effective September 1, 2019, unless otherwise noted in Exhibit A.

BE IT FURTHER RESOLVED that Resolution No. 68,450-N.S. and all amendatory resolutions are hereby rescinded effective September 1, 2019.

Exhibit A: Fee Schedule

# **Exhibit A:** Recreation Fee Schedule

Effective September 1, 2019 (unless otherwise noted below)

Program Area	Unit of Measure	Resident	Non- Resident
I. FACILITY RENTAL CHARGES			
1. Room Rentals - Regular Hours (1 hour minimum); Non-	-Regular Hours (2	hour minimur	n)
James Kenney (JK) Live Oak (LO) Frances Albrier (FA)	, Martin Luther Kir	ng (MLK)	
A. Youth, Senior, Disabled			
Regular Hours	Hour	\$41	\$49
Non-Regular Hours	Hour	\$61	\$73
B. All Other			
Auditorium (FA) & Social Hall (L0)			
Regular Hours	Hour	\$67	\$80
Non-Regular Hours	Hour	\$82	\$98
Fireside Room (LO), Community Room (JK)			
Regular Hours	Hour	\$52	\$62
Non-Regular Hours	Hour	\$67	\$80
Game Room (FA, MLK) Arts & Crafts Room (FA, JK, LO) Meeting Room (JK, LO, MLK)			
Regular Hours	Hour	\$46	\$55
Non-Regular Hours	Hour	\$62	\$74
C. Multi Room Discount			
2nd room	Rental	-25%	-25%
3rd room, each additional room	Rental	-50%	-50%
D. Gym Rentals (JK, MLK)			
Regular Hours	Hour	\$64	\$77
Non-Regular Hours		\$75	\$90
E. Filming Fee			
Parks and Facilities	½ Day	\$400	\$400
	Full Day	\$800	\$800
F. Surcharges			
Table & Chair Set-Up	Rental	\$63	\$76
Kitchen Use	Rental	\$86	\$103
Small Storage Room	Month	\$21	\$25
Large Storage Room	Month	\$31	\$37
Stage Use w/Room Rental	Hour	\$26	\$31
P/A system & staff operation	Hour	\$42	\$50

Program Area	Unit of Measure	Resident	Non- Resident
Cleaning/Damage Deposit All Rentals (Refundable)	Rental	\$200	\$200
2. City Athletic Fields			
A. Cedar Rose, Codornices, Glendale-LaLoma, G Pablo, Willard, Rosa Parks, Thousand Oaks	Grove, James Ker	nney, Ohlone	, San
Youth non-profit leagues	2-Hours	\$36	\$43
Adults, for-profits, private schools	2-Hours	\$72	\$86
Maintenance Deposit		40% of fee	
B. Gabe's Fields at Harrison Park, Natural Turf			
Youth non-profit leagues	2-Hours	\$29	\$35
Adults, for-profits, private schools	2-Hours	\$72	\$86
C. Gilman Fields, Natural Turf			
Youth non-profit leagues	2-Hours	\$29	\$35
Adults, for-profits, private schools	2-Hours	\$72	\$86
D. Gilman Fields, Synthetic Turf			
Youth non-profit leagues	2-Hours	\$40	\$48
Adults, for-profits, private schools	2-Hours	\$91	\$109
E. Sports Field User Fines (Policy Violations: Applica	able to All Athletic	Fields)	
Dissipator of Classed Const. Fields	1 <sup>st</sup> Offense	\$250	\$250
Playing on Closed Grass Fields	2 <sup>nd</sup> Offense	\$500	\$500
	1 <sup>st</sup> Offense within 12 mo	\$50	\$50
Running practices in main goal areas	2 <sup>nd</sup> Offense within 12 mo	\$100	\$100
	3 <sup>rd</sup> Offense within 12 mo	\$200	\$200
Dogs, Alcohol, Trash, Wheeled vehicles	Incident	\$100	\$100
Field Monitor	Hourly	\$25	\$25
F. Additional Rules (Applicable to all athletic fields)			
Weekday slots used before 3:30pm throughout the	year are discounte	d 50%	
Weekday slots 5:30pm-7:00pm are charged as full t	wo-hour slot		
All other slots are pro-rated in 30 minute increments	<b>i</b>		
3. Skate Park Rental (only available AM hours)			
A. Morning Hours (includes 2 staff members)	Hour	\$250	\$300
B. Birthday Party (includes 2 staff members & lesson)	Hour	\$350	\$420
Cleaning/Damage Deposit (refundable)	Rental	\$200	\$200
4. Tennis Courts			

Program Area	Unit of Measure	Resident	Non- Resident
A. Day Use (All Courts): Cedar Rose, Grove, Ja Roy Oakes, San Pablo, Strawberry Creek, Willard	ames Kenney, Liv	e Oak, Rose (	Garden,
Adult	Hour	\$7	\$8
Youth, Senior, Disabled	Hour	\$5	\$6
<b>B. Night Use/Lighted Courts</b> : Cedar Rose, Gr Strawberry Creek, Willard	ove, James Kenno	ey, Live Oak,	San Pablo,
Adult	Hour	\$10	\$12
Youth, Senior, Disabled	Hour	\$9	\$11
5. Swim Centers (1-hour minimum) King, West Campus			
1-35 people	Hour	\$100	\$120
36-70 people	Hour	\$145	\$174
71-100 people	Hour	\$177	\$212
101-150 people	Hour	\$217	\$260
Cleaning/Damage Deposit (refundable)	Rental	\$200	\$200
6. Picnic Areas (4-hour minimum)		'	1
A. Aquatic Park	4-hours	\$45	\$54
B. Cedar Rose	4-hours	\$30	\$36
C. Codornices Park Area 1	4-hours	\$75	\$90
D. Codornices Park Area 2	4-hours	\$60	\$72
E. Cragmont	4-hours	\$45	\$54
F. Grove	4-hours	\$30	\$36
G. James Kenney	4-hours	\$45	\$54
H. King School	4-hours	\$30	\$36
I. Live Oak Park (Areas 1 & 2)	4-hours	\$60	\$72
J. Ohlone Park @ McGee	4-hours	\$45	\$54
K. San Pablo Park	4-hours	\$30	\$36
L. Strawberry Creek	4-hours	\$30	\$36
M. Shorebird Park: Areas 1, 2	4-hours	\$60	\$60
N. Shorebird Park: Area 3	4-hours	\$45	\$45
O. Cesar Chavez: Area 1	4-hours	\$45	\$45
P. Cesar Chavez: Area 2 (large picnic area)	4-hours	\$200	\$200
Q. Bounce House Permit	Per Use	\$20	\$25
7. Parks & Open Space (not athletic fields)			
A. Special Events			
1-99 Participants	Day	\$180	\$350
100-249 Participants	Day	\$270	\$500
250-499 Participants	Day	\$350	\$700

Program Area	Unit of Measure	Resident	Non- Resident
500+ Participants	Day	\$550	\$1,000
Cleaning/Damage Deposit (refundable)	Day	\$700	\$700
Special Events – Additional Days			
1-99 Participants	Day	\$170	\$340
100-249 Participants	Day	\$230	\$460
250-499 Participants	Day	\$250	\$600
500+ Participants	Day	\$450	\$900
B. John Hinkel Amphitheater	Day	\$120	\$144
Cleaning/Damage Deposit (refundable)		\$350	\$350
C. Camp Day Use Fee			
1-50 Participants	Day	\$50	\$50
51-100 Participants	Day	\$100	\$100
101-150 Participants	Day	\$150	\$150
D. Small Turf Areas in Parks (Ages 8 yrs & u Ohlone Park, Aquatic Park, James Kenney			per week:
	2-Hours	\$25	\$30
8. Weddings (4-hour minimum)			
A. Rose Garden	4-Hours	\$1,000	\$1,200
Each Additional Hour (after 4 hours)	Hour	\$170	\$204
B. Cragmont, Live Oak Park, & John Hinkel (outside areas)	4-Hours	\$450	\$540
Each Additional Hour (after 4 hours)	Hour	\$75	\$90
C. Spinnaker Way Vista	4-Hours	\$750	\$750
Each Additional Hour (after 4 hours)	Hour	\$170	\$170
D. Yacht Club Point	4-Hours	\$750	\$750
Each Additional Hour (after 4 hours)	Hour	\$170	\$170
Cleaning/Damage Deposit (refundable)	Rental	\$700	\$700
II. SWIM CENTER FEES			
1. Admissions (Public & Family Swim, Laps)			
Adult (Drop-in)	Swim	\$6	\$6
Adult (10-Swim Card)	10-Swims	\$51	\$51
Adult (Monthly)	Month	\$73	\$73
Youth, Senior, Disabled (Drop-In)	Swim	\$3	\$3
Youth Senior Disabled (10-Swim Card)	10-Swims	\$22	\$22
Youth Senior Disabled (Monthly Card)	Month	\$37	\$37
2. Red Cross Swim Sessions			
Adult	Session	\$75	\$90
Youth, Senior, Disabled	Session	\$72	\$84

Program Area	Unit of Measure	Resident	Non- Resident
Organized Youth Groups (Residents only)			
10-15 participants	Session	\$65	-
16-21 participants	Session	\$62	-
22-32 participants	Session	\$54	-
33-43 participants	Session	\$48	-
44-54 participants	Session	\$39	-
55+ participants	Session	\$37	-
3. Premium Classes			
Continuous & Coached Workouts: water aerobics, parent/to	ot, stroke techniqu	ue, Master Sw	im
Adult (Drop-in)	Swim	\$7	\$7
Adult (10-Swim Card	10-Swims	\$66	\$66
Adult (Monthly)	Month	\$82	\$82
Youth, Senior, Disabled (Drop-In)	Swim	\$5	\$5
Youth Senior Disabled (10-Swim Card)	10-Swims	\$40	\$40
Youth Senior Disabled (Monthly Card)	Session	\$57	\$57
4. Private Swim Lessons (1/2 hour session)			
Individual (One-on-One)	Lesson	\$30	\$36
Semi-Private Lesson (2 or more Participants)	Lesson	\$50	\$60
III. RECREATION PROGRAMS		'	1
1. Sports			
A. Adult Softball League			
4 Game Season	Team	\$320	\$384
8 Game Season	Team	\$640	\$715
10 Game Season	Team	\$800	\$875
B. Adult Basketball League			
8 Game Season	Team	\$560	\$635
10 Game Season	Team	\$700	\$775
C. Adult Volleyball League		·	
8 Game Season	Team	\$320	\$384
10 Game Season	Team	\$400	\$475
12 Game Season	Team	\$480	\$555
15 Game Season	Team	\$600	\$675
D. Open Gym Volleyball	Drop-In	\$5	\$5
E. Youth Baseball	T'		
Individual	Session	\$51	\$61
F. Youth Hoops League		+	+

Program Area	Unit of Measure	Resident	Non- Resident
Individual	Session	\$30	\$36
G. Youth Twilight Basketball			
Individual	Session	\$27	\$32
H. Youth Flag Football League			
Individual	Session	\$30	\$36
I. Tennis Lessons			
Youth	Session	\$73	\$88
Adult	Session	\$107	\$128
J. Skate Park Lessons & Classes			1
Full Day	Session	\$258	\$310
1/2 Day Camp	Session	\$195	\$234
Park Introduction	Session	\$11	\$13
Trick Clinic	Session	\$11	\$13
Private Lessons	Hour	\$43	\$52
Group Lessons	Session	\$108	\$130
2. Programs at Centers		·	
A. After School Program Registration Fee (F	rances Albrier, Jar	nes Kenney)	
Individual	Week	\$25	\$30
B. Community Center Camp Programs	(Winter, Spring, S	ummer)	
Core	30 hours	\$101	\$121
AM Extended Care	5 hours	\$10	\$12
PM Extended Care	15 hours	\$30	\$36
3. Camp Programs			
A. Berkeley Day Camp			
Youth Core Program	5-Days	\$200	\$240
AM Extended Care	5-Days	\$51	\$61
PM Extended Care	5-Days	\$79	\$95
Counselor-In-Training	10-days	\$194	\$232
Surcharges	•		
Changed Reservation	Per Change	\$0	\$0
Cancelled Reservation	Session	25%	25%
B. Echo Lake Camp			
Berkeley Echo Lake Family Camp			
Adult (15+)	Day	\$108	\$120
Youth (7-14)	Day	\$72	\$80
Child (3-6)	Day	\$54	\$60
Counselor-In-Training	1-week	\$275	\$300

Program Area	Unit of Measure	Resident	Non- Resident
Counselor-In-Training	2-week	\$400	\$440
Echo Lake Youth Camp			
5-Day Program	5-Days	\$600	\$660
7-Day Program	7-Days	\$840	\$924
Counselor-In-Training	1-Week	\$275	\$300
Counselor-In Training	2-week	\$400	\$440
50+ Camp	Weekend	\$183	\$201
50+ Camp	4-days	\$229	\$252
Work Weekend	Weekend	\$0	\$0
Group Rental Rates			
Adult (15+)	Day	\$67	\$74
Youth (7-14)	Day	\$57	\$63
Child (3-6)	Day	\$42	\$46
Surcharges			
Cleaning/Damage Deposit (Refundable)	Rental	\$300	\$300
Tent Single Occupancy	Per person per day	\$200	\$220
Tent Double Occupancy	Per person per day	er \$63 \$70	
Change Reservation (30 days or more before arrival)	Reservation	\$100 \$100	
Cancel Reservation (30 days or more before arrival)	Reservation	25% of reservation fee not to exceed \$150	
Cancel Reservation (due to emergency or illness, with Dr's excuse)	Reservation	No charge	
Late Fee		\$75 if balance is not paid by date specified	
4. Waterfront Programs			
A. Adventure Playground			
Individual Admission (anyone over 1 year old)	Day	\$1	\$1
Group size 5-10	2-hours	\$75	\$75
Group size 11-20	2-hours	\$105	\$105
Group size 21-30	2-hours	\$150	\$150
Group size 31-40	2-hours	\$180	\$180
B. Education Programs			
Animal	Session	\$200	\$200
Low Tide	Session	\$200	\$200
Research Boat Trip	Session	\$225	\$225
Sail Boat Trip	Session	\$255	\$255

Program Area	Unit of Measure	Resident	Non- Resident
Docent Training	Session	\$65	\$65
Special Program Request	Hour	\$65	\$65
Marine Biology	4-Days	\$75	\$75
Marine Biology	8-Days	\$150	\$150
Boating	4-Days	\$150	\$150
Canoeing	3-Days	\$55	\$55

# **ATTACHMENT 4**

#### **NOTICE OF PUBLIC HEARING**

# NOTICE OF PUBLIC HEARING BERKELEY CITY COUNCIL

## **Camp Fee Increases**

Notice is hereby given by the City Council of the City of Berkeley that a public hearing will be conducted by said city council of the City of Berkeley at which time and place all persons may attend and be heard upon the following:

The Department of Parks, Recreation & Waterfront is proposing to increase selected camp fees, as contained in the attached Recreation Fee Schedule and excerpted below:

Program Area	Unit of Measure	Resident	New Resident	Non- Resident	New Non- Resident
3. Camp Programs					
A. Berkeley Day Camp					
Youth Core Program	5-Days	\$174	\$200	\$209	\$240
AM Extended Care	5-Days	\$44	\$51	\$53	\$61
PM Extended Care	5-Days	\$69	\$79	\$83	\$95
B. Echo Lake Camp					
Berkeley Echo Lake Family Camp					
Adult (15+)	Day	\$98	\$108	\$108	\$120
Youth (7-14)	Day	\$65	\$72	\$72	\$80
Child (3-6)	Day	\$49	\$54	\$54	\$60
Counselor-In-Training	1-week	\$250	\$275	\$275	\$300
Counselor-In-Training	2-week		\$400		\$440

Program Area	Unit of Measure	Resident	New Resident	Non- Resident	New Non- Resident
Echo Lake Youth Camp					
5-Day Program	5-Days	\$525	\$600	\$577	\$660
7-Day Program	7-Days		\$840		\$924
Counselor-In-Training	1-Week	\$250	\$275	\$275	\$300
Counselor-In-Training	2-Week		\$400		\$440
Group Rental Rates					
Adult (15+)	Day	\$61	\$67	\$67	\$74
Youth (7-14)	Day	\$52	\$57	\$57	\$63
Child (3-6)	Day	\$38	\$42	\$42	\$46

The hearing will be held on May 14, 2019, at 6:00 p.m. in the School District Board Room, 1231 Addison Street.

For further information, please contact **Denise Brown at 510-981-6707.** 

A copy of the agenda material for this hearing will be available on the City's website at www.CityofBerkeley.info as of **May 2, 2019.** 

Written comments should be mailed or delivered directly to the <u>City Clerk, 2180 Milvia Street, Berkeley, CA 94704</u>, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

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

the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or clerk@cityofberkeley.info for further information.

If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Berkeley at, or prior to, the public hearing. Background information concerning this proposal will be available at the City Clerk Department and posted on the City of Berkeley webpage at least 12 days prior to the public hearing.



To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Scott Ferris, Director, Parks Recreation and Waterfront

Subject: Selected Marina Fee Increases

#### RECOMMENDATION

Conduct a public hearing and upon conclusion, adopt a Resolution approving new fees and increasing current fees for select Marina fees; and rescinding Resolution No. 68,451-N.S. and all amendatory resolutions.

#### FISCAL IMPACTS OF RECOMMENDATION

The cumulative impact of these fee increases is estimated to add \$102,290 in annual revenue to the Marina Fund (Fund 608), which supports all Waterfront operations including the Marina, landscaping, facilities, parks, roads, recreation programs and special events. In FY 2020, the Fund is projected to have a deficit of nearly \$900,000, increasing to \$1.3 million in FY 2021. These increases are important in helping the City recover a greater share of the Marina's operating costs, (see Table 1). The City is not proposing standard berth fee increases at this time, due in part to declining berther occupancy rates.

Table 1 - Impact of Fee Increases on the Marina Fund

FY 2020	Without fee increase	With fee increase	Change
Total Revenues	\$6,239,933	\$6,342,223	\$102,290
Total Expenditures	\$7,118,243	\$7,118,243	-
Deficit	(\$878,310)	(\$776,020)	

There are two components to this fee request: (1) changes to miscellaneous Marina fees, with an annual estimated impact of \$40,250; and (2) introduction of new Waterfront special event fees, with an annual estimated impact of \$62,040 in revenue for the Marina Fund. The Waterfront event fee revenue will vary depending on the number of events held.

#### **CURRENT SITUATION AND ITS EFFECTS**

The Marina Fee Schedule was last updated in May 2018 when Council adopted Resolution No. 68,451-N.S., which increased several Marina fees including premium berth surcharges, dry storage, visitor berths, keys, outdated insurance, and special event parking; as well as introduced a referral discount for new slip holders and a reduction in fees for small scale ferry service. Since then, low berth occupancy rates have made it difficult to raise berth fees biannually, as the City has historically done. The loss of this consistent revenue source has been a key driver of the Marina Fund's structural deficit, which is projected to be nearly \$900,000 in FY 2020 and rising to \$1.3 million in FY 2021, when a Department of Boating & Waterways loan repayment is planned to begin. However, the modest fee increases proposed will help to offset the rising costs for maintaining the Waterfront. Note that for all Waterfront fees, there is no distinction between resident and non-resident fees; that distinction is not permitted on public trust lands.

#### Miscellaneous Marina fees

There are fee increases proposed for visitor berths and the launch ramp; and two new fees are proposed for outdated/inadequate registration or documentation, and lost/unreturned parking permits. An increase in Marina fees are proposed and justified as follows:

• The **visitor berth fee** for boaters who rent a slip for up to 10 nights is proposed to increase from \$0.50/foot/night to \$1/foot/night. This is to better recover operational costs, while staying competitive with the local market for visitor slips, (see Table 2).

**Table 2 - Visitor Berth Fee Comparisons** 

Marina	Rate	Notes
Marina Bay Yacht Harbor	\$.65/ft/day up to 75',	
	\$1.00/ft/day over 75'	
Emery Cove, Emeryville	\$35 to \$45/night	Approx. \$1/ft for 35-45 ft vessels
Berkeley	\$1/ft/night (proposed)	10 nights or less
Oakland Marinas	\$1.50/ft/day	\$45 minimum
South Beach Harbor, San	\$1.25/ft/day	-
Francisco		
Emeryville Marina	\$1.50/ft/night	
Clipper Yacht Harbor,	\$2/ft/night	Up to 70', plus additional fees for
Sausalito	-	electrical

• The **launch ramp fees**, charged for access to the Berkeley Marina Boat Launch Ramp and parking lot, are proposed to increase from \$15 to \$16/day; from \$90 to \$95/month; and \$300 to \$310 for a seasonal pass. This fee has not been

increased since 2013, and is expected to help offset the costs of maintenance and management of the Launch Ramp facilities. This fee is consistent with local Marinas, (see Table 3).

Table 3 – Launch ramp fee comparisons

Marina	Rate	Notes
Coyote Point, San Mateo	\$5/launch	
Marina Bay Yacht Harbor, Richmond	\$12/launch	\$250/year
Oyster Point Marina, South San Francisco	\$12/launch	\$213/year
Berkeley	\$16/day (proposed)	\$95/month, \$310/seasonal
Santa Cruz Harbor	\$17/launch	
Loch Lomond Marina, San Rafael	\$20/launch	\$500 annual pass

A new fee for lost/unreturned parking permits of \$100/permit is proposed, to
be charged to customers who lose their waterfront parking permits or waterfront
guest parking permits. The fee will partially offset administrative and replacement
parking permit costs created by lost guest parking permits and the oversight of
excess parking permits being used in Waterfront parking lots. This fee is
consistent with local Marinas, (see Table 4).

**Table 4 – Lost/Unreturned Parking Permit fee** 

Marina	Rate	Notes
Oakland Marinas	Free	2 permits per slipholder, no replacement fee,
		annual replacement
Coyote Point, San Mateo	Free	No replacement fee, annual replacement
Pillar Point Harbor, Half	Free	2 permits per slipholder, no replacement fee,
Moon Bay		annual replacement
San Francisco Small	Free	2 permits per slipholder, no replacement fee.
Craft Harbor		
Marina Bay Yacht	\$25/ pass after	Free guest, no replacement fee
Harbor, Richmond	initial free	
Glen Cove Marina,	\$95/monthly	For secured second lot. Regular lot is free
Vallejo		
Santa Cruz Harbor	\$100/permit	2 permits per slipholder, 3 <sup>rd</sup> permit is \$50, 4 <sup>th</sup> permit
		is \$100, subsequent permits/ replacement is \$100.
Berkeley	\$100/permit	This fee is only for lost and unreturned permits.
-	_	No fees are required for original permits.

 A new \$75 fee for outdated or inadequate registration/documentation is proposed, to be charged up to once a month when a customer has not provided the Marina office with adequate or current vessel registration/documentation. Slip holders who fail to provide the Marina with updated registration/documentation cost the Marina staff time in customer coordination and outreach to receive these documents. Maintaining current and accurate registration documentation helps the Marina staff confirm vessel ownership in the event of abandonment.

#### Waterfront Special Event Fees

The Waterfront's location and large open spaces like Cesar Chavez Park make it an ideal venue for special events, but the City does not currently have a fee structure to recover the Parks, Recreation & Waterfront Department costs of hosting those events. The Citywide special event fee is intended to cover the cost of processing the permit; and the modest revenue from that fee goes to the General Fund rather than the Marina Fund. There is a special event parking fee on the Marina fee schedule, but collecting that fee requires significant staffing cost, places considerable strain on the City's small Waterfront staff, and covers only a small portion of the event impacts. There is currently no other mechanism to recover the cost to the Waterfront of events like the Kite Festival, the Strides Breast Cancer Walk, Decision 2018, or potential cannabis events in the future.

These events stress Waterfront infrastructure, most of which is badly in-need of replacement or maintenance. The Waterfront has more than \$109 million in unfunded needs<sup>1</sup> that include parking lots and streets that need reconstruction, restrooms that need replacement, fields, and park pathways and amenities that need repair. Events are also impactful on baseline services performed by Waterfront staff.

The proposed fees are intended to help external event producers clearly understand the costs of producing events at the Waterfront, facilitate fair and consistent application of the fees, and fund the impact of these events from a staffing, operations, maintenance, and infrastructure perspective. We have looked to neighboring cities like Oakland and San Francisco, as well as East Bay Regional Park District, to develop Waterfront special event fees that are consistent with the local market, while recognizing that the Berkeley Waterfront is a unique event destination in the Bay Area. Table 5 details the proposed fees.

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<sup>&</sup>lt;sup>1</sup> See full list of PRW unfunded needs at <a href="https://www.cityofberkeley.info/uploadedFiles/Parks\_Rec\_Waterfront/Level\_3\_--General/Copy%20of%20Unfunded%20Capital%20and%20Major%20Maint%20list\_Feb%202019.pdf">https://www.cityofberkeley.info/uploadedFiles/Parks\_Rec\_Waterfront/Level\_3\_--General/Copy%20of%20Unfunded%20Capital%20and%20Major%20Maint%20list\_Feb%202019.pdf</a>

Table 5 – Proposed New Waterfront Special Event Fees

Venue Fee	
- Up to 99 attendees	\$350/day
- 100-249 attendees	\$500/day
- 250-499 attendees	\$700/day
- 500-999 attendees	\$1,000/day
- 1000-4999 attendees	\$5,000/day
- 5000-9999 attendees	\$10,000/day
- 10,000-14,999 attendees	\$15,000/day
- Over 15,000 attendees	\$20,000/day
Additional fees	
- Road closure request	\$500
- Road closure	\$2,000
- Participant fee (for event w/alcohol)	\$5/person or \$1000/day*
- Exclusive Use Parking	\$10/space/day
- Attended Parking**	\$20/vehicle less than 17'; \$50/vehicle for vehicles and trailers in excess of 17'
- Concession Fee	10% of gross sales
- Event clean up deposit	\$1,000
Pass-Through Costs	
- Operations staff to plan & monitor event	
- Parking attendants	
- Parks staff to prepare site, inspect after event, and make any necessary repairs	Actual costs***
- Custodial staff	
<ul> <li>Signage, rentals, equipment, green waste, and other goods or services required for the event.</li> </ul>	

<sup>\*</sup>Whichever is higher.

Revenue from these fees would be deposited in the Marina Fund, and would be in addition to the existing Citywide special event fee and pass-through costs charged by other City departments.

The venue fee is intended to offset the cost of impacts on Marina infrastructure, including parks, streets, parking lots, pathways, and restrooms. The fees proposed are significantly lower than those charged in San Francisco, which established park-specific venue fees that range from \$1,000 to \$63,000 for

<sup>\*\*</sup>This would replace the existing "special event parking fee" in the same amounts, currently included in the Marina Fee Schedule.

<sup>\*\*\*</sup>Actual costs will vary depending on event requirements; Estimated costs are described in Table 7 below.

comparable spaces.<sup>2</sup> The City of Oakland charges a park use permit for special events on an hourly basis, which is comparable to the proposed fees, (see Table 6).

Table 6 – Venue Fee Comparison (per day)

Berkeley Waterfront Venue Fee (Proposed)		Oakland Park Use Permit for Special Events*	
Up to 99 attendees	\$350	Up to 99 patrons	\$300
100-249 attendees	\$500	100-299 patrons	\$400
250-499 attendees	\$700	300-499 patrons	\$650
500-999 attendees	\$1,000	500-1000 patrons	\$1,275
1000-4999 attendees	\$5,000	Over 1000 patrons	\$2,000
5000-9999 attendees	\$10,000		
10,000-14,999 attendees	\$15,000		
Over 15,000 attendees	\$20,000		

<sup>\*</sup>Estimated based on 10-hr reservation at resident rate.

- The **road closure request fee** and the **road closure fee** are intended to offset the staffing costs to plan, communicate and implement road closures. These are particularly challenging for the Waterfront, which has only one access road in and out of the area. For comparison, the City of Alameda charges \$1,500 for a street closure application deposit fee, and the City of San Francisco charges \$1.39/participant plus the cost of staff to assist with closure.
- The **participant fee** for events with alcohol are intended to offset the additional costs of higher risk events. The \$5/person fee is intended to better capture the cost of these higher risk events for large events that would exceed 200 people.
- An exclusive use parking fee is proposed to better recover the cost of parking impacts from smaller events. As noted above, the cost of collecting the existing \$20/day special event fee is considerable, and does not make economic sense unless there is a very large event. This lower rate \$10/space fee allows the City to offset the impact of event parking on the Waterfront by reserving spaces for these events. As a comparison, the City of Alameda charges \$14/space/day as a 'no parking fee' to set aside parking spaces for special events.
- The concession fee is intended to recover a portion of the revenue being earned from sales on Waterfront land and retain it for the purposes of managing and improve the public trust lands. All other revenue generating enterprises at

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<sup>&</sup>lt;sup>2</sup> See <a href="https://sfrecpark.org/permits-and-reservations/special-events/special-event-fees/">https://sfrecpark.org/permits-and-reservations/special-events/special-event-fees/</a> for detailed list of San Francisco special event venue fees. The largest space offered by San Francisco is approximately 25 acres, in comparison to the largest space available at the Waterfront, which is approximately 90 acres.

the Marina (hotel, restaurants, charter boats, ferries, etc.) are expected to pay a portion of their gross sales to the Marina Fund. The proposed 10% concession fee applies the same principle to Waterfront special events. This amount will be charged on all gross sales (ticket sales plus vendor sales). As a comparison, San Francisco charges 5% of any sales as a concession fee and 25% of ticket sales for gated events.

 The event cleanup deposit of \$1,000/event would be collected in advance, and reimbursed after deducting for any staff costs required to do additional clean up after an event. The deposit would encourage the event producer to clean up after the event in order to receive the deposit back, and ease the burden on staff of additional cleanup.

In addition to these fees, and consistent with other local jurisdictions and other City Departments, the City will pass on direct costs of PRW staffing, and any signage, rentals, equipment, security or green waste management required at events. Estimates will be provided to event producers in advance, and only actual costs will be billed after the event. Staffing costs include cost for operations staff to plan and monitor the event; parks staff to prepare the site, inspect after the event, and make any necessary repairs; parking attendants; and custodial staff. Table 7 provides several scenarios to illustrate how these costs would be applied. Actual costs will depend on the particular event requirements.

Table 7 – Estimate of PRW Pass-Through Costs\*

Event Details	Staffing Needs	Est. Cost**
100-person park event	Operations: 3 hrs – Marina Assistant	\$400
	Parking: n/a	
	Parks Mtc: 2 hrs – Lands Gardener	
	Custodial: 2 hrs - Groundskeeper	
200-person race event	Operations: 6 hrs – Marina Assistant	\$700
	Parking: n/a	
	Parks Mtc: 2 hrs – Lands Gard Supervisor	
	Custodial: 4 hrs - Groundskeeper	
200-person park event	Operations: 6 hrs – Marina Assistant	\$1,100
	Parking: n/a	
	Parks Mtc: 8 hrs – Landscape Staff	
	Custodial: 4 hrs - Groundskeeper	
2,500-person park event	Operations: 12 hrs – Marina Assistant	\$4,500
	Parking: 8 hrs x 10 Staff	
	Parks Mtc: 8 hrs – Landscape Staff	
	Custodial: 10 hrs - Groundskeeper	
5,000-person, 2-day park	Operations: 24 hrs – Marina Assistant	\$9,200
event	Parking: 8 hrs x 20 Staff	
	Parks Mtc: 16 hrs – Landscape Staff	
	Custodial: 20 hrs - Groundskeeper	

<sup>\*</sup>This is only illustrative. Actual costs will depend on particular event requirements. These exclude pass-through costs charged by other City departments (Fire, Police, Public Works, etc.).

<sup>\*\*</sup>Calculated as top step, overtime rate, no benefits for career staff; and top step plus fringe for temporary staff; includes indirect cost rate charged to all labor.

The Making Strides Against Breast Cancer event provides a useful tool for understanding how this package of proposed fees works, and compares with the local market. In 2018, Making Strides Against Breast Cancer relocated their event from San Francisco's Hellman Hollow, to the Waterfront's Cesar Chavez Park. This event provides a unique platform from which we can compare our existing and proposed fee structure to that of another municipality. Table 8 compares the 2017 Strides event fees charged by San Francisco, the 2018 Strides event costs charged by the City of Berkeley, and the proposed 2019 costs for a potential future Strides event at the Berkeley Waterfront. While costs are represented differently (Berkeley would charge more in pass-through staff costs; the City of San Francisco charges more in the venue fee), the total cost to the event producer would remain competitive. The proposed Berkeley fees would still be 40% lower to the event producer than the San Francisco fees.

Table 8 – Strides Event Fee Comparison

Fee	2017 Strides Event in San Francisco	2018 Strides Event in Berkeley	2019 Strides Event in Berkeley (Proposed)
Citywide Special Event Fee*		\$500	\$500
Venue Fee			
- 9,000 attendees	\$28,450**		\$10,000
Additional fees			
- Attended Parking			(would be charged directly to attendees)
- Concession Fee	\$200		\$200
Pass-Through Costs		\$3,032***	
- Operations staff to plan & monitor event	\$570		\$3,094
- Parking attendants			\$3,142
<ul> <li>Parks staff to prepare site, inspect after event, and make any necessary repairs</li> </ul>	\$444		\$428
- Custodial staff			\$381
- Signage, rentals, equipment, green waste			\$0
Total Event Fees Paid by Applicant	\$29,664	\$3,532	\$17,745
Event Fees minus Pass Through Costs	\$28,650		\$10,700
Parking Revenue	\$0	\$7,090****	\$7,090
Total Revenue	\$28,650	\$10,622	\$17,790

<sup>\*</sup>Existing Citywide special event fee.

#### **BACKGROUND**

The Marina Fund covers all Waterfront operations including the Marina, landscaping, facilities, parks, roads, recreation programs and special events. Specific examples include the daily maintenance of over 1,000 berths, repairs to docks, pilings and buildings, staffing in Shorebird Nature Center and Adventure playground and the daily administration of what essentially is a "small city". These costs are paid via revenues from berth fees, special fees, and commercial leases and licenses. Berth fees comprise 55% of all Marina Fund revenue, while all other fees combined comprise approximately 12% of Marina Fund revenue.

<sup>\*\*</sup>San Francisco's fee includes a venue fee of \$11,100 which is discounted by 50% for non-profits; plus an additional venue setup fee of \$5,550; plus a regeneration fee of \$5,000; plus a participant fee of \$6,800.

<sup>\*\*\*</sup>Paid to General Fund; partial reimbursement for staffing costs. Both San Francisco and Berkeley examples exclude reimbursement for Police and Public Works staffing costs.

<sup>\*\*\*\*</sup>Paid to Marina Fund by event attendees parking at the Waterfront.

The proposed fees were brought before the Parks & Waterfront Commission on April 10, 2019 at their regular meeting.

#### **ENVIRONMENTAL SUSTAINABILITY**

The proposed fee increases will improve the City's ability to manage and operate the Berkeley Waterfront, where the City provides unique recreational and educational opportunities for the community to engage with and learn about the Bay and local marine environment.

#### **CONTACT PERSON**

Christina Erickson, Deputy Director, 510-981-6703 Alexandra Endress, Waterfront Manager, 510-981-6737

#### Attachments:

- 1. Waterfront Fees: Current vs. Proposed
- 2. Resolution
  - Exhibit A: Fee Schedule
- 3. Notice of Public Hearing

**ATTACHMENT 1** 

# Waterfront Fees: Current vs. Proposed

**Table 1 - Current vs. Proposed Fees** 

Fee	Current	Proposed	Notes :
1. Visitor berth fee (up to 10 nights)	\$0.50/foot/ night	\$1/foot/ night	
2. Launch ramp fee	\$15/day \$90/month \$300/6-mo period	\$16/day \$95/month \$310/6-mo period	
3. Lost/unreturned parking permit	-	\$100/permit	New fee.
4. Outdated or inadequate registration/documentation	-	\$75/month	New fee.
5. Waterfront special event fees*			

<sup>\*</sup>See Table 2 for proposed Waterfront special event fees.

Table 2 – Proposed Waterfront Special Event Fees (new fees)

Venue Fee	
- Up to 99 attendees	\$350/day
- 100-249 attendees	\$500/day
- 250-499 attendees	\$700/day
- 500-999 attendees	\$1,000/day
- 1000-4999 attendees	\$5,000/day
- 5000-9999 attendees	\$10,000/day
- 10,000-14,999 attendees	\$15,000/day
- Over 15,000 attendees	\$20,000/day
Additional fees	
- Road closure request	\$500
- Road closure	\$2,000
- Participant fee (for event w/alcohol)	\$5/person or \$1000/day*
- Exclusive Use Parking	\$10/space/day
- Attended Parking**	\$20/vehicle less than 17'; \$50/vehicle for vehicles and trailers in excess of 17'
- Concession Fee	10% of gross sales
- Event clean up deposit	\$1,000
Pass-Through Costs	
- Operations staff to plan & monitor event	
- Parking attendants	
- Parks staff to prepare site, inspect after event, and make any necessary repairs	Actual costs
- Custodial staff	
- Signage, rentals, equipment, green waste, and other goods or services required for the event.	
*Whichever is higher	

<sup>\*</sup>Whichever is higher.

<sup>\*\*</sup>This would replace the existing "special event parking fee" in the same amounts, currently included in the Marina Fee Schedule. \*This would replace the existing "special event parking fee" in the same amounts, currently included in the Marina Fee Schedule.

**ATTACHMENT 2** 

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

# ESTABLISHING FEES FOR GOODS AND SERVICES PROVIDED AT THE BERKELEY MARINA AND RESCINDING RESOLUTION NO. 68,451-N.S.

WHEREAS, on May 15, 2018, Council adopted the new Marina Fee Schedule (Resolution No. 68,451-N.S.); and

WHEREAS, the City's costs to operate facilities, provide services and undertake capital improvements at the Berkeley Marina have increased with inflation, rising staff costs, and an aging infrastructure.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the attached rate structure (Exhibit A) is hereby established for use by the general public for facilities and services at the Berkeley Marina, effective June 1, 2019.

BE IT FURTHER RESOLVED that Resolution No. 68,451-N.S. and all amendatory resolutions are hereby rescinded effective June 1, 2019.

Exhibit A: Fee Schedule

### **Exhibit A: Fee Schedule**

# **Marina Rate Schedule**

(effective June 1, 2019)

Berth Fee per size of boat (in feet)	Berths \$/ft	Power \$/ft
20' – 21'	8.20	0
22' – 24'	8.67	0.20
25' – 29'	9.76	0.40
30' – 39'	10.34	0.60
40' – 49'	10.95	0.80
50' – 59'	11.61	1.00
60' – 69'	12.33	1.20
70' – 79'	13.04	1.40
80' – 89'	13.81	1.60

Surcharges	Base Rate Per Foot
Upwind Berth*	15% added to the base rate
Single Berth (Double Finger Berth)	15% added to the base rate
Upwind & Single Berth	30% added to the base rate
Catamaran/ Trimaran Fees	40% added to the base rate

Discounts	Base Rate Per Foot
Multiple Berth Discount > 20	-30% off Base Berth Rent
Multiple Berth Discount 11-20	-20% off Base Berth Rent
Multiple Berth Discount 5-10	-10% off Base Berth Rent
Referral Discount for New Slip Holders**	-\$50 on first month of berth fees

Other Fees	Amount
Chaining Fee (per occurrence)	\$120/occurrence
Charter Boat Fee (public dock)	\$35/event + \$1/person
Dry Storage (27' length or less)	\$125/month
Dry Storage (28' length or more)	\$150/month
Electronic key pass (initial 1-2 keys)	\$15/key
Electronic key pass (additional keys)	\$75/key
Electronic key pass (Visitors: initial 1-2 keys)	\$10/key
Group key fee (Organizations)	\$15/key
Floating Home Sewer Charge – monthly	\$25/month
Food Booth Fee	\$500/event
Impound Fee	\$55/day
Insurance – Outdated / Inadequate	\$75/month

Other Fees	Amount
Labor Fees	\$75/hour
Launch Ramp – Monthly	\$95/month
Launch Ramp – Seasonal	\$310 per 6-month period
Launch Ramp – Daily	\$16/day
Lien Fee	\$100/occurrence
Limited Access Berth	Vessel Length x Rate
Liveaboard Fee – boat (monthly) ++	\$200/month
Liveaboard Fee – floating home (monthly) ++	\$200/month
Locker Fee	\$30/month
Lost/Unreturned Parking Permit	\$100/permit
Merchandise Booth Fee	\$100/event
Registration/Documentation – Outdated/Inadequate	\$75/month
Skiff <20' length	\$125/month
Slip Transfer Fee	\$30/occurrence
Small Scale Ferry Service Fee	See table below
Visitor Berth Fees (11 – 30 nights)	20% of Base Berth Rent
Visitor Berth Fees (10 nights or less)	\$1/foot/night
Waterfront Special Event Fees	See table below.

<sup>\*</sup>Houseboats excepted

Small-Scale Ferry Service Fee

Landings	Daily		Landings	Daily
Per Day	Landing Fee		per Day	Landing Fee
1	\$14.34		11	\$68.83
2	\$25.80		12	\$70.27
3	\$35.84		13	\$71.70
4	\$44.44		14	\$73.15
5	\$51.61		15	\$74.58
6	\$57.35		16	\$76.02
7	\$61.65		17	\$77.46
8	\$64.52		18	\$78.89
9	\$65.96		19	\$80.33
10	\$67.40		20	\$81.77
For each additional SSES landing in excess of 20				

For each additional SSFS landing in excess of 20 landings, the daily landing fee would increase by \$2.88.

<sup>\*\*</sup>Fee credit offered on first month of slip fees to both a new slip holder (that has not previously held a slip at the Berkeley Marina) and an existing customer who made the referral.

<sup>\*\*</sup> Boaters may apply for a refund of any Liveaboard fee increase that takes effect from FY 2016 onward through the City's Very Low Income Refund policy.

Waterfront Special Event Fees

Trateriront opeolar Event 1 ees	
Venue Fee	
- Up to 99 attendees	\$350/day
- 100-249 attendees	\$500/day
- 250-499 attendees	\$700/day
- 500-999 attendees	\$1,000/day
- 1000-4999 attendees	\$5,000/day
- 5000-9999 attendees	\$10,000/day
- 10,000-14,999 attendees	\$15,000/day
- Over 15,000 attendees	\$20,000/day
Additional fees	
- Road closure request	\$500
- Road closure	\$2,000
- Participant fee (for event w/alcohol)	\$5/person or \$1000/day*
- Exclusive Use Parking	\$10/space/day
- Attended Parking	\$20/vehicle less than 17'; \$50/vehicle for vehicles and trailers in excess of 17'
- Concession Fee	10% of gross sales
- Event clean up deposit	\$1,000
Pass-Through Costs	
- Operations staff to plan & monitor event	
- Parking attendants	
- Parks staff to prepare site, inspect after event, and make any necessary repairs	Actual costs
- Custodial staff	
- Signage, rentals, equipment, green waste, and other goods or services required for the event.	

<sup>\*</sup>Whichever is higher.

**ATTACHMENT 3** 

### NOTICE OF PUBLIC HEARING

### NOTICE OF PUBLIC HEARING BERKELEY CITY COUNCIL

### **Marina Fee Increases**

Notice is hereby given by the City Council of the City of Berkeley that a public hearing will be conducted by said city council of the City of Berkeley at which time and place all persons may attend and be heard upon the following:

The Department of Parks, Recreation & Waterfront is proposing to increase selected Marina fees, as contained in the attached Marina Fee Schedule and summarized below:

**Table 1 - Current vs. Proposed Fees** 

Fee	Current	Proposed	Notes:
1. Visitor berth fee (up to 10 nights)	\$0.50/foot/	\$1/foot/	
	night	night	
2. Launch ramp fee	\$15/day	\$16/day	
	\$90/month	\$95/month	
	\$300/6-mo period	\$310/6-mo period	
3. Lost/unreturned parking permit	-	\$100/permit	New fee.
4. Outdated or inadequate	-	\$75/month	New fee.
registration/documentation			
5. Waterfront special event fees*			

<sup>\*</sup>See Table 2 for proposed Waterfront special event fees.

Table 2 – Proposed Waterfront Special Event Fees (new fees)

Venue Fee	
- Up to 99 attendees	\$350/day
- 100-249 attendees	\$500/day
- 250-499 attendees	\$700/day
- 500-999 attendees	\$1,000/day
- 1000-4999 attendees	\$5,000/day
- 5000-9999 attendees	\$10,000/day
- 10,000-14,999 attendees	\$15,000/day
- Over 15,000 attendees	\$20,000/day
Additional fees	
- Road closure request	\$500
- Road closure	\$2,000
- Participant fee (for event w/alcohol)	\$5/person or \$1000/day*
- Exclusive Use Parking	\$10/space/day
	\$20/vehicle less than 17';
- Attended Parking**	\$50/vehicle for vehicles and trailers in excess of 17'
- Concession Fee	10% of gross sales
- Event clean up deposit	\$1,000
Pass-Through Costs	
- Operations staff to plan & monitor event	
- Parking attendants	
-	-
<ul> <li>Parks staff to prepare site, inspect after event, and make any necessary repairs</li> </ul>	A studios at a
- Custodial staff	Actual costs
- Custodial stall - Signage, rentals, equipment, green	
waste, and other goods or services required	
for the event.	
*\^/\.'.\.	

<sup>\*</sup>Whichever is higher.

The hearing will be held on May 14, 2019, at 6:00 p.m. in the School District Board Room, 1231 Addison Street.

For further information, please contact Alexandra Endress at 510-981-6737.

A copy of the agenda material for this hearing will be available on the City's website at <a href="https://www.CityofBerkeley.info">www.CityofBerkeley.info</a> as of **May 2, 2019.** 

Written comments should be mailed or delivered directly to the <u>City Clerk, 2180 Milvia Street, Berkeley, CA 94704</u>, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

<sup>\*\*</sup>This would replace the existing "special event parking fee" in the same amounts, currently included in the Marina Fee Schedule. \*This matches the existing "special event parking fee" in the Marina Fee Schedule.

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Communications to the Berkeley City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record. If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or clerk@cityofberkeley.info for further information.

If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Berkeley at, or prior to, the public hearing. Background information concerning this proposal will be available at the City Clerk Department and posted on the City of Berkeley webpage at least 12 days prior to the public hearing.

Mark Numainville, City Clerk



PUBLIC HEARING May 14, 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: Land Use Planning Permit Fee Amendments

### RECOMMENDATION

Conduct a public hearing and upon conclusion, adopt a Resolution amending Resolution No. 67,985-N.S. to amend the fee schedule for Land Use Planning Fees to establish a new fee for land use applications that request streamlined approval, pursuant to Senate Bill 35 (approved by Governor in 2017).

### FISCAL IMPACTS OF RECOMMENDATION

The fee increases will provide fees that are comparable to others of a similar nature elsewhere in the fee schedule, in order to recoup staff costs consistent with the department's obligations as an enterprise fund. The new fee includes a \$3,270 base fee (14 hours) plus \$200 per hour of staff time in excess of that covered by the base fee, and a \$30 community planning fee overhead charge. Fee revenues will equal expenses, as revenue will be collected based on actual staff costs.

### **CURRENT SITUATION AND ITS EFFECTS**

The Land Use Planning Fee schedule was most recently adopted on May 16, 2017 by Council Resolution No. 67,985-N.S.

State law was amended in 2017 to provide for streamlined permit review of projects that include at least 50% affordable housing units and meet several other criteria. In reviewing these permits, there is no discretionary process, so the usual use permit and design review fees do not apply. However, cities are allowed to implement fees to recoup actual costs of reviewing the substantial documentation required to justify an SB35 project. This fee would recoup the cost of staff time to review non-discretionary permits under SB35, consistent with the fees charged for other complex development projects.

This fee, and the SB35 project review process it supports, furthers the City's Strategic Plan goal of creating affordable housing and housing support services for our most vulnerable community members.

### **ENVIRONMENTAL SUSTAINABILITY**

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

### RATIONALE FOR RECOMMENDATION

These amendments to the fee schedule would bring internal consistency to the fees and enable the City to recoup staff costs.

### **ALTERNATIVE ACTIONS CONSIDERED**

None.

### **CONTACT PERSON**

Timothy Burroughs, Director, Planning and Development Department, 981-7410

### Attachments:

- 1: Resolution
- 2: Public Hearing Notice

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

FEES: DEVELOPMENT RELATED SERVICES PROVIDED BY THE PLANNING AND DEVELOPMENT DEPARTMENT; AMENDING RESOLUTION NO. 67,985-N.S.

WHEREAS, on May 16, 2017, Resolution No. 67,985-N.S. established fees for development-related services provided by the Planning and Development Department; and

WHEREAS, Senate Bill 35 (SB35) allows Cities to recoup their actual costs of reviewing the substantial documentation required to justify a SB35 project fee and the proposed fee would recoup the cost of staff time to review non-discretionary permits under SB35; and

WHEREAS, the Council of the City of Berkeley held a public hearing on May 14, 2019 to review the proposed fee addition.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that Resolution No. 67,985-N.S. is amended to add an SB35 analysis fee for all development-related services provided by the Planning Department to the existing fee schedule, effective July 1, 2019. The SB35 analysis fee shall be added to the Chapter B, Section IV. Zoning Certificates (ministerial permits) section of the Planning Department fee schedule and shall read as follows:

IV	Zo	ning Certificates (ministerial permits)	Fee	Remarks
	С	SB 35 application analysis	\$3,270 Fee	Add \$200/hr of staff time in excess of base fee

### NOTICE OF PUBLIC HEARING BERKELEY CITY COUNCIL

### **Land Use Planning Permit Fee Amendments**

Notice is hereby given by the City Council of the City of Berkeley that a public hearing will be conducted by said City Council of the City of Berkeley at which time and place all persons may attend and be heard upon the following:

The Department of Planning Department is proposing to establish a new fee for SB35 applications, which includes a \$3,270 base fee (14 hours) plus \$200 per hour of staff time in excess of that covered by the base fee and a \$30 community planning fee overhead charge.

The hearing will be held on May 14, 2019, starting at 6:00 p.m. in the School District Board Room, 1231 Addison Street.

For further information, please contact Steve Buckley at 510-981.7411.

A copy of the agenda material for this hearing will be available on the City's website at <a href="https://www.CityofBerkeley.info">www.CityofBerkeley.info</a> as of **May 2, 2019** 

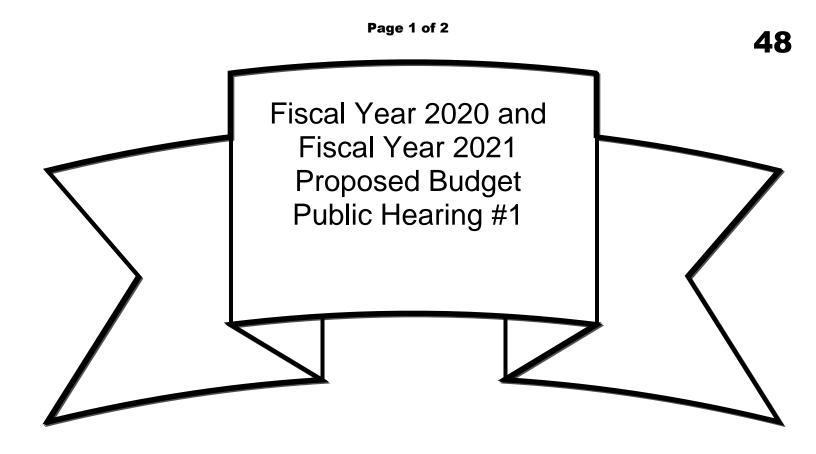
Written comments should be mailed or delivered directly to the <u>City Clerk, 2180 Milvia Street, Berkeley, CA 94704</u>, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record. If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or clerk@cityofberkeley.info for further information.

If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Berkeley at, or prior to, the public hearing. Background information concerning this proposal will be available at the City Clerk Department and posted on the City of Berkeley webpage at least 12 days prior to the public hearing.

Published:	May 3 and May	10, 2019 –	The Berkeley	Voice
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I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way, as well as on the City's website, on May 2, 2019.



Please refer to the following Agenda Packet for the material for this item.

• May 7, 2019 Agenda Packet (Worksession)

<a href="https://www.cityofberkeley.info/Clerk/City\_Council/2019/05\_May/City\_Council\_05-07-2019\_-\_Special\_Meeting\_Agenda.aspx">https://www.cityofberkeley.info/Clerk/City\_Council/2019/05\_May/City\_Council\_05-07-2019\_-\_Special\_Meeting\_Agenda.aspx</a>

This material is also on file and available for review at the City Clerk Department, or can be accessed from the City Council Website.

**City Clerk Department** 

2180 Milvia Street Berkeley, CA 94704 (510) 981-6900

or from:

The City of Berkeley, City Council's Web site www.cityofberkeley.info/citycouncil

### NOTICE OF PUBLIC HEARING BERKELEY CITY COUNCIL

## FISCAL YEAR 2020 & FISCAL YEAR 2021 PROPOSED BIENNIAL BUDGET PUBLIC HEARING #1

TUESDAY, MAY 14, 2019 – 6:00 P.M.

The Berkeley City Council will conduct a public hearing on May 14, 2019 at 6:00 p.m. at the Berkeley Unified School District Board Room located at 1231 Addison Street to discuss the FY 2020 & FY 2021 Proposed Biennial Budget.

A copy of the agenda material for this hearing will be available on the City's website at www.CityofBerkeley.info as of **May 2, 2019**.

For further information, please contact Teresa Berkeley-Simmons, Budget Manager at 981-7000.

Written comments should be mailed or delivered directly to the <u>City Clerk, 2180 Milvia Street, Berkeley, CA 94704</u>, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

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Posted:	May 2, 2019	
posted a	it the display case located near t	blic Hearing of the Berkeley City Council was he walkway in front of the Maudelle Shirek y, as well as on the City's website, on May 2,
Mark Nu	mainville, City Clerk	_



PUBLIC HEARING May 14, 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: One-Way Car Share – Transition from Pilot to Baseline Program

### RECOMMENDATION

Conduct a public hearing and upon conclusion, 1) adopt a Resolution approving an ongoing One-Way Car Share program for the City of Berkeley, with an increase to administration fees that are commensurate with City administrative cost increases, and 2) adopt the first reading of an Ordinance pursuant to Berkeley Municipal Code Chapter 14.62, deleting language that refers to the program as a limited-term "pilot" and amending language on the number of vehicle parking permits for which a one-way car share organization may apply.

### FISCAL IMPACTS OF RECOMMENDATION

The program pricing structure results in cost-neutrality. The program has three types of fees: Master Residential Parking Permit (MRPP) fees for Residential Parking Permits, Free-Floating Parking Permit (FFPP) fees for permits to park in metered spaces, and an Administration Fee to cover the staffing cost to administer the program. The MRPP fees are deposited into the General Fund (Fund 011) and the FFPP fees and Administration Fee are deposited into the Parking Meter Fund (Fund 631).

An 11.67 percent increase in the administration fee is proposed for the transition from pilot to an ongoing (baseline) program in order to cover the rate of salary increases for program administration staff that occurred during the 30-month pilot program. The parking permit fees are not proposed to be increased at present because the fees were recently adjusted in October 2018 commensurate with an increase in the citywide RPP fee and parking meter utilization by program vehicles. Future adjustments to parking permit fees are anticipated to be brought to Council for approval on an annual basis.

### **CURRENT SITUATION AND ITS EFFECTS**

The One-Way Car Share program allows Berkeley residents and visitors to pick up a vehicle from one location and drop it off at another. The free-floating system allows trip flexibility that closely mimics the benefits of private vehicle ownership. Members find a vehicle through a smartphone application or by placing a voice call on their phone, use it as long as needed, and end their reservation at a public parking space with a two hour or more time-limit duration within the car share organization's designated service area.

Qualified car share organizations wishing to operate a one-way car share service in Berkeley pay an administration fee and annually acquire permits that allow specific exceptions to the parking rules as detailed in Municipal Code 14.62 "Car Sharing". The MRPP is priced at three times what residents pay for an annual RPP permit and allows one-way car share vehicles to park in all RPP areas with the same rights and restrictions as RPP holders. The FFPP allows one-way car share vehicles to park prepaid in metered or unmetered spaces with a two-hour or more time limit (outside RPP areas) without enforcement of the posted time limits and without the member-user paying the meter rates. The FFPP per-vehicle annual fee deposit is based on anticipated metered parking usage.

Annual administration fees (flat fees)				
Master Residential Parking P	Master Residential Parking Permit (MRPP) only \$8,593.00			
Free Floating Parking Permit	or Combined			
(MRPP and FFPP)		\$12,703.00		
Annual parking permit fees based on percent of car share fleet in the City throughout the year				
Percent of fleet in the City	20%			
MRPP fee (per vehicle) \$198.00		\$39.60		
FFPP deposit (per vehicle) \$1,352.00		\$270.40		
Combined (per vehicle)	\$310.00			

At the end of each fiscal year, the FFPP deposit is reconciled through a comparison of the deposit paid to the actual meter usage by the vehicles. The participating one-way car share organization either pays the additional amount owed or is issued a refund for the excess amount deposited.

The transition from pilot to baseline program supports the City's Strategic Plan Goal of being a global leader in addressing climate change, advancing environmental justice, and protecting the environment.

### **BACKGROUND**

Council recommended that staff develop the policies and procedures to allow one-way car share to operate in the City on two separate occasions<sup>1</sup> before the pilot program was developed by staff and adopted by Council on September 27, 2016.<sup>2</sup>

While the program allows for multiple operators, only one has provided service in Berkeley so far. In early 2017 A3 Mobility, a subsidiary of the American Automobile Association of Northern California, Utah, and Nevada, applied to the City for combined MRPP/FFPP parking permits for 250 vehicles. A3 Mobility then launched GIG Car Share (GIG) on April 30, 2017 in Berkeley and Oakland as the first qualified one-way car share organization. GIG established an initial service area of 12.8 square miles (5.2)

<sup>&</sup>lt;sup>1</sup> Council meetings dated May 12, 2015 at http://bit.ly/2Dc6Mu6 and July 14, 2015 at http://bit.ly/2tt0nel.

<sup>&</sup>lt;sup>2</sup> Council Report entitled Car Sharing Policy for One-Way Car Share Two-and-a-Half Year Pilot Program; Adding BMC Chapter 16.62, accessed at http://bit.ly/2p0zl3d.

square miles in Berkeley), a coverage of about twenty vehicles per square mile. In April and May 2018, the service area was expanded to include Albany and the City of Alameda, respectively. As of December 31, 2018, GIG had obtained parking permits for 465 vehicles covering a designated service area of 26.2 square miles (6.7 square miles in Berkeley), resulting in about eighteen vehicles per square mile. A3 Mobility has provided the following data for the quarter ending December 31, 2018:

- 6,935 Berkeley-Based GIG members, 27,307 overall;
- Over 34,000 trips originating in Berkeley for the quarter;
- 45.3 percent of fleet operated in Berkeley;
- 4.64 out of five stars on GIG member trip satisfaction survey;
- Median parking time in Berkeley between reservations: two hours, two minutes;
- 0.08 percent (less than one-tenth of a percent) of parking events involved a vehicle parked over 72 hours.

The above information on parking permit fees and on GIG's service coverage and performance was presented to the Transportation Commission on March 21, 2019. It was motioned and seconded (Zander/Garcia) that the Transportation Commission recommends that Council amend the One-Way Car Share Pilot program ordinance to establish an on-going program, with parking permit fees to be adjusted on an annual basis beginning in October 2019, and an increase in the administration fee to account for staff salary increases. Vote: Ayes: Bruzzone, Garcia, Ghosh, Humbert, Lathbury, Parolek, Zander; Noes: None; Abstain: None; Absent: None.

### **ENVIRONMENTAL SUSTAINABILITY**

The One-Way Car Share program supports Berkeley's Climate Action Plan, which targets a 33 percent greenhouse gas emission reduction below 2000 levels by the year 2020, and an 80 percent reduction below 2000 levels by 2050. Specifically, the Climate Action Plan Sustainable Transportation and Land Use Goal 7 calls to "enhance and expand car sharing and ride sharing programs". Past research shows that car share lowers vehicle ownership (one car-share vehicle replaces seven to eleven cars); increases walking and bicycling; and decreases vehicle miles traveled and greenhouse gas emissions.<sup>3</sup>

### RATIONALE FOR RECOMMENDATION

Throughout the duration of the pilot, one-way car share has seen steady growth in Berkeley and the region as a whole, indicating public demand for the service. Research indicates that such growth results in a decrease in private vehicle ownership and vehicle miles traveled, consistent with Berkeley's Climate Action Plan targets.

<sup>&</sup>lt;sup>3</sup> Martin, Elliot and Shaheen, Susan, *Impacts of Car2Go on Vehicle Ownership, Modal Shift, Vehicle Miles Traveled, and Greenhouse Gas Emissions: An Analysis of Five North American Cities,* July 2016, Transportation Sustainability Research Center at UC Berkeley, access at <a href="http://bit.ly/29WkSFG">http://bit.ly/29WkSFG</a>

### ALTERNATIVE ACTIONS CONSIDERED

Council could opt to not make one-way car share a permanent program. The result would be that the current pilot program would sunset June 30, 2019, and one-way car share organizations would then not be able to operate in the City of Berkeley.

### **CONTACT PERSON**

Farid Javandel, Transportation Manager, Public Works (510) 981-7061 Beth Thomas, Principal Planner, Public Works, (510) 981-7068

### Attachments:

- 1: Resolution
- 2: Ordinance
- 3: Public Hearing Notice

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

### APPROVING ONE-WAY CAR SHARE AS AN ONGOING SERVICE FOR THE CITY OF BERKELEY AND ESTABLISHING AN ADMINISTRATIVE FEE INCREASE

WHEREAS, the City recognizes the practice of car sharing as a beneficial mode of transportation that reduces demand for private vehicles, decreases per capita greenhouse-gas emissions, creates affordable mobility options for all residents including the elderly, disabled and disadvantaged, ensuring that all residents have access to this environmentally beneficial mode of transportation; and

WHEREAS, adoption of a formal car share policy will allow the City to standardize existing car share policies that currently limit the expansion of car share services within Berkeley; and

WHEREAS, the City's Climate Action Plan (Resolution No 64,480-N.S.) Goal 7 commits to expanding and enhancing car sharing; and

WHEREAS, the City's General Plan Transportation Element Policy T-10 specifically asks for support of car-share programs in order to increase use of alternative modes of transportation and encourage citizens and commuters to reduce automobile trips; and

WHEREAS, the City has expressly allowed the practice of car sharing as a transportation choice since 2001; and

WHEREAS, the State of California, through Assembly Bill 2154 (California Vehicle Code Section 22507 1), has supported the practice of car sharing in both on- and off-street locations since 2006; and

WHEREAS, numerous municipalities in California have adopted car share policies and legislation to facilitate car sharing in the public right-of-way and on public and private off-street property; and

WHEREAS, each of these actions as a separate and on an independent basis are exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15301 (existing facilities) and 15061(b) (3) (no significant effect on the environment); and

WHEREAS, Council approved Resolution 67,696-N.S. approving a car share policy and establishing a one-way car share two-and-a-half year pilot program and fees September 27, 2016; and

WHEREAS, Council approved Resolution 68,344-N.S., raising the annual Residential Parking Permit fee from \$55 to \$66 on February 27, 2018 beginning FY19; and

WHEREAS, Council approved Resolution 68,660-N.S. on October 30, 2018, raising the annual per vehicle Master Residential Parking Permit (MRPP) fee from \$165 to \$198, lowering the annual per vehicle Free-Floating Parking Permit (FFPP) deposit from \$1,580 to \$1,352, and lowering the annual combined MRPP and FFPP per vehicle deposit from \$1,745 to \$1,550; and

WHEREAS, the Transportation Commission reviewed the performance of the program and on March 21, 2019. It was motioned and seconded (Zander/Garcia) that the Transportation Commission recommends that Council amend the One-Way Car Share Pilot program ordinance to establish an on-going program, with parking permit fees to be adjusted on an annual basis beginning in October 2019, and an increase in the administration fee to account for staff salary increases. Vote: Ayes: Bruzzone, Garcia, Ghosh, Humbert, Lathbury, Parolek, Zander; Noes: None; Abstain: None; Absent: None.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the One-Way Car Share Two-and-a-Half Year Pilot Program be made an ongoing program and renamed as the One-Way Car Share Program.

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that the initial annual parking permit fees for the ongoing One-Way Car Share Program are as follows: \$198 per vehicle for the Master Residential Parking Permit, \$1,352 per vehicle deposit for the Free-Floating Parking Permit, and \$1,550 per vehicle deposit for the combined Master Residential/Free-Floating Parking Permit; and

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that the annual One-Way Car Share Program administration fees are increased from \$7,695 to \$8,593 per operator for issuance of Master Residential Parking Permits, and from \$11,375 to \$12,703 per operator for issuance of Free-Floating Parking Permits and combined Master Residential/Free-Floating Parking Permits, to account for the increase in program administration salaries over the course of the two-and-a-half year One-Way Car Share Pilot Program.

### ORDINANCE NO. -N.S.

AMENDING BERKELEY MUNICIPAL CODE SECTIONS 14.62.030 AND 14.62.090

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

<u>Section 1.</u> That Section 14.62.030 of the Berkeley Municipal Code is amended to read as follows:

### Section 14.62.030 Term.

The pilot term length during which car share organizations may operate in Berkeley will be two-and-a-half- years. The pilot term shall begin September 30, 2016 and end June 30, 2019. (Ord. 7508-NS § 1 (part), 2016)Reserved.

<u>Section 2</u>. That Section 14.62.090 of the Berkeley Municipal Code is amended to read as follows:

### Section 14.62.090 Issuance of parking permits.

- A. Free-floating parking permits shall be issued by the Public Works Department in accordance with requirements set forth in this chapter.
- B. Master residential parking permits shall be issued by the Public Works Department in accordance with requirements set forth in this chapter.
- C. The Annual Bay Area parking master parking badge shall be designed to state the license number of the one-way car share vehicle upon which the badge is affixed.
- D. The Public Works Department shall issue the permits with a maximum term of one year. Permits can be granted quarterly each year through the end of the City's fiscal year.
- E. A car share organization can apply for up to 700 parking permits to be used on car share vehicles based within fifty miles of the Berkeley city limits. A car share organization may alternatively apply for up to 500 parking permits to be used on vehicles based within fifty miles of the Berkeley city limits plus up to 300 parking permits for vehicles based more than fifty miles from the Berkeley city limits. The Public Works Department will review the quantity of parking permits requested by the car share organization to balance the parking needs of the car share organization with the onstreet parking needs of private residents and employees at the end of the two-and-a-half-yearpilot.
- F. Any free-floating and master residential preferred parking permits which are renewed shall be subject to the same conditions applicable to the permits when originally issued. The Public Works Department may attach additional conditions to a renewed permit.
- G. The Public Works Department shall issue rules and regulations consistent with this Chapter governing issuance and display of proof that a one-way car share vehicle is owned by a qualified car share organization with a valid free-floating and/or master residential preferred parking permit. (Ord. 7508-NS § 1 (part), 2016)

### NOTICE OF PUBLIC HEARING BERKELEY CITY COUNCIL

### ONE-WAY CAR SHARE PROGRAM DURATION, OPERATIONS AND FEES

The Department of Public Works is proposing to convert the current One-Way Car Share Pilot Program to an ongoing program and to adjust fees and limits on the maximum number of parking permits issued for qualified organizations to operate a one-way car share service in the City. Car share is a membership-based service available to all qualified drivers that allows members to make vehicle trips by operating a rented vehicle without a separate written agreement for each trip. The City currently has a One-Way Car Share Pilot Program with a two-and-a-half year duration that ends on June 30, 2019. The City is considering adopting the One-Way Car Share Program as an ongoing program with no specified expiration date.

Annual parking permit fees for one-way car share vehicles are based on a one-way car share organization operating its vehicle fleet 100 percent of the time in Berkeley. Annual parking permit fees and deposits for organizations that designate regional zones in two or more contiguous municipalities would be scaled based on the percent of their fleet that operates in the City of Berkeley on a yearly average.

The Master Residential Parking Permit (MRPP) fee would stay at the current \$198, three times as much as the annual parking permit available to individual residents. The permit allows qualified one-way car share vehicles to be parked in all residential parking permit areas with the same rights and restrictions as area-specific residential parking permit holders.

The Free Floating Parking Permit (FFPP) deposit would stay at the current \$1,352 annually per vehicle, allowing a member-user to park a one-way car share vehicle at metered spaces with two-hour or more time limits without enforcement of the time limits and without paying the meter rates. The FFPP also allows for parking at unmetered parking spaces beyond the two-hour or more time limit. Actual costs would be calculated quarterly based on GPS data for each vehicle and any costs exceeding the deposit would be paid by the one-way car share organization.

The Administrative Fee would increase as follows: car share organizations utilizing only MRPPs would be charged an annual fee of \$8,593; those utilizing only FFPPs or combined MRPPs/FFPPs would be charged an annual fee of \$12,703. The Administrative Fee equals the estimated annual cost of staff time for operating the One-Way Car Share pilot program for each car share organization. The fee would cover staff time for determining eligibility, issuing permits, meter data analysis, and program evaluation and management.

	Current Fees	<b>Proposed Fees</b>
Annual MRPP fee (per vehicle, 100% in Berkeley)	\$198	\$198
Annual FFPP deposit (per vehicle, 100% in Berkeley)	\$1,352	\$1,352
Annual MRPP/FFPP (per vehicle, 100% in Berkeley)	\$1,550	\$1,550
MRPP annual administrative fee (per organization)	\$7,695	\$8,593
FFPP or MRPP/FFPP annual admin fee (per organization)	on) \$11,375	\$12,703

The number of parking permits for which a car share organization may apply would be adjusted to provide the option for a car share organization to apply for 500 parking permits for vehicles based in Berkeley plus 300 parking permits for vehicles based more than fifty miles from the Berkeley city limits.

The hearing will be held on May 14, 2019 at 6:00 p.m. in the Berkeley Unified School District Board Room, 1231 Addison Street, Berkeley.

A copy of the agenda material for this hearing will be available on the City's website at <a href="https://www.CityofBerkeley.info">www.CityofBerkeley.info</a> as of **May 2, 2019.** 

For further information, please contact Beth Thomas, Principal Planner, Department of Public Works at 510-981-7068.

Written comments should be mailed or delivered directly to the <u>City Clerk, 2180 Milvia Street, Berkeley, CA 94704</u>, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

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Published: May 2 and May 9, 2019 – The Berkeley Voice
Pursuant to GC 6062A

-----I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on May 2, 2019.

Mark Numainville, City Clerk



PUBLIC HEARING May 14, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Phillip Harrington, Director, Public Works

Subject: Residential Preferential Parking Program Reform and Expansion Phase II:

Recommendations for Increased Staffing, Enhanced Football Game Day

Enforcement, and Expansion

### RECOMMENDATION

Conduct a public hearing and upon conclusion:

- Adopt first reading of an Ordinance amending Berkeley Municipal Code Chapter 14.72 to allow Residential Preferential Parking (RPP) in areas zoned Mixed Use-Light Industrial;
- 2. Adopt a Resolution to expand and enhance the RPP Program, raising permit fees for cost neutrality while increasing parking enforcement staff and equipment to augment RPP enforcement, improving UC Berkeley home football game parking enforcement, allowing more residents to opt-in, and rescinding Resolution 68,344-N.S.;
- 3. Adopt a Resolution modifying 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 in portions of RPP Zones B, D, F, G, and I; and install new RPP signs in zones B, D, F, G, and I to clearly indicate UC Berkeley home football game day parking prohibitions; and
- 4. Adopt a Resolution establishing a new Parking Fine Schedule, including parking fines of \$225 per violation of BMC 14.40.090 in new Enhanced Fine Areas on posted UC football game days, and rescinding Resolution No. 68,466-N.S.

### **SUMMARY**

The recommended actions constitute a package of "mid-term" changes to the RPP Program, developed in response to previous Council direction. These changes include: 1) hiring (7) seven more parking enforcement personnel to augment enforcement in existing and new RPP Zones, particularly on UC Berkeley home football game days; 2) instituting new parking restrictions and increased fines on football game days; 3) allowing blocks currently ineligible for RPP to opt-in to the Program; and 4) increasing permit fees to make the Program cost-neutral.

### FISCAL IMPACTS OF RECOMMENDATION

The recommendation would provide staffing to increase enforcement of RPP Program parking restrictions, including during UC Berkeley football games, and allow many currently ineligible residents to opt-in to the Program. The capital and operational cost and revenue elements associated with these changes are summarized below. These are new obligations, in addition to existing costs to operate the program.

### Football Game Day Enforcement Cost

Implementing the recommendation for the 2019 football season will incur a one-time capital cost of \$80,000, including:

- Approximately 500 new Residential Preferential Parking (RPP) signs specifying new parking restrictions, at a unit cost of \$100 per sign, and 250 person hours to install the new signs for a one-time labor cost of \$25,000; and
- Approximately 500 decals to identify football game dates (replaced annually) at cost of \$5,000. Initial decal installation included with sign installation cost. Annual decal replacement requires 100 person hours at a cost of \$10,000.

Staff calculates the ongoing cost to be \$15,000 annually. Initial and annual costs are summarized in the table below:

		Initial Cost	Ongoing Annual Cost
Signs	Materials	\$50,000	N/A
	Labor	\$25,000	N/A
Decals	Materials	\$5,000	\$5,000
	Labor	Included in sign installation.	\$10,000
	Total	\$80,000	\$15,000

Currently, the UC Berkeley Athletics Department reimburses the City for signs produced and installed to manage football game day traffic. The current signs are over 20 years old; in 2017, UC paid approximately \$18,600 for sign and decal maintenance costs. Staff recommend that City leadership coordinate with UC Berkeley to fund the recommended one-time signage/decal upgrades, plus ongoing annual costs.<sup>1</sup>

### RPP Program Enforcement Enhancement and Expansion Cost

The fiscal impact of all of these recommendations will be realized in the General Fund (011). All permit fees and citation revenues, including revenue from new enforcement staff, will be deposited in the General Fund. In turn, all new staff and equipment costs will come out of the General Fund. Costs include:

 Six (6) Parking Enforcement Officers (\$124,818 per FTE; total \$748,908/year), and one (1) Parking Enforcement Supervisor at \$138,065/year;

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<sup>&</sup>lt;sup>1</sup> If UC Berkeley is unable to pay this cost, then the funding would come from the General Fund.

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- Six (6) parking enforcement vehicles (\$210,000 total), each equipped with standard automated license plate recognition (ALPR) systems at \$78,363 each (\$470,178), annualized over a five-year period;<sup>2</sup> and
- New RPP sign installation, including labor and materials, at \$23,000 per year.<sup>3</sup>

### **Estimated New Revenue**

During the 2018 season, football-related RPP citations resulted in \$49,100 in revenue, and staff anticipates the new "Enhanced Fine Areas" to generate an additional \$31,650. More significantly, hiring six (6) more PEOs is expected to increase citation revenue in both new and existing RPP areas. Staff estimate that each new PEO would issue up to \$75,000/year in RPP citations, for a total of \$450,000/year.

### Incremental Fiscal Impact in FY 2020

Hiring of new PEOs and procurement of associated enforcement equipment would take place over the course of FY 2020, resulting in incremental increases in new citation revenue as new staff are selected, trained, and deployed. Similarly, each opt-in petition for new areas will take time to verify and bring to Council for approval, resulting in delayed revenues from permits purchased in expansion areas. Therefore, the full fiscal impact of the Program's expansion and enhancement will not be seen in FY 2020. Staff will continue to monitor the Program's costs and revenues as new enforcement staff are hired.

### User Fee Increases for Cost Neutrality

Per Council Budget Policies,<sup>4</sup> the RPP Program should pay for itself. As of March 2019, the RPP Program still runs a deficit of approximately \$124,675. The deficit has shrunk by \$71,125 since FY 2017, when the deficit was approximately \$195,800. This deficit reduction, but not elimination, may be due in part to a decline in permit revenues following the 20% fee increase on April 1, 2018. Customers may also have reevaluated their needs in light of the new maximum of three (3) annual permits per address.

The proposed fee structure would go into effect June 1, 2019, to support increasing enforcement in FY 2020. It is estimated to generate approximately \$368,280 of additional revenue, including \$21,600 from annual permit sales in potential new opt-in areas, for the General Fund (Fund 011). The following table reflects increases for each type of permit in the RPP fee structure to result in a cost-neutral Program.

<sup>&</sup>lt;sup>2</sup> Proposed permit fees incorporate half of PEO salary costs, and half of the one-time vehicle and equipment costs, as RPP enforcement accounts for approximately half of all parking enforcement duties. Remaining costs are expected to be covered by new revenues resulting from new staff enforcing other duties, such as street sweeping, parking meter payments, and school zones.

<sup>&</sup>lt;sup>3</sup> Up to twenty blocks in new areas would be allowed to join the Program per year. Staff assumes six RPP signs per block (three signs on each side of the block), and approximately \$1,150 per block.

<sup>4 &</sup>quot;Council Budget Policies": http://bit.ly/2z4UiFY

Permit Type	Current Fee	Proposed Fee	\$ Increase	% Increase
Annual Residential & In-Home Care	\$66.00	\$90.00	\$24.00	36.4%
1-Day Visitor	\$3.00	\$4.00	\$1.00	33.3%
14-Day Visitor	\$34.00	\$47.00	\$13.00	38.2%
Semi-Annual Residential & In-Home Care	\$33.00	\$45.00	\$12.00	36.4%
Community-Serving Facility	\$83.00	\$114.00	\$31.00	37.3%
Merchant	\$185.00	\$253.00	\$68.00	36.8%
1-Day Senior Center	\$1.00	\$1.00	N/A	N/A
Replacement of Annual, 14-Day, Community-Serving Facility, & Merchant Permits	\$15.00	\$21.00	\$6.00	40.0%

The proposed fee structure is estimated to generate approximately \$1,305,240 in revenue for the General Fund in FY 2021, once all new staff have been hired and anticipated expansion has occurred. This increase of \$368,280 in revenue would close the projected deficit, resulting in a cost-neutral Program (the \$600 difference is within the margin of approximation). With the proposed fee increase, the total Program revenue is projected to be \$3.41 million including revenue resulting from an increase in RPP-related citations due to higher staffing levels and new football fines.

RPP Program	April 2018-	FY 2021
Financial Components	March 2018	Projections
	Actuals	
Total RPP Permit Fee Revenue	\$936,960	\$1,305,240
RPP-Related Citation Revenue	\$1,573,840	\$2,023,840
Football RPP-Related Citation Revenue	\$49,100	\$80,750
Total Revenue	\$2,559,910	\$3,409,830
Total RPP Program Costs	\$2,684,580	\$3,409,230
RPP Program Deficit/Surplus	(\$124,670)	\$600

### CURRENT SITUATION AND ITS EFFECTS

This report represents "mid-term" changes to the RPP Program as part of ongoing RPP Program Reform & Expansion. Building on the initial "short-term" changes enacted by Council in February 2018, described in the accompanying Information Report on this Agenda, this report recommends "mid-term" changes that respond to remaining resident requests and Council referrals.

### UC Berkeley Football Game Day Parking Demand

The UC Berkeley football season typically spans twelve (12) games between September and November. Up to seven (7) games per year are played at California

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Memorial Stadium ("stadium"), near the eastern end of Bancroft Avenue. Most home games occur on Saturday afternoons or evenings. Neighborhoods surrounding UC Berkeley currently have RPP. South of campus, RPP Zones A, B, D, and K are enforced Monday to Saturday, with the exception of Zones I (Telegraph) and L (Claremont), which are not enforced on Saturday. North of campus, RPP Zones F and G are enforced Monday through Friday.

Game attendees who drive and park in surrounding neighborhoods can make it difficult for some residents to find parking near their homes during games. In fall 2017, the City analyzed game day parking south of campus.<sup>5</sup> The analysis found that parking occupancy in the study area increased by about 25% on a game day compared to a non-game day, with increases of approximately 35-50% closest to campus (RPP Zones B, D, and I). Anecdotal evidence from residents also suggests poor parking by visitors may impede access to residential driveways at times.

### **Existing Game Day Parking Restrictions**

Special parking restrictions and enforcement on football game days currently includes:

- Increased fines for certain parking violations<sup>6</sup> within the boundaries of Cedar Street (north), Berkeley-Oakland city limits (south and east), and Oxford and Fulton Streets (west), with double fines in RPP Zones A, B, and D; and
- Tow-away zones for all vehicles on certain streets close to campus,<sup>7</sup> and additional no-parking areas at metered parking spaces in the Southside and Northside areas.

The Berkeley Police Department (BPD) requires substantial staff time and resources for football game day duties. BPD typically assigns sworn officers on overtime to patrol areas near the stadium to discourage bad behavior. Any staffing gap is filled by parking enforcement personnel. Between five and seven PEOs may be reassigned to game day duty, with one PEO specifically assigned to regulate access to the Panoramic Hill neighborhood (RPP Zone K). That leaves between two and four PEOs to enforce meter payments, curb markings, or RPP time limits elsewhere in the City. As shown in the table below, the City does not have enough PEOs to provide regular Saturday enforcement in addition to football duties on game days.

Enforcement Duties	Number of Assigned PEOs
--------------------	-------------------------

<sup>&</sup>lt;sup>5</sup> Specifically, Zones A, B, D, I, and L. While not explicitly studied, staff assume neighborhoods north of campus experience similar game day parking demand patterns.

<sup>&</sup>lt;sup>6</sup> Football game day defined as 9:30 a.m. to 11 p.m., regardless of game start time. Most football game day citation rates are 150% of non-game day citation rates. For example, a citation for a vehicle parked in a No Parking Zone (red curb) that is normally \$64 costs \$96 on a game day.

<sup>&</sup>lt;sup>7</sup> For example: Piedmont Avenue between the stadium and Channing Way, Bancroft Way between Warring Street and Bowditch Street, and College Avenue between Bancroft Way and Dwight Way.

<sup>&</sup>lt;sup>8</sup> UC Berkeley reimburses the City for BPD overtime costs.

	Non-Game Days	Football Game Days
Game Day Activities	0	5-7
Parking Meters, Curbs, Time Limits, and RPP	7-9	2-4

### Requests for Further Program Expansion

In the past year, staff received four (4) opt-in requests from residents outside of the current RPP eligibility area, all of them in northwest Berkeley.<sup>9</sup> In the previous five years, staff have received another five (5) requests from residents outside of the program boundaries.<sup>10</sup> A map depicting these requests is provided as Attachment 5.

Recommendation: Increase and Enhance RPP Enforcement, Including on Football Game Days, and Expand RPP Eligibility

### 1. Enhanced Enforcement in Existing RPP Areas

Due to staffing constraints discussed in the accompanying Information Report on this Agenda, enforcement in existing RPP areas occurs only once per day. Staff recommend hiring sufficient parking enforcement staff to resume morning and afternoon patrols of existing RPP areas. This will help reinforce RPP time limits, particularly on streets near popular destinations such as public facilities or commercial districts. Increased patrols may also reduce the amount of one-off requests from residents who do not observe enforcement as frequently, which reduce PEOs' ability to conduct regularly-scheduled beat patrols.

To further increase parking enforcement capacity, staff also recommend that PEOs should no longer accompany street sweeping vehicles. Instead, beat officers would enforce restrictions during the three-hour restriction window, before the sweeper cleans the street, to allow time for other responsibilities. Additionally, staff strongly recommend against introducing additional permit types for resident services, e.g., 'nanny permits', or 'gardener permits', which serve as exemptions from RPP restrictions. In addition to further increasing already high parking demand in some areas, adding new permits for non-residents dilutes the Program's effectiveness for all existing permit holders and encourages more driving, which is contrary to the City's

<sup>&</sup>lt;sup>9</sup> Requests received in FY 2019 include: 10th Street between Cedar and Jones Streets; 10th Street from University Avenue to Allston Way, Addison Street from 10th Street to San Pablo Avenue, and Allston Way from 10th Street to San Pablo Avenue; Camelia Street from 7th to 8th Street; and Page Street from 8th to 9th Street.

Requests received prior to FY 2019 include: Campus Drive from Avenida Drive to the Berkeley Lab Campus; Spruce Street from Los Angeles Avenue to Eunice Street; Stannage Avenue between Gilman Street and Harrison Street; Stanton Street from Ashby Avenue to Prince Street; and various areas adjacent to Solano Avenue.

<sup>&</sup>lt;sup>11</sup> In the future, street sweeping vehicles may be equipped with GPS beacons, which would allow residents to check when streets reopen for parking in real-time.

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Climate Action Plan goals of reducing vehicular emissions.

# 2. Enhanced Game Day Parking Management and Enforcement In response to Council referrals, staff has prepared a proposal for the 2019 football season to improve parking availability for residents in neighborhoods closest to campus. Illustrated in Attachment 6, this proposal builds on existing game day restrictions by adding tougher penalties for non-residents closer to the stadium:

- New tow-away areas for vehicles without a valid RPP permit on streets within one quarter-mile of the stadium (including portions of RPP Zones D and I), where demand was heaviest on the game day analyzed in fall 2017.
- New "Enhanced Fine Areas" on streets within one half-mile of the stadium (including portions of RPP Zones F and G north of campus and portions of Zones B and D south of campus), where vehicles without a valid RPP permit will be subject to a one-time fine of \$225.<sup>12</sup>

This proposal maximizes game day staff capacity and effectiveness in areas where residents experience the most inconvenience. While current enforcement requires two passes to determine whether a non-permitted vehicle exceeds the time limit, under this proposal a PEO will need to check only once to verify whether a vehicle has a permit.

Signage is critical to effective enforcement of parking restrictions. In addition to clearly defining expectations for visitors, signage justifies the issuance of citations that violate posted restrictions. Details about the costs and content of new signage required to implement this proposal is provided in the Fiscal Impacts section of this report.

3. Additional Strategies to Increase Parking Availability on Game Days While some street parking spaces near the stadium are restricted on game days, metered parking is available for visitors in Downtown, Southside/Telegraph, and the Northside area. Staff will return to Council later this year with options for special events, including adjusting special event rate setting ability at City parking garages, and piloting demand-responsive special event pricing at goBerkeley parking meters.

### 4. Further Expansion of RPP Program Eligibility

Although there have been relatively few opt-in requests from outside the current Program boundary, they still represent a customer need that the City cannot meet with existing staffing levels. To maximize enforcement resources, currently ineligible residents would be able to opt-in under the following conditions:

<sup>&</sup>lt;sup>12</sup> Staff are sensitive to low income residents and visitors who may not be able to afford this fine. Options include a payment plan (AB 503), as well as applying to perform Community Service in lieu of paying for parking citations.

<sup>&</sup>lt;sup>13</sup> Meters operate 9 a.m. to 6 p.m. Monday to Saturday. On the Northside, Hearst Avenue between Euclid Avenue and La Loma Avenue is a tow-away zone on game days.

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- A. Meet all existing requirements, including petitioner obtaining agreement of 51+% of all housing units in an area, and staff verifying limited parking availability in the mid-morning and mid-afternoon;
- B. Parcels must be located within two (2) blocks of a major commercial corridor (e.g., San Pablo Avenue or Gilman Street); or be adjacent to existing RPP boundaries; and
- C. In residentially-zoned areas, at least one full block (i.e., two sides of a street) must be included in the petition.

Petitioners in areas zoned Mixed Use-Residential or Mixed-Use Light Industrial will be subject to restrictions approved by Council in 2018 for Mixed Use Area P, including a reduced maximum of two (2) annual permits available per address. While slightly more restrictive than current requirements, this expansion approach would allow all petitioners who have submitted opt-in requests to date to be eligible for RPP.

### 5. Staffing Requirements

Enhanced enforcement, including new football game day restrictions, requires five (5) new PEOs and one (1) Parking Enforcement Supervisor, plus standard equipment. Expansion requires one (1) additional PEO for every twenty full blocks (i.e., both sides of a street) added to the Program, plus standard equipment.

### **BACKGROUND**

The RPP Program began in 1980 (1) to protect Berkeley residential neighborhoods from an influx of non-resident vehicles and related traffic; (2) to assure continued quality of life for residents; and (3) to provide neighborhood parking for residents. The Program limits parking for vehicles not displaying an RPP permit in most RPP areas to two hours, and reserves available daytime parking for residents, between 9:00 a.m. and 7:00 p.m. Monday through Friday, and on some blocks Saturday.

In March 2014,<sup>14</sup> Council directed staff to evaluate expanding the RPP Program beyond its then-current geographic boundaries. At a September 2017 Council Worksession, staff discussed several challenges with the RPP Program, and proposed incremental solutions to be implemented over the next three years.<sup>15</sup> In February 2018, staff returned to Council with a first set of "short-term" policy reforms, including increased permit fees for Program cost neutrality, a limit of three (3) annual permits per address, and an expansion of RPP eligibility to two new zones in West Berkeley.<sup>16</sup> Improving the effectiveness of the RPP Program is a Strategic Plan Priority Project, advancing the City's goals to:

<sup>&</sup>lt;sup>14</sup> March 11, 2014 City Council Agenda: Expansion of Permit Parking to Impacted Areas: http://bit.ly/2vTgngD

<sup>&</sup>lt;sup>15</sup> September 19, 2017 City Council Agenda: Residential Preferential Parking (RPP) Program Recommendations: https://bit.ly/2iWaPDa

<sup>&</sup>lt;sup>16</sup> February 27, 2018 City Council Agenda: Residential Preferential Parking (RPP) Program Reform and Expansion: <a href="https://bit.ly/2Yq6tYB">https://bit.ly/2Yq6tYB</a>.

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- Provide an efficient and financially-health City government; and
- Be a customer-focused organization that provides excellent, timely, easily-accessible service and information to the community.

### Football Game Day Enforcement

On April 5, 2016, Councilmembers Capitelli, Droste, and Wengraf sponsored a Referral to the Transportation Commission to review game day parking fines in RPP areas around campus, and to recommend higher fees to deter visitors from parking in those areas. On July 25, 2017, the Transportation Commission submitted a Council Report recommending an increase of game day parking fines to \$300 for vehicles without a valid RPP permit in Zones A, B, and D south of campus, but Council did not adopt the Commission's recommendation. On September 25, 2018, Councilmembers Droste, Wengraf, and Mayor Arreguin submitted a referral to the City Manager to implement game day parking restrictions similar to the Transportation Commission's 2017 proposal, but taking into account additional concerns such as parking on the north side of campus.

### **ENVIRONMENTAL SUSTAINABILITY**

Increasing parking fines for vehicles without valid RPP permits on football game days should increase parking availability for residents in neighborhoods near campus, reducing traffic congestion and vehicle emissions as drivers spend less time searching for parking. Increased fines may also encourage the use of alternative forms of transportation to UC football games.

Expansion of the RPP Program may encourage some drivers who work in commercial areas adjacent to proposed RPP areas to consider using other modes of travel, potentially reducing parking demand and congestion. While use of these other transportation modes may result in a corresponding reduction in traffic and greenhouse gases, staff anticipate the "two-hour shuffle" (i.e., moving a vehicle every two hours to avoid a ticket) may also begin to occur in new RPP areas among commuters who continue to drive. This behavior would have an adverse impact on traffic congestion, air quality, and excess fuel consumption.

### RATIONALE FOR RECOMMENDATION

At the September 19, 2017 Worksession, Council expressed support for a roadmap for RPP reform and expansion, including short-, mid-, and long-term changes to the

April 5, 2016 City Council Agenda: Refer to Transportation Commission to Reassess UC Berkeley Game Day Parking Fines in RPP Areas A, B, D, F and G Surrounding Campus <a href="https://bit.ly/2GRoSZi">https://bit.ly/2GRoSZi</a>
 July 25, 2017 City Council Agenda: Referral Response: Reassess UC Berkeley Game Day Parking Fines in RPP Areas A, B, D, F, and G Surrounding Campus <a href="https://bit.ly/2fwXaEj">https://bit.ly/2fwXaEj</a>
 September 25, 2018 City Council Agenda: Refer to the City Manager UC Berkeley Game Day Parking Restrictions and Fines in RPP Surrounding Campus <a href="https://bit.ly/2EwSnfS">https://bit.ly/2EwSnfS</a>

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Program. Short-term recommendations were approved by Council in February 2018. The proposals contained in this report comprise staff's "mid-term" recommendations.

In their September 25, 2018 referral, Councilmembers Droste, Wengraf, and Mayor Arreguin supported increasing parking fines to increase parking availability for residents affected by football game demand. Previously, the Transportation Commission has also supported higher fines.

### **ALTERNATIVE ACTIONS CONSIDERED**

The following table summarizes four alternatives considered by staff:

Alternative	Estimated Annual Permit Fee
Option 1: Staff Recommendation, Enhanced RPP and Football	\$90/year
Enforcement, and Expansion, Without Changing Saturday	(+36% / +\$24)
Enforcement.	
Option 2: Saturday Enforcement in All Areas, Enhanced RPP and	\$97/year
Football Enforcement, and Expansion	(+47% / +\$31)
<ul> <li>Implement Saturday patrols of all RPP Zones,<sup>20</sup> plus increased</li> </ul>	
RPP and football enforcement, and expansion as in Option 1	
• Increase permit fees to eliminate deficit and add seven (7) PEOs	
and one (1) supervisor for increased RPP enforcement, one (1)	
PEO per twenty new blocks/year, and equipment	
Option 3: Expansion and Enhanced Football Enforcement	\$88/year
<ul> <li>Implement enhanced football enforcement and expansion as in Option 1</li> </ul>	(+34% / +\$22)
No change to existing RPP enforcement levels/frequency	
<ul> <li>Increase permit fees to eliminate deficit and add three (3) PEOs and one (1) supervisor for football, one (1) PEO per twenty new</li> </ul>	
blocks/year, and equipment	
Option 4: Expansion Only	\$82/year
<ul> <li>Expand RPP Program eligibility per guidelines in Option 1</li> </ul>	(+24% / +\$16)
No changes to existing RPP and football enforcement levels	
<ul> <li>Increase permit fees to eliminate deficit and add one (1) new PEO and equipment per twenty new blocks/year</li> </ul>	

Council could also reject all options, which would maintain the status quo RPP Program, including its structural deficit.

### **CONTACT PERSON**

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### Attachments:

- 1: Ordinance
- 2: Resolution: Fees: Residential Preferential Parking Permits
- 3: Resolution: Establish "Enhanced Fine Area" and Double Fine Locations
- 4: Resolution: Modify Parking Violation Fine Schedule

Exhibit A: Schedule of Fines and Late Payment Penalties for Parking Violations

Exhibit B: List of New Parking Violations

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<sup>&</sup>lt;sup>20</sup> Adding enforcement at streets with RPP restrictions in Zones C, E, F, G, H, I, J, L, M, O, and P.

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Residential Preferential Parking Program Reform & Expansion Phase II: Recommendations for Increased Enforcement Staffing, Enhanced Football Game Day Enforcement Operations, and Expansion

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- 5: Public Hearing Notice
- 6: FY 2019 and Prior Out of Area RPP Opt-In Requests
- 7: Proposed 2019 UC Berkeley Football Game Day Parking Restrictions

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### ORDINANCE NO. #,###-N.S.

AMENDING BERKELEY MUNICIPAL CODE CHAPTER 14.72 TO ALLOW FURTHER EXPANSION OF THE RESIDENTIAL PREFERENTIAL PARKING (RPP) PROGRAM

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

<u>Section 1.</u> That Berkeley Municipal Code Section 14.72.030 is amended to read as follows:

#### 14.72.030 Definitions.

- A. "Designated residential parking permit area" means any contiguous area upon which the Council imposes parking limitations pursuant to the authority granted by this chapter.
- B. "Block front" means all of the property on one side of a street between two consecutive intersecting streets.
- BC. "Mixed use" means the use of a lot or building with two or more different land uses including, but not limited to, residential, commercial, retail, office or manufacturing, in a single structure of a group of physically integrated structures; in a neighborhood context, it means blocks containing single-use residences interspersed with other land uses, such as commercial or industrial.
- <u>DC</u>. "Mixed Use-Residential" <u>and "Mixed Use-Light Industrial"</u> refers to the zoning designations so defined in Berkeley Municipal Code Chapters 23E.84 <u>and 23E.80</u>, <u>respectively.</u>-
- ED. "Assessor's Use Code" means the code used by the Alameda County Assessor to assess property for property tax purposes. These codes cover a range of building descriptions and uses, including a variety of residential uses.
- FE. "Nonresidential vehicle" means a motor vehicle not eligible to be issued a residential parking permit, pursuant to the terms and conditions of this chapter, for the specific area in which it is parked. However, it could be eligible for a local business parking permit, or any other parking permit the council shall designate.
- GF. "Residential parking permit" means a permit issued under this chapter which, when displayed upon a vehicle, as described herein, shall exempt said vehicle from parking time restrictions established pursuant to this chapter.
- <u>HG</u>. "Local business parking permit" means a permit issued under this chapter which, when displayed upon a motor vehicle, shall exempt said vehicle from parking time restrictions established pursuant to this chapter.
- IH. "Trapped resident" means: 1) any resident whose dwelling is on a block that may not legally opt-in because less than 80% of the block fronts are residentially zoned and

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either: a) whose address is on a block front adjacent to and/or surrounded by block fronts that are already included in the RPP program; or b) whose address is within the general boundary of a designated RPP area; or 2) any resident whose dwelling abuts controlled curb parking and either: a) whose address is on a block front adjacent to and/or surrounded by RPP areas; or b) whose address is within the general boundary of a designated RPP area.

- Jł. "Neighborhood-service community facility" means churches, schools and senior centers located wholly within the general boundary of an RPP designated area.
- KJ. "Neighborhood-serving business and establishment" means any business or establishment located in a neighborhood commercial district as defined in the Zoning Ordinance Section Cla, Clb, Clc, Clb(E).
- **LK**. "One-day visitor permit" means a parking permit issued pursuant to this chapter or an ordinance enacted pursuant to authority granted herein, which shall exempt the vehicle from parking time restrictions pursuant to this chapter, for the date indicated upon the face of said permit.
- LM. "Two-week visitor permit" shall mean a parking permit issued pursuant to this chapter or an ordinance enacted pursuant to authority granted herein, which shall exempt the vehicle from parking time restrictions established pursuant to this chapter for a period of 14 consecutive calendar days, beginning upon the date indicated upon the face of said permit.
- NM. "Motor vehicle" shall be an automobile, truck, motorcycle or other self-propelled form of transportation not in excess of 8,000 pounds gross weight and not in excess of 20 feet in length. A trailer, trailer coach, utility trailer, motor home/(RV), or any other type of vehicle as defined in the California Vehicle Code that is not self-propelled, is not eligible for an RPP permit.
- ON. "Controlled curb parking" means any on-street parking with existing parking limitations, such as meters, time restrictions, red zone, etc.
- PQ. "Schools" shall mean any school or other place of learning providing a pre-school, elementary or secondary level of study, and which regularly employs a staff of at least 15 certificated persons regularly employed as a classroom teacher.
- QP. "Senior centers" means the three senior centers affiliated with the City: North Berkeley Senior Center, South Berkeley Senior Center and the West Berkeley Senior Center.
- <u>Section 2.</u> That Berkeley Municipal Code Section 14.72.050 is amended to read as follows:
- 14.72.050 Designation of a residential permit parking area.

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- A. There shall be two alternative processes by which City Council could consider any area for designation as a residential permit parking area:
- 1. Residents petition. The City Council shall consider for designation as a residential permit parking area any proposed area for which a petition has been submitted which meets and satisfies the following requirements:
- a. Prior to obtaining signatures, neighborhood organizers shall consult with City staff to assure that the proposed area meets guidelines set in the administrative regulations for the establishment of permit parking boundaries.
- b. The petition shall contain a description or a map showing the proposed residential permit parking area.
- c. Said description or map shall be followed in the petition by a statement describing the residential permit parking program and the current residential permit fees.
- d. The statement shall be followed by a signature, printed name, address, and date of signing of the application by a number of adult residents including at least 51% of the housing units within the area.
- e. For applicants in areas zoned Mixed\_-Use\_-Residential\_or Mixed Use-Light Industrial, a petition shall only be deemed valid if at least 51% of the housing units on each block face-front have an address that has a residential Assessor's Use Code.
- f. All petitions shall be the same as the standard petition form developed by City staff. Any petition form different from the standard petition form shall be deemed invalid for the purposes of this chapter.
- g. In the proposed residential permit parking area, at least 80% of the block fronts with unlimited on-street parking must be residentially zoned, and at a minimum, 75% of all unlimited on-street parking spaces within the proposed area must be occupied during any two one-hour periods between 10:00 a.m. and 4:00 p.m.
- h. In areas zoned Mixed\_-Use\_-Residential or Mixed Use-Light Industrial, at a minimum, 75% of all unlimited on-street parking spaces within the proposed area must be occupied during any two one-hour periods between 10:00 a.m. and 4:00 p.m.
- 2. City Council initiation. City Council shall consider for designation as a residential permit parking area any area for which the following requirements have been met:
- a. City Council shall initiate the area as a residential permit parking area.
- b. For areas zoned Mixed Use-Residential or Mixed Use-Light Industrial, Council shall only initiate the area as a residential permit parking area if at least 51% of the housing

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units on each block face front have an address that has a residential Assessor's Use Code.

- c. In the proposed residential permit parking area at least 80% of the block fronts with unlimited on-street parking must be residentially zoned, and at a minimum, 75% of all unlimited on-street parking spaces within the proposed area must be occupied during any two one-hour periods between 10:00 a.m. and 4:00 p.m. or unlimited on-street parking is projected to be impacted by parking spillover from a more congested residential permit parking area.
- d. In areas zoned Mixed Use-Residential or Mixed Use-Light Industrial, at a minimum, 75% of all unlimited on-street parking spaces within the proposed area must be occupied during any two one-hour periods between 10:00 a.m. and 4:00 p.m.
- e. A notice of intent to establish permit parking shall be sent to all addresses within the proposed residential parking permit area.
- B. Upon receipt by the City Council of a petition as described in subsection A.1 of this section, or after Council has initiated a residential permit parking area as described in subsection A.2 of this section, the Council shall:
- 1. Undertake or cause to be undertaken such surveys or studies which it deems necessary.
- 2. Cause to be drafted a resolution which would establish a residential permit parking area based upon the aforementioned proposal and studies, including all regulations and time restrictions determined by the Council to be reasonable and necessary in such area.
- C. The Council shall thereafter conduct a public hearing on said draft resolution. Notice of the hearing shall be posted at least ten days prior to the hearing on all block fronts proposed to be included in the residential permit parking area. Following the hearing, the City Council may enact, amend or reject said draft resolution in any manner, including but not limited to, modification of boundaries of the proposed area and the restrictions imposed on such proposed area. In order to grant permit parking designation, Council shall find that the designation will not be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing in the area of designation. In reaching this decision, consideration shall be given to the residents' support for residential permit parking, the existing parking conditions, the expected effectiveness of residential permit parking in improving parking conditions, and the location and size of the residential permit parking area.

<u>Section 3.</u> That Berkeley Municipal Code Section 14.72.090 is amended to read as follows:

### 14.72.090 Residential parking permit.

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- A. The City Manager and/or his/her designee shall issue residential parking permits with a term not to exceed one year to motor vehicles which comply with the requirements set forth in this section.
- 1. No more than three (3) permits may be purchased for each residential address. Applicants may request a waiver if additional permits are needed.
- 2. In areas zoned Mixed Use-Residential (MU-R) or Mixed Use-Light Industrial (MULI), no more than two (2) permits may be purchased for each residential address. Applicants may request a waiver if additional permits are needed.
- 3. The City Traffic Engineer is authorized to issue such rules and regulations necessary to grant waivers to the annual permit limits.
- B. A residential parking permit may be issued for a motor vehicle only upon application of the following person:
- 1. The applicant must demonstrate that he or she is currently a resident of the area for which the permit is to be issued; and
- 2. The applicant must demonstrate that he or she has ownership or continuing custody of the motor vehicle for which the permit is to be issued; and
- 3. Any motor vehicle to be issued a permit must have a vehicle registration indicating registration within the area for which the permit is to be issued.
- C. A residential parking permit may in addition be issued for any vehicle in the area regularly utilized by a person who owns or leases commercial property and actively engages in business activity within the particular residential permit parking area. However, no more than one parking permit, or any greater number which the City Council may determine appropriate for the particular residential permit parking involved area, may be issued for each business establishment for a motor vehicle registered to or under the control of such a person.
- D. A residential parking permit may be issued for any vehicle utilized in the area by a nonresidential nonbusiness enterprise, such as a church, school, or hospital, located wholly or partially within the particular residential permit parking area. However, no more than one parking permit, or any greater number which the City Council may determine appropriate for the particular permit parking area involved, may be issued for each such enterprise within each permit area for a motor vehicle registered to or under the control of such an enterprise.
- E. Any person to whom a residential parking permit has been issued pursuant to this section shall be deemed a permit holder.

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<u>Section 4.</u> Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

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

### FEES: RESIDENTIAL PREFERENTIAL PARKING PERMITS

WHEREAS, on February 27, 2018, Council adopted Resolution No. 68,344-N.S., establishing a revised fee schedule for parking permits for annual residential preferential parking; 1-Day Visitors, 2-Week Visitors, and annual in-home care, annual community-serving facility, annual merchant, 1-Day Senior Center, Semi-annual residential, and Semi-annual in-home care permits issued for the Residential Preferential Parking (RPP) Program, and rescinded Resolution No. 66,895-N.S.; and

WHEREAS, the current RPP Program is operating at an annual deficit of at least \$124,675; and

WHEREAS, staffing for the RPP Program will be increased to allow for enhanced enforcement activities in existing Program areas, a comprehensive overhaul of University of California, Berkeley football game day parking, and actively managed expansion of opt-in eligibility; and

WHEREAS, increased staffing will incur additional yearly costs, but will also deliver new citation revenue;

WHEREAS, it is necessary to increase RPP permit fees in order to operate the RPP Program as a cost-neutral program in accordance with Council Budget Policies.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the following fees for the RPP Program are hereby established:

Permit Type	Permit Fees
Annual Residential & In-Home Care	\$90.00
1-Day Visitor	\$4.00
14-Day Visitor	\$47.00
Semi-Annual Residential & In-Home Care	\$45.00
Community-Serving Facility	\$114.00
Merchant	\$253.00
1-Day Senior Center	\$1.00
Replacement of Annual, 14-Day, Community-Serving Facility, & Merchant Permits	\$21.00
Surcharge Per Additional Annual Residential Permit Over Maximum, Only If Waiver is Approved	\$100.00

BE IT FURTHER RESOLVED that these fees shall be effective June 1, 2019 for FY 2020 permit purchases and shall be deposited into the General Fund.

BE IT FURTHER RESOLVED that Resolution No. 68,344-N.S. is hereby rescinded effective June 1, 2019.

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

ESTABLISHING THE ZONES FOR "ENHANCED FINE AREAS" AND FOOTBALL GAME DAY VIOLATIONS, AND AUTHORIZING THE CITY MANAGER TO MAKE AN ANNUAL DETERMINATION AND NOTICE OF DATES ON WHICH FOOTBALL DAY VIOLATIONS WILL BE ISSUED

WHEREAS, City Council Resolution No. 65,813-N.S. restated the geographic area for football game day citations; and

WHEREAS, University of California football games attract a large number of visitors who drive to the game and park in residential neighborhoods to the north and south of campus, which typically makes it difficult for residents to find parking in close proximity to their homes on football game days; and

WHEREAS, current enforcement of the two-hour time limit for vehicles without a valid permit in portions of Residential Preferential Parking (RPP) Zones closest to the stadium is time intensive, reducing the ability of Parking Enforcement to maximize limited staff capacity on game days; and

WHEREAS, the permanent double parking fine program established by Resolution No. 63,800-N.S. has not deterred extended game day parking in portions of RPP Zones B and D, particularly in comparison to private off-street facilities in the vicinity of the stadium offering game day parking for up to \$100; and

WHEREAS, staff have confirmed with Parking Enforcement leadership that new "Enhanced Fine Areas," in which vehicles without a valid RPP permit would not be permitted to park on football game days, would maximize limited enforcement capacity on football game days; and

WHEREAS, concurrent with this Resolution, the Council is considering adoption of another Resolution establishing a new schedule of parking violations and fines for parking violations, including in new "Enhanced Fine Areas;" and

WHEREAS, the existing "double parking fine" program would continue to be in effect on football game days in addition to the new "Enhanced Fine Areas;" and

WHEREAS, the schedule of parking violations and fines for parking violations may be revised in the future without affecting established zones for football day citations and Enhanced Fine Areas and the City Manager's authorization to determine and provide public noticing of dates for these violations.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the established zone for the northerly Enhanced Fine Area is north to (not including) Cedar Street, west to (not including) Shattuck Avenue, south to Hearst Avenue, and east to the existing boundary of RPP Zones F and G.

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that the established zone for the southerly Enhanced Fine Area is north to Dwight Way between Telegraph Avenue and Regent Street, north to Haste Street between Regent Street and Bowditch Street, north to Dwight Way between Bowditch Street and College Avenue; east to (but not including) College Avenue between Dwight Way and Parker Street; north to (but not including) Parker Street between College Avenue and Warring Street; east to Warring Street between Parker Street and Derby Street; north to Derby Street between Warring Street and Belrose Avenue; east to (but not including) Belrose Avenue/Claremont Boulevard between Derby Street and Russell Street; south to (but not including) Russell Street between Belrose Avenue/Claremont Boulevard and Telegraph Avenue; and west to (but not including) Telegraph Avenue between Russell Street and Dwight Way.

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that the established zone for the easterly Enhanced Fine Area is north to the southern boundary of RPP Zone K between Channing Way and the Berkeley-Oakland city limits; east to the Berkeley-Oakland city limits; south to (but not including) Dwight Way between the Berkeley-Oakland city limits and Prospect Street; and west to (but not including) Prospect Street between Dwight Way and Channing Way.

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that the established zone for football day citations is north to (not including) Cedar Street, south and east to the Berkeley-Oakland city limits, and west to Oxford and Fulton Streets (including both sides of these streets).

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that the City Manager is directed to annually determine the dates during which there are higher parking fines for football day citations, and provide reasonable notice to the public of these dates.

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that Resolution No. 65,813-N.S. is hereby rescinded.

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

ESTABLISHING A NEW SCHEDULE OF PARKING VIOLATIONS AND FINES FOR PARKING VIOLATIONS AND LATE PAYMENT PENALTIES; AND RESCINDING RESOLUTION NO. 68,466-N.S.

WHEREAS, the State of California Vehicle Code Section 40203.5 states "the schedule of parking penalties for parking violations and late payment penalties shall be established by the governing body of the jurisdiction where the notice of violation is issued;" and

WHEREAS, University of California football games attract a large number of visitors who drive to the game and park in residential neighborhoods to the north and south of campus, which typically makes it difficult for residents to find parking in close proximity to their homes on football game days; and

WHEREAS, concurrent with this Resolution, the Council is considering adoption of another Resolution establishing new "Enhanced Fine Areas" in portions of Residential Preferential Parking (RPP) Zones F and G north of campus, and in portions of RPP Zones B, D, and I south of campus, wherein vehicles without a valid RPP permit would not be permitted to park on football game days; and

WHEREAS, in May 2018, the City Council adopted Resolution No. 68,466-N.S. establishing a new schedule of fines for parking violations to enable the City to properly cite vehicles in violation of new laws managing parking for electric vehicles.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that a new schedule of parking violations and late payment penalties is established, as set forth in Exhibit A, which includes fines and late penalties for violations of BMC Section 14.40.090 pertaining to parking restrictions in new "Enhanced Fine Areas" in effect on football game days only; and

BE IT FURTHER RESOLVED that Resolution No. 68,466-N.S. is hereby rescinded.

#### **Exhibits**

A: Schedule of Fines and Late Payment Penalties for Parking Violations

B: List of New Parking Violations

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Exhibit A: Schedule of Fines and Late Payment Penalties for Parking Violations

Code	Section	Violation Description (For citations issued to a vehicle) FD = Football Game Days 9 a.m. to 11 p.m. FD fines = 50% higher on most violations & 100% higher for violations in RPP Zones A, B, D	Fine Amount	On Day 28 +\$30	On Day 47 +\$50
ВМС	6.24.020	Off-St Rsrv Pkg No Permit Displayed	\$48	\$78	\$128
ВМС	6.24.020	FD Off-St Rsrv Pkg No Permit Displayed			
ВМС	6.24.020	Non-Electric Vehicle Parked in Electric Vehicle Space	\$35	\$65	\$115
ВМС	6.24.060	Electric Vehicle Exceeding EV Parking Space Time Limit	\$30	\$60	\$110
ВМС	6.24.020	Electric Vehicle Not Actively Charging in EV Parking Space	\$35	\$65	\$115
ВМС	6.24.093	P&D Dispensing Mach Tkt Not Displayed	\$43	\$73	\$123
ВМС	6.24.093	FD P&D Dispensing Mach Tkt Not Displayed	\$65	\$95	\$145
BMC	6.24.096	Improper Display of P&D Disp Mach Tkt	\$43	\$73	\$123
ВМС	6.24.096	FD Improper Display of P&D Disp Mach Tkt	\$65	\$95	\$145
BMC	6.24.100 B	P&D Station Expired Time	\$43	\$73	\$123
BMC	6.24.100 B	FD P&D Station Expired Time	\$65	\$95	\$145
ВМС	6.24.103 B	Time Limits Enforced at Inoperable P&D Sta	\$43	\$73	\$123
ВМС	6.24.103 B	FD Time Limits Enforced at Inoperable P&D Sta	\$65	\$95	\$145
ВМС	6.24.130	Off-St Facility: Motorcycle Zone Only	\$48	\$78	\$128
ВМС	6.24.130	Off-St Facility: Pkg Outside Markings	\$48	\$78	\$128
BMC	6.24.130	FD Off-St Facility: Pkg Outside Markings	\$72	\$102	\$152
ВМС	6.24.130	Off-St Facility: Disabled Zone	\$288	\$318	\$368
ВМС	6.24.130	FD Off-St Facility: Disabled Zone	\$288	\$318	\$368
BMC	6.24.130	Off-St Facility: Restricted Load Zone	\$48	\$78	\$128
BMC	6.24.130	FD Off-St Facility: Restricted Load Zone	\$72	\$102	\$152
BMC	6.24.130	Off-St Facility: Unmarked Space	\$48	\$78	\$128
BMC	6.24.130	FD Off-St Facility: Unmarked Space	\$72	\$102	\$152
BMC	6.24.140	Off-St Facility: Backed-In	\$48	\$78	\$128
BMC	9.52.140	Unattended Taxi Over 5 Min	\$91	\$121	\$171
BMC	13.52.040	Unauth Pkg on Private Property	\$41	\$71	\$121
ВМС	14.24.070	Unauth Vehicle on Private Prop	\$64	\$94	\$144
BMC	14.36.030 A	No Parking on DivisnI Islands	\$55	\$85	\$135
ВМС	14.36.030 A	FD No Parking on DivisnI Islands	\$83	\$113	\$163
ВМС	14.36.030 C	No Parking Zone (Sign Posted)	\$64	\$94	\$144
BMC	14.36.030 C	FD No Parking Zone (Sign Posted)	\$96	\$126	\$176
ВМС	14.36.030 C	No Parking Zone (Red Curb)	\$64	\$94	\$144
ВМС	14.36.030 C	FD No Parking Zone (Red Curb)	\$96	\$126	\$176

Code	Section	Violation Description (For citations issued to a vehicle) FD = Football Game Days 9 a.m. to 11 p.m. FD fines = 50% higher on most violations & 100% higher for violations in RPP Zones A, B, D	Fine Amount	On Day 28 +\$30	On Day 47 +\$50
ВМС	14.36.030 D	No Parking Street Sweeping (sign)	\$49	\$79	\$129
ВМС	14.36.030 E	No Parking on Railroad Tracks	\$64	\$94	\$144
ВМС	14.36.030 F	Hazard Obstructing Traffic	\$64	\$94	\$144
ВМС	14.36.030 F	FD Hazard Obstructing Traffic	\$96	\$126	\$176
ВМС	14.36.030 G	Construct: No Permit on Dashboard	\$64	\$94	\$144
ВМС	14.36.030 G	FD Construct: No Permit on Dashboard	\$96	\$126	\$176
ВМС	14.36.050	On Street 72 or More Consec hrs	\$60	\$90	\$140
ВМС	14.36.060	Repair Vehicle on Street	\$52	\$82	\$132
ВМС	14.36.080	Vehicle Parked in School Zone	\$51	\$81	\$131
ВМС	14.36.090	Pkg on Grade Brake/Block Wheels	\$55	\$85	\$135
ВМС	14.36.110	Emerg Prkg w/o Permit (Tow CVC 22651)	\$52	\$82	\$132
ВМС	14.40.010	3 min Limit Zone Overtime	\$43	\$73	\$123
BMC	14.40.010	FD 3 min Limit Zone Overtime	\$65	\$95	\$145
BMC	14.40.010	5 min Limit Zone Overtime	\$43	\$73	\$123
ВМС	14.40.010	FD 5 min Limit Zone Overtime	\$65	\$95	\$145
BMC	14.40.010	10 min Limit Zone Overtime	\$43	\$73	\$123
BMC	14.40.010	FD 10 min Limit Zone Overtime	\$65	\$95	\$145
BMC	14.40.010	12 min Limit Zone Overtime	\$43	\$73	\$123
BMC	14.40.010	15 min Limit Zone Overtime	\$43	\$73	\$123
BMC	14.40.010	24 min Limit Zone Overtime	\$43	\$73	\$123
BMC	14.40.010	FD 24 min Limit Zone Overtime	\$65	\$95	\$145
BMC	14.40.020	30 min Limit Zone Overtime	\$43	\$73	\$123
BMC	14.40.020	FD 30 min Limit Zone Overtime	\$65	\$95	\$145
BMC	14.40.030	1 hr Limit Zone Overtime	\$43	\$73	\$123
BMC	14.40.030	FD 1 hr Limit Zone Overtime	\$65	\$95	\$145
BMC	14.40.030	Faulty Meter Over 1 hr Limit	\$43	\$73	\$123
BMC	14.40.040	2 hr Limit Zone Overtime	\$43	\$73	\$123
ВМС	14.40.040	FD 2 hr Limit Zone Overtime	\$65	\$95	\$145
BMC	14.40.040	Faulty Meter Over 2 hr Limit	\$43	\$73	\$123
BMC	14.40.050 A	Parallel Pkg Veh Outside Markers	\$48	\$78	\$128
BMC	14.40.050 B	Veh Facing Wrong Way 1-way St	\$48	\$78	\$128
BMC	14.40.050 B	FD Veh Facing Wrong Way 1-way St	\$72	\$102	\$152
BMC	14.40.050 B	Pkg Over 18" from Curb 1-way St	\$51	\$81	\$131
BMC	14.40.050 B	FD Pkg Over 18" fr Curb 1-way St	\$77	\$107	\$157
BMC	14.40.060 A	Diagonal Pkg Veh Outside Markers	\$51	\$81	\$131
BMC	14.40.060 B	Diagonal Pkg FW Over 6" from Curb	\$51	\$81	\$131
BMC	14.40.070 A	No Stopping 4-6pm (Tow CVC 22651)	\$64	\$94	\$144
ВМС	14.40.070 A	FD No Stopping 4-6pm (Tow CVC 22651)	\$96	\$126	\$176
BMC	14.40.070 A	No Stopping 7-9am (Tow CVC 22651)	\$64	\$94	\$144

Code	Section	Violation Description (For citations issued to a vehicle) FD = Football Game Days 9 a.m. to 11 p.m. FD fines = 50% higher on most violations & 100% higher for violations in RPP Zones A, B, D	Fine Amount	On Day 28 +\$30	On Day 47 +\$50			
BMC	14.40.070 A	No Stopping 9pm-6am (Tow CVC 22651)	\$64	\$94	\$144			
BMC	14.40.070 A	Posted No Stopping Tow Away	\$64	\$94	\$144			
BMC	14.40.090	RPP Zone No RPP Permit Displayed	\$49	\$79	\$129			
BMC	14.40.090	FD RPP Zone A,B,D No Permit Dsply	D RPP Zone A,B,D No Permit Dsply \$98 \$128					
BMC	14.40.090	RPP Zone K No Permit Displayed	\$57	\$87	\$137			
BMC	14.40.090	RPP Zone RPP Permit Expired	\$49	\$79	\$129			
BMC	14.40.090	FD RPP Zone A,B,D Permit Expired	\$98	\$128	\$178			
ВМС	14.40.090	RPP Zone Permit Improper Display	\$49	\$79	\$129			
ВМС	14.40.090	FD RPP A,B,D Permit Improp Dsply	\$98	\$128	\$178			
ВМС	14.40.090	No RPP Permit Displayed in Enhanced Fine Area (Football Game Days)	\$225	\$255	\$305			
BMC	14.40.130	Pkg/Standing in City Lots/Spaces	\$55	\$85	\$135			
BMC	14.40.130 A	City Lot No Permit Displayed	\$57	\$87	\$137			
BMC	14.40.130 C	Reserved Pkg No Permit Displayed	\$49	\$79	\$129			
ВМС	14.40.130 E	Reserved City Hall Pkg Towable	\$64	\$94	\$144			
BMC	14.40.150 A	Car Parking in Motorcycle Area	\$51	\$81	\$131			
BMC	14.40.150 B	Motorcycle Zone Overtime	\$51	\$81	\$131			
BMC	14.40.160	Dbl-Pkd Commer Vehicle Center St	\$60	\$90	\$140			
BMC	14.44.020 B	Commer Zone No Permit (yellow)	\$57	\$87	\$137			
ВМС	14.44.020 B	FD Commer Zone No Permit (yellow)	\$86	\$116	\$166			
ВМС	14.44.020 A	Commercial Zone Overtime	\$57	\$87	\$137			
ВМС	14.44.020 A	FD Commercial Zone Overtime	\$86	\$116	\$166			
BMC	14.44.030	Passenger Load Zone (white curb)	\$57	\$87	\$137			
BMC	14.44.030	FD Passgr Load Zone (white curb)	\$86	\$116	\$166			
BMC	14.44.040	No Stopping Bicycle Zone	\$55	\$85	\$135			
BMC	14.44.040	FD No Stopping Bicycle Zone	\$83	\$113	\$163			
ВМС	14.44.050	Special Passenger Load Zone only	\$57	\$87	\$137			
ВМС	14.44.060	Parking in Coach (bus) Zone	\$64	\$94	\$144			
ВМС	14.44.060	FD Parking in Coach (bus) Zone	\$96	\$126	\$176			
ВМС	14.44.070	Unauthorized Use of Funeral Zone	\$51	\$81	\$131			
ВМС	14.44.080	Taxicab Parking Only	\$51	\$81	\$131			
ВМС	14.44.080	Unauthorized Taxicab Stand Pkg	\$51	\$81	\$131			
ВМС	14.46.040 B	Non-Electric Vehicle Parked in EV Space	\$49	\$79	\$129			
ВМС	14.46.050 B	Electric Vehicle Exceeding EV Space Time Limit	\$43	\$73	\$123			
BMC	14.46.050 C	Electric Vehicle Not Actively Charging in EV Space	\$43	\$73	\$123			
ВМС	14.52.050 A	Meter Street: Expired Meter	\$43	\$73	\$123			
ВМС	14.52.050 A	FD Meter Street: Expired Meter	\$65	\$95	\$145			
BMC	14.52.050 B	Pay & Display Station Expired Time	\$43	\$73	\$123			

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Code	Section	Violation Description (For citations issued to a vehicle) FD = Football Game Days 9 a.m. to 11 p.m. FD fines = 50% higher on most violations & 100% higher for violations in RPP Zones A, B, D	Fine Amount	On Day 28 +\$30	On Day 47 +\$50			
BMC	14.52.050 B	FD Pay & Display Sta Expired Time	\$65	\$95	\$145			
ВМС	14.52.060 A	Meter St: Extending Meter Time	\$43	\$73	\$123			
BMC	14.52.060 A	FD Meter St: Extending Meter Time	\$65	\$95	\$145			
BMC	14.52.060 B	Pay & Display Station Extend Time	\$43	\$73	\$123			
BMC	14.52.060 B	FD Pay & Display Sta Extend Time	D Pay & Display Sta Extend Time \$65 \$95					
BMC	14.52.063	P&D Dispensing Mach Tkt Not Displayed	\$43	\$73	\$123			
BMC	14.52.063	FD P&D Dispens Mach Tkt Not Displayed	\$65	\$95	\$145			
ВМС	14.52.066	Improper Display of P&D Disp Mach Tkt	\$43	\$73	\$123			
BMC	14.52.066	FD Improper Display of P&D Disp Mach Tkt	\$65	\$95	\$145			
CVC	4000	No Evidence Current Registration	\$50	\$80	\$130			
CVC	4000	Expired Registration	\$50	\$80	\$130			
CVC	4461 B	Improper Lending of DP Placard or Plate	\$550	\$580	\$630			
CVC	4461 C	Improper Display of DP Placard or Plate	\$550	\$580	\$630			
CVC	4461 D	Improper Use of DP Placard or Plate	\$550	\$580	\$630			
CVC	4463 C	Use of Forged, Counterfeit, or False DP Placard or Plate	\$550	\$580	\$630			
CVC	5200	Missing License Plates	\$25	\$55	\$105			
CVC	5201	Lic Plates Improperly Positioned	\$25	\$55	\$105			
CVC	5202	Hanging/Detached License Plate	\$25	\$55	\$105			
CVC	5204 A	Expired Tags (read back)	\$25	\$55	\$105			
CVC	5204 A	Missing Tags	\$25	\$55	\$105			
CVC	21113 A	Parking on Public Grounds	\$54	\$84	\$134			
CVC	21211 B	Vehicle Blocking Bicycle Lane	\$54	\$84	\$134			
CVC	21718	Parking on Freeway	\$54	\$84	\$134			
CVC	22500 A	Parking in an Intersection	\$60	\$90	\$140			
CVC	22500 A	FD Parking in an Intersection	\$86	\$116	\$166			
CVC	22500 B	Parking in Crosswalk	\$60	\$90	\$140			
CVC	22500 B	FD Parking in Crosswalk	\$90	\$120	\$170			
CVC	22500 C	Parking in Safety Zone	\$60	\$90	\$140			
CVC	22500 C	FD Parking in Safety Zone	\$90	\$120	\$170			
CVC	22500 D	Parking within 15' of Fire Station	\$60	\$90	\$140			
CVC	22500 D	FD Parking within 15' of Fire Station	\$90	\$120	\$170			
CVC	22500 E	Parking in Driveway	\$60	\$90	\$140			
CVC	22500 E	FD Parking in Driveway	\$90	\$120	\$170			
CVC	22500 F	Parking On/Across Sidewalk	\$60	\$90	\$140			
CVC	22500 F	FD Parking On/Across Sidewalk	\$90	\$120	\$170			
CVC	22500 G	Parking Construction No Permit	\$60	\$90	\$140			
CVC	22500 G	FD Parking Construction No Permit	\$90	\$120	\$170			
CVC	22500 H	Double-Parked	\$60	\$90	\$140			

Code	Section	Violation Description (For citations issued to a vehicle) FD = Football Game Days 9 a.m. to 11 p.m. FD fines = 50% higher on most violations & 100% higher for violations in RPP Zones A, B, D	Fine Amount	On Day 28 +\$30	On Day 47 +\$50
CVC	22500 H	FD Double-Parked	\$90	\$120	\$170
CVC	22500 I	Parking/Stopping in Coach Zone	\$263	\$293	\$343
CVC	22500 I	FD Parking/Stopping in Coach Zone	\$263	\$293	\$343
CVC	22500 J	Parking in Tunnel	\$54	\$84	\$134
CVC	22500 K	Parking on Bridge	\$54	\$84	\$134
CVC	22500 L	Blocking Disabled Ramp	\$288	\$318	\$368
CVC	22502 A	Parking Over 18" from Curb 2-Way St	\$69	\$99	\$149
CVC	22502 A	FD Parking Over 18" from Curb 2-Way St	\$104	\$134	\$184
CVC	22503 E	Parking Over 10" from Curb 1-Way St	\$58	\$88	\$138
CVC	22507.8 A	Parking in Disabled Zone	\$317	\$347	\$397
CVC	22507.8 B	Obstructing Access Disabled Zone	\$317	\$347	\$397
CVC	22507.8 B	FD Obstructing Access Disabled Zone	\$317	\$347	\$397
CVC	22514 a	Parking within 15' of Fire Hydrant	\$78	\$108	\$158
CVC	22514 a	FD Parking within 15' of Fire Hydrant	\$117	\$147	\$197
CVC	22521	Parking within 7.5' of Railroad Tracks	\$54	\$84	\$134
CVC	22522	Parking within 3' of Wheelchair Ramp	\$317	\$347	\$397
CVC	22522	FD Parking within 3' of Wheelchair Ramp	\$317	\$347	\$397
CVC	22523 a	Abandon Vehicle on Highway	\$168	\$198	\$248
CVC	22523 b	Abandon Vehicle on Pub/Prvt Prop	\$168	\$198	\$248

Note: In addition to citation placed on vehicle, "Notice of Violation" is mailed to registered owner seven (7) days after citation and indicated when the fine penalty increases will occur: On Day 28 after citation issuance, the fine increases by \$30. If payment is not received within 45 days after issuance, on Day 47, the fine increases by an additional \$50.

Exhibit B: List New Parking Violations

Code	Section	Violation Description (For citations issued to a vehicle) FD = Football Game Days 9 a.m. to 11 p.m. FD fines = 50% higher on most violations & 100% higher for violations in RPP Zones A, B, D	Fine Amount	On Day 28 +\$30	On Day 47 +\$50
BMC	14.40.090	No RPP Permit Displayed in Enhanced Fine Area (Football Game Days)	\$225	\$255	\$305

Page 7 552

# NOTICE OF PUBLIC HEARING BERKELEY CITY COUNCIL

### FEES: RESIDENTIAL PREFERENTIAL PARKING PERMITS

Notice is hereby given by the City Council of the City of Berkeley that a public hearing will be conducted by said city council of the City of Berkeley at which time and place all persons may attend and be heard upon the following:

The Department of Public Works is proposing to increase the cost of annual Residential Preferential Parking (RPP) permits, effective June 1, 2019, for permits purchased for FY 2020, as summarized below:

Permit Type	Current Fee	Proposed Fee
Annual Residential & In-Home Care	\$66.00	\$90.00
1-Day Visitor	\$3.00	\$4.00
14-Day Visitor	\$34.00	\$47.00
Semi-Annual Residential & In-Home Care	\$33.00	\$45.00
Community-Serving Facility	\$83.00	\$114.00
Merchant	\$185.00	\$253.00
1-Day Senior Center	\$1.00	\$1.00
Replacement of Annual, 14-Day, Community- Serving Facility, & Merchant Permits	\$15.00	\$21.00
Surcharge Per Additional Annual Residential Permit Over Maximum, If Waiver Approved	\$100.00	\$100.00

The hearing will be held on Tuesday, May 14, 2019 at 6:00 p.m. in the School District Board Room, 1231 Addison Street.

For further information, please contact Farid Javandel, Transportation Division Manager, at (510) 981-7061.

A copy of the agenda material for this hearing will be available on the City's website at <a href="https://www.CityofBerkeley.info">www.CityofBerkeley.info</a> as of May 2, 2019.

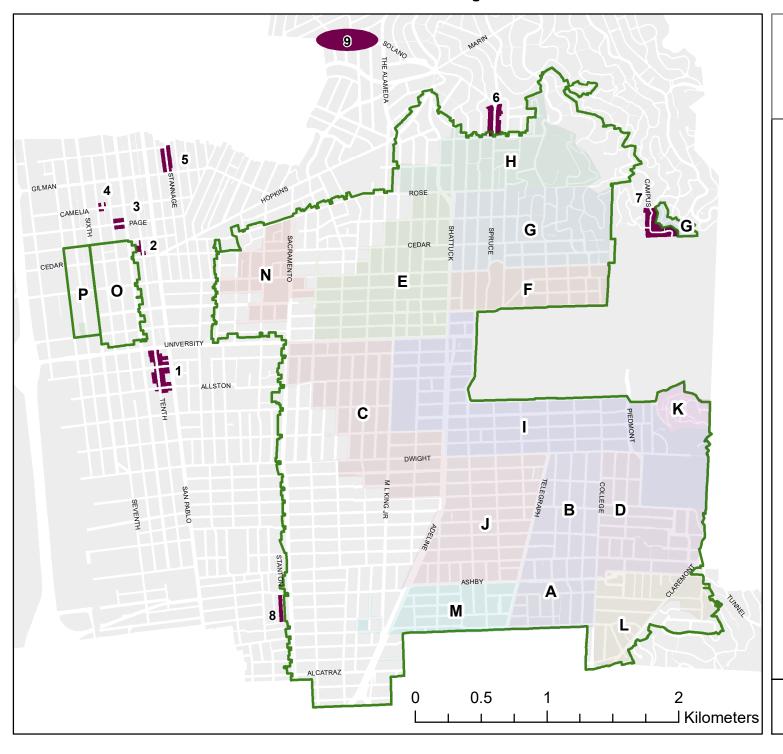
Written comments should be mailed or delivered directly to the <u>City Clerk, 2180 Milvia Street, Berkeley, CA 94704</u>, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become

**part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or <a href="mailto:clerk@cityofberkeley.info">clerk@cityofberkeley.info</a> for further information.

If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Berkeley at, or prior to, the public hearing. Background information concerning this proposal will be available at the City Clerk Department and posted on the City of Berkeley webpage at least 12 days prior to the public hearing.

Published:	May 3 and May 10, 2019 – The Berkeley Voice
posted at the	ify that the Notice for this Public Hearing of the Berkeley City Council was display case located near the walkway in front of the Maudelle Shirek 4 Martin Luther King Jr. Way, as well as on the City's website, on May 2,
Mark Numain	ville, City Clerk

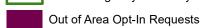


# ATTACHMENT 6

# EXISTING ELIGIBILITY AND INELIGIBLE PPT-IN REQUESTS







FY 2019 Requests

- 1. 10th between University and Allston with adjacent side streets
- 2. 10th between Jones and Cedar
- 3. Page between 8th and 9th
- 4. Camelia between 7th and 8th

Requests Prior to FY 2019

- 5. Stannage between Gilman and Harrison
- 6. Spruce between Los Angeles to Eunice
- 7. Campus between Avenita and LBL Campus
- 8. Stanton between Ashby and Prince
- 9. Multiple requests from Solano neighborhood

This map is for reference purposes only.

Care was taken in the creation of this map, but it is provided "AS IS". Please contact the City of Berkeley to verify map information or to report any errors.

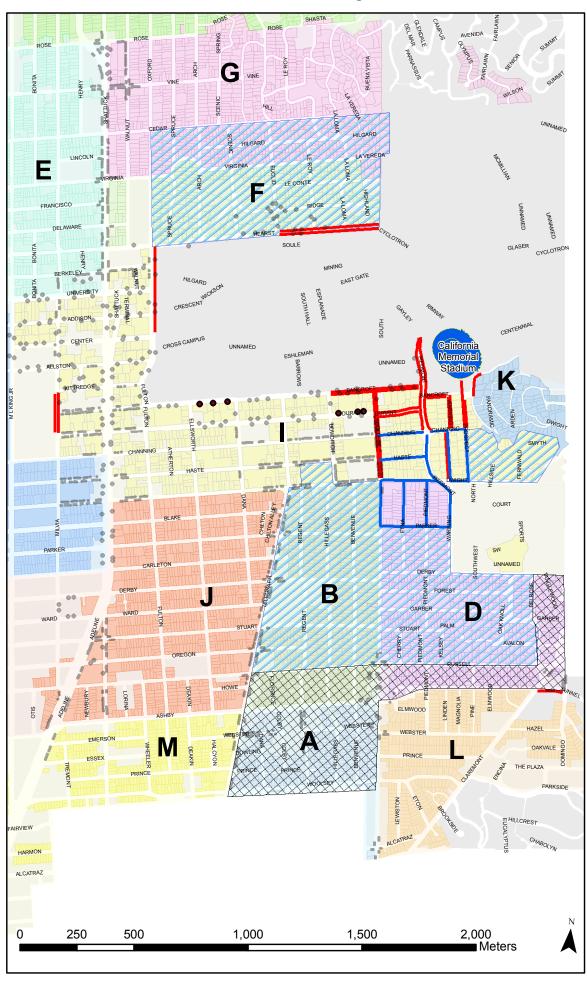
March 20, 2019





### CITY OF BERKELEY

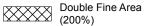
Transportation Division 1947 Center Street Berkeley CA 94704



ATTACHMENT 7:
PROPOSED 2019
UC BERKELEY
FOOTBALL GAME DAY
PARKING
RESTRICTIONS

### **Existing Restrictions**

- Single Space Meters (9AM-6PM)
- Pay And Display Meters (9AM-6PM)
  - Meters With
- Additional No Parking Restrictions



Exisiting Football
Tow Zones

### **Proposed Restrictions**

Enhanced Fine Area for Non-Permit Holders (\$225)

Proposed New Tow Zone For Non-Permit Holders

This map is for reference purposes only.

Care was taken in the creation of this map, but it is provided "AS IS". Please contact the City of Berkeley to verify map information or to report any errors. March 20, 2019





PUBLIC HEARING May 14, 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: ZAB Appeal: 1444 Fifth Street, Administrative Use Permit #ZP2018-0172

### RECOMMENDATION

Conduct a public hearing, and, upon conclusion, adopt a Resolution affirming the Zoning Adjustments Board (ZAB) decision to approve Administrative Use Permit #ZP2018-0172 to construct four detached, three-story, approximately 1,900 square-foot, single-family dwellings, each with an average height of 33 feet, on a 5,744 square-foot vacant lot in the MU-R District, and dismiss the appeal.

# FISCAL IMPACTS OF RECOMMENDATION None.

### CURRENT SITUATION AND ITS EFFECTS

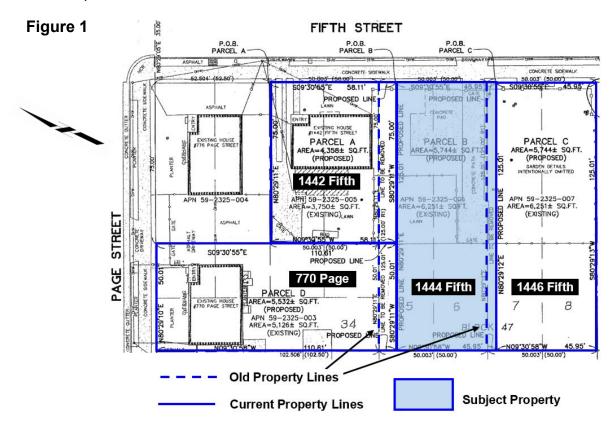
On January 24, 2019, the Zoning Adjustments Board (ZAB) held a public hearing and approved Administrative Use Permit (AUP) #ZP2018-0172 by a 5-1-1-1 vote (Yes: Pinkston, Clarke, Selawsky, O'Keefe, Kahn; No: Olson; Abstain: Sheahan; Absent: Tregub). On January 29, 2019, staff issued the notice of the ZAB decision, and on February 6, 2019, Jeffrey Spahn and Niels Traynor of the Ocean View Neighborhood Council filed an appeal of the ZAB decision with the City Clerk. The Clerk set the matter for review by the Council on May 14, 2019.

# **BACKGROUND**

On December 14, 2016, Matthew Wadlund, the applicant for the current project, submitted an application for an Administrative Use Permit (AUP) and Staff Level Design Review to construct a similar four-unit development at 1446 Fifth Street, the parcel abutting the subject parcel to the south. After appeal of the staff-level approval and approval on appeal by ZAB, the City Council approved the project in July 2018. Council approval occurred after the applicant recorded a Lot Line Adjustment (LLA) to shift the shared property line between 1444 Fifth Street and 1446 Fifth Street approximately four feet to the south, and the shared property line between 1444 Fifth Street and 1442 Fifth Street and 770 Page Street approximately eight feet to the south (see Figure 1 below). The LLA, recorded on July 23, 2018, resulted in a decrease in parcel size of

<sup>&</sup>lt;sup>1</sup> The applicant is the property owner of all four affected parcels.

both the subject lot (1444 Fifth Street) and 1446 Fifth Street from 6,250 square feet to 5,744 square feet.



The LLA and associated decrease in parcel size affects the applicability of the Inclusionary Housing requirements in BMC Chapter 23C.12. These requirements apply to new construction of projects with five or more ownership units (e.g. condominium), or for sites whose size and zoning designation allow the construction of five or more units (BMC Section 23C.12.020.A.3). Applicable projects are required to provide either affordable units or an in-lieu fee.

The underlying Mixed Use-Residential (MU-R) zoning district has a density standard of one dwelling unit for each 1,250 feet of lot area and one additional unit for any remaining lot area which may be less than 1,250 square feet but greater than 750 square feet. Prior to the LLA, at 6,250 square feet each, both the parcels at 1444 and 1446 Fifth Street were large enough to accommodate up to five units. However, each parcel now can only accommodate four dwelling units so the Inclusionary Housing requirements no longer apply.

<sup>&</sup>lt;sup>2</sup> An LLA is a ministerial approval subject to specific objective standards that relate to parcel characteristics in applicable building and zoning ordinances, including minimum lot size and minimum lot frontage.

ZAB Appeal: 1446 Fifth Street Administrative Use Permit #ZP2018-0172 **PUBLIC HEARING** May 14, 2019

On August 31, 2018, the applicant submitted applications for an AUP and Staff Level Design Review to construct four new single-family dwellings on the vacant lot at 1444 Fifth Street. Design Review staff determined that the project was compatible with Citywide Design Guidelines and approved the design review application on January 9, 2019. The appeal period for the design review approval ended with no appeal on January 28, 2019.

Given the level of neighborhood interest in the project, the Zoning Officer set the AUP decision before ZAB as allowed by Berkeley Municipal Code (BMC) Section 23B.28.030. At the January 24, 2019 meeting, the ZAB held a public hearing, discussed the project, and approved the project.

### **ENVIRONMENTAL SUSTAINABILITY**

The project approved by the ZAB is in compliance with all applicable State and local environmental requirements.

### RATIONALE FOR RECOMMENDATION

The issues raised in the appellants' letter, and staff's responses, are as follows. For the sake of brevity, the appeal issues are not re-stated in their entirety; refer to the appeal letter (Attachment 2) for full text.

- Issue 1: Lot Line Adjustment. The appellants contend that the approved Lot Line Adjustment is illegal because it required the Public Works Department to "override zoning laws," and because it allowed the applicant to "avoid inclusionary housing requirement [sic]" [p. 1 and 2 of attached appeal letter].
- Response 1: As noted above, during the review process for entitlement of the southern abutting parcel, the applicant obtained an LLA, which modified the size of both parcels. Since the LLA has already been approved and recorded, it is not relevant to the pending AUP application, which must be evaluated in terms of the newly established lot size and configuration. The LLA conforms to applicable zoning and subdivision regulations, e.g. minimum lot area and width, access, and utilities.
- Issue 2: Lot Line Adjustment. The appellants contend that the approved Lot Line Adjustment is illegal because it violates State laws: SB 35 and the Housing Accountability Act [p. 1].
- Response 2: The LLA does not violate SB 35, as the provisions of SB 35 do not apply; the developer is not requesting streamlined processing of an affordable housing project. In addition, project approval is in compliance with the Housing Accountability Act as it would not involve denial of a development project or approval of such a project at a reduced density.

ZAB Appeal: 1446 Fifth Street Administrative Use Permit #ZP2018-0172

Issue 3: <u>Environmental Review</u>. The appellants contend that the approval of this project is "piecemeal," which subsequently "means no environmental impact study was needed," [p. 1 of attached appeal letter].

Response 3: The ZAB found that both the pending application and the project at 1446 Fifth Street are categorically exempt from additional review under the California Environmental Quality Act (CEQA) because they qualify as Infill Developments pursuant to Section 15332 of the CEQA Guidelines. The appellants refer to the approved project at 1446 Fifth Street and several other parcels on the same block that the applicant has said he plans to develop in the future, and they suggest that additional environmental impact analysis would have been required if development on all the parcels were considered together.

The CEQA Guidelines require evaluation of potential environmental impacts on a per project basis and require analysis of "the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects." Therefore, since there is no other currently pending application at a lot abutting the subject property, the City can only base its analysis for this project on the project itself, the existing neighborhood, and other pending or approved projects nearby.

Per CEQA guidelines Section 15300.2, determination that a project is categorically exempt is subject to several exceptions, including "Cumulative Impact: All exemptions...are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant." In other words, for this pending AUP application, staff considered the proposed project, the approved development at the abutting parcel, and all other proposed and approved developments in the neighboring area and ultimately determined that no significant cumulative impact would occur. Analysis of impacts from any future proposals in the area (by the applicant or anyone else) would be evaluated according to the same criteria and would therefore be required to account for impacts of the other pending development.

Moreover, to the extent that the appellants contend that additional CEQA analysis would be required if all potential development projects in the vicinity were considered to be a single project, the same infill categorical exemption is not restricted to projects of a certain size, and the City has consistently applied the exemption to other recently approved development projects in the area, including projects that are larger than the proposal. For example, both 739 Channing Way, which the appellants cite and included 10 dwelling units, four live-work units, and

one office space, and nearby 1500 San Pablo Avenue, which included 170 dwelling units and ground-floor commercial space, were approved as infill categorically exempt projects. Thus, even projects larger than the pending proposal could be deemed categorically exempt.

Issue 4:

<u>Traffic Impact Analysis</u>. The appellants contend that the approval of this project is "piecemeal," which subsequently "means no traffic impact analysis was needed" [p. 1 of attached appeal letter].

Response 4:

The appellants are correct that the City did not require a Traffic Impact Analysis (TIA) during the review of the proposal. Per the Zoning Project Submittal Requirements, while TIAs are typically required only for projects involving 10 or more units, the Traffic Engineer may require a TIA for any project when deemed necessary. In this case, the city Traffic Engineer reviewed both the approved project at the abutting parcel and the proposed project at the subject parcel, and in both cases, concluded that a TIA was not required given the existing neighborhood conditions and the proposed scope of work. If the applicant applies to develop another nearby parcel in the future, the Traffic Engineer will review that application in the same manner and other approved or pending projects will be considered. Thus, consideration of hypothetical future projects is unnecessary.

Issue 5:

<u>Construction Impacts</u>. The appellants contend that the approval of this project is "piecemeal," which subsequently "means 5 years of construction in our neighborhood." [p. 1 of attached appeal letter].

Response 5:

The City cannot control when entitled developments are constructed; building permit submittal and approval will not necessarily occur immediately after a developer has received land use approval, and construction timelines vary widely. However, while the City is not able to dictate when construction for approved projects occurs, it can address the appellants' concern regarding impacts from construction via standard conditions of approval.

In this case, the ZAB approved the project with several conditions of approval intended to reduce such impacts. Those conditions include the designation of a project liaison in charge of reporting construction-related complaints to the Planning Department (COA#10), a Transportation Construction Plan to help manage activities that could affect nearby sidewalks and streets (#18), and limits to the hours and days when construction activities may occur (#19). While there are no pending applications to develop abutting parcels by the applicant or anyone else, if such applications are submitted, the City may impose additional

conditions of approval if it found necessary to limit impacts to the neighborhood from construction activities.

Issue 6:

<u>Driveway Easement</u>. The appellants contend that "the driveway easement...is only needed because the developer reduced the lot size widths thereby making 1444 Fifth Street too narrow for a driveway" [p. 2 of attached appeal letter].

Response 6:

The site plan approved by ZAB includes a driveway serving each of the four proposed attached one-car garages at the project site, and which would occur along the north side of the property. The driveway would be part of a proposed shared access easement that would also provide access to the northern abutting parcels at 1442 Fifth Street and 770 Page Street. The City's Traffic Engineer reviewed this proposal and confirmed that the proposed parking and driveways would operate acceptably.

The appellants imply that the driveway easement is required only because the Lot Line Adjustment was approved. However, as previously stated, the LLA was a ministerial approval creating newly configured parcels, all of which meet the standards of both the Planning Department and the Public Works Department. The driveway easement is required to provide code-compliant vehicle access to the proposed garages and the existing buildings at the northern abutting parcels. Such easements, which allow shared access for vehicles in the areas between residential buildings, are common across the city, do not create detriment, and tend to result in less impermeable paving in final development.

Issue 7:

<u>Design Review Committee</u>. The appellants contend that the project should be scheduled for a meeting at the DRC because it "was never in front of DRC and thus never had public input" [p. 2 of attached appeal letter].

Response 7:

Because the project is located in the MU-R District and requires a staff level zoning permit (i.e. AUP), design review is performed at staff level. The applicant submitted a staff level design review application in conjunction with the AUP application. Design Review staff evaluated the proposal in terms of its consistency with applicable Design Guidelines and its compatibility with the massing, design, and materials of buildings in the surrounding neighborhood. Staff determined that the project meets design review requirements and posted notices of staff-level approval on the project site.

Staff Level Design Review approvals are subject to a 14-day appeal period and if appealed, are scheduled for a public meeting at the Design

Review Committee (DRC). In this case, no appeal was filed during the 14-day positing period; therefore, a public meeting at the DRC was not required.

### HOUSING ACCOUNTABILITY ACT ANALYSIS

This project complies with applicable, objective general plan and zoning standards, and thus the Housing Accountability Act (§65589.5(j)) applies. In order to deny the project or approve it at a lower density, the City Council must base its decision on written findings supported by a preponderance of the evidence that:

- 1. The development would have a specific adverse impact on public health or safety unless disapproved or approved at a lower density; and
- 2. There is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, other than the disapproval or approval at a lower density.

Staff is not aware of any basis to make the findings listed above.

### ALTERNATIVE ACTIONS CONSIDERED

Pursuant to BMC Section 23B.32.060.D, the Council may (1) continue the public hearing, (2) reverse, affirm, or modify the ZAB's decision, or (3) remand the matter to the ZAB.

### **CONTACT PERSON**

Timothy Burroughs, Director, Planning & Development Department, (510) 981-7437 Leslie Mendez, Senior Planner, Land Use Planning Division, (510) 981-7426

### Attachments:

- 1: Resolution
  - Exhibit A: Findings and Conditions
  - Exhibit B: Project Plans dated January 8, 2019
- 2: Appeal Letter dated February 6, 2019
- 3: Index to Administrative Record
- 4: Administrative Record
- 5: Public Hearing Notice

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

UPHOLD THE ZONING ADJUSTMENTS BOARD (ZAB) DECISION TO APPROVE ADMINISTRATIVE USE PERMIT #ZP2018-0172 TO CONSTRUCT FOUR DETACHED, 3-STORY, APPROXIMATELY 1,900 SQUARE-FOOT, SINGLE-FAMILY DWELLINGS, EACH WITH AN AVERAGE HEIGHT OF 33 FEET, ON A 5,744 SQUARE-FOOT VACANT LOT IN THE MIXED USE-RESIDENTIAL ZONING DISTRICT, AND DISMISS THE APPEAL

WHEREAS, on August 31, 2018, 1444 5<sup>th</sup> Street LLC ("applicant") filed an application for an Administrative Use Permit and Staff Level Design Review to construct four detached, 3-story, approximately 1,900 square-foot, single-family dwellings, each with an average height of 33 feet, on a 5,744 square-foot parcel at 1444 Fifth Street ("project"); and

WHEREAS, on November 19, 2018, staff deemed this application complete and determined that the project is categorically exempt from the California Environmental Quality Act ("CEQA") under Section 15332 of the CEQA Guidelines as an infill project; and

WHEREAS, on January 14, 2019, design review staff posted the approval of the Staff Level Design Review (DRSL) Application in three locations; and

WHEREAS, on January 24, 2019, at a duly noticed public hearing, the Zoning Adjustments Board (ZAB) held a public hearing in accordance with BMC Section 23B.28.030 and approved the Administrative Use Permit application with findings and conditions; and

WHEREAS, on January 28, 2019, the posting period for the DRSL approval ended with no appeal, and the DRSL approval became effective; and

WHEREAS, on January 29, 2019, staff issued the notice of the ZAB decision; and

WHEREAS, on February 6, 2019, Jeffrey Spahn and Niels Traynor filed an appeal of the ZAB decision with the City Clerk; and

WHEREAS, on May 14, 2019, at a duly noticed public hearing, the Council held a public hearing to consider the ZAB's decision, and, in the opinion of this Council, the facts stated in, or ascertainable from the public record, including comments made at the public hearing, warrant approving the project.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Berkeley that the City Council hereby adopts the findings to approve made by the ZAB in Exhibit A,

adopts the conditions of approval in Exhibit A, dismisses the appeal, and approves Administrative Use Permit #ZP2018-0172 as shown in Exhibit B.

### **Exhibits**

A: Findings and Conditions

B: Project Plans dated January 8, 2019

Page 2 565

# ATTA COMPONIENT 1, EXHIBIT A

# FINDINGS AND CONDITIONS JANUARY 24, 2019

# 1444 Fifth Street

Administrative Use Permit #ZP2018-0172 to construct four detached, 3-story, approximately 1,900 square-foot single-family dwellings, each with an average height of 33 feet, on a 5,744 square-foot vacant lot.

### **PERMITS REQUIRED**

• Administrative Use Permit, under BMC 23E.84.030, to construct four new dwelling units.

### I. CEQA FINDINGS

- 1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15332 of the CEQA Guidelines ("In-Fill Development").
- 2. Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project would not affect any historical resource.

### II. FINDINGS FOR APPROVAL

- 1. As required by Section 23B.32.040.A of the Zoning Ordinance, the project, under the circumstances of this particular case existing at the time at which the application is granted, would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:
  - The proposed development on this parcel is equal to or below the Mixed-Use Residential (MU-R) standards set by BMC 23E.84.070 for maximum residential density, floor area, and height (four dwelling units on the 5,744 square-foot lot, where four dwelling units is the maximum allowed based on the size of this lot; floor area ratio of 1.3, where the maximum allowed is for residential development 1.5; average height of 33', where the maximum allowed is 35'). The proposed project also meets or exceeds the requirements for setbacks, parking, and useable open space (1 parking space per dwelling unit, and 816 square feet of useable open space, where 600 square feet is required (150 square feet per unit));
  - The proposed project retains the mixed but primarily residential character of the surrounding street and is consistent with the overall scale of the one-, two-, and three-story residences and commercial and manufacturing spaces in the neighborhood. The proposed design references the industrial context of West Berkeley and its mix of uses and aesthetics;
  - No substantial land use conflicts are expected from the project due to the site's location in a
    mixed area of commercial and residential development, because the project's density will be
    within the range of the surrounding development, and because no substantial privacy or shadow
    impacts will occur;

- Sunlight: The Board finds that the project will not result in significant loss of direct sunlight on abutting residences for several reasons. No residences occur to the west and new shadows cast towards the east will occur primarily along Fifth Street, and not any dwellings. The project will cast shadows on the northern abutting dwelling at 1442 Fifth Street during the winter solstice and on the southern abutting dwellings (currently under construction) at 1446 Fifth Street during the summer solstice. However, in both cases, shadows will only affect some windows and occur during some morning hours. Because impacts to neighboring residences will be limited to certain hours a day and certain months of the year, these shading impacts are not deemed detrimental;
- Air: The Board finds that the proposal is consistent with the existing development and buildingto-building separation patter – or air – in this MU-R neighborhood because the buildings will exceed minimum setback and useable open space requirements and will be three stories where the maximum allowed is three; and
- Views: The proposed project will not result in additional obstruction of significant views in the neighborhood because there are no significant views as defined in BMC Section 23F.04 (Definitions) available to residences in the area. The area is generally flat, developed with oneto three-story buildings, and includes mature vegetation which provides visual screening.
- 2. Pursuant to Berkeley Municipal Code Section 23E.84.090, the Zoning Adjustments Board finds that the proposed project is consistent with the purposes of the MU-R District for the following reasons:
  - The project will strengthen the residential concentration in this neighborhood. The residential use
    of the project will protect neighboring residents from the unreasonably detrimental effects of
    nonresidential uses, such as noise, vibration, odors, smoke, fumes, gases, dust, heat and glare;
  - The project is consistent with the West Berkeley Plan because the proposed massing and design is appropriate for the neighborhood and reflects the nature of the MU-R District;
  - The project is not likely, under reasonably foreseeable circumstances, to either induce or contribute to a cumulative change of use in buildings away from residential, live/work, light industrial, or arts and crafts uses because the site location is in an area of West Berkeley known for a diverse mix of land uses and because the project will continue the residential pattern on the west side of Fifth Street at this block; and
  - The proposed project is able to meet the applicable performance standards as described in BMC 23E.84.070.H because no additional performance standards are applicable to this project.

### III. STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS

The following conditions, as well as all other applicable provisions of the Zoning Ordinance, apply to this Permit:

### 1. Conditions Shall be Printed on Plans

The conditions of this Permit shall be printed on the *second* sheet of each plan set submitted for a building permit pursuant to this Use Permit, under the title 'Use Permit Conditions'. *Additional sheets* may also be used if the *second* sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings; 8-1/2" by 11" sheets are not acceptable.

# 2. Applicant Responsible for Compliance with Conditions

The applicant shall ensure compliance with all of the following conditions, including submittal to the project planner of required approval signatures at the times specified. Failure to comply with any condition may result in construction being stopped, issuance of a citation, and/or modification or revocation of the Use Permit.

# 3. Uses Approved Deemed to Exclude Other Uses (BMC Section 23B.56.010)

- A. This Permit authorizes only those uses and activities actually proposed in the application, and excludes other uses and activities.
- B. Except as expressly specified herein, this Permit terminates all other uses at the location subject to it.

# 4. Modification of Permits (BMC Section 23B.56.020)

No change in the use or structure for which this Permit is issued is permitted unless the Permit is modified by the Zoning Officer.

# 5. Plans and Representations Become Conditions (BMC Section 23B.56.030)

Except as specified herein, the site plan, floor plans, building elevations and/or any additional information or representations, whether oral or written, indicating the proposed structure or manner of operation submitted with an application or during the approval process are deemed conditions of approval.

# 6. Subject to All Applicable Laws and Regulations (BMC Section 23B.56.040)

The approved use and/or construction is subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies. Prior to construction, the applicant shall identify and secure all applicable permits from the Building and Safety Division, Public Works Department and other affected City divisions and departments.

### 7. Exercised Permit for Use Survives Vacancy of Property (BMC Section 23B.56.080)

Once a Permit for a use is exercised and the use is established, that use is legally recognized, even if the property becomes vacant, except as set forth in Standard Condition #8, below.

### 8. Exercise and Lapse of Permits (BMC Section 23B.56.100)

- A. A permit for the use of a building or a property is exercised when, if required, a valid City business license has been issued, and the permitted use has commenced on the property.
- B. A permit for the construction of a building or structure is deemed exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced.

C. A permit may be declared lapsed and of no further force and effect if it is not exercised within one year of its issuance, except that permits for construction or alteration of structures or buildings may not be declared lapsed if the permittee has: (1) applied for a building permit; or, (2) made substantial good faith efforts to obtain a building permit and begin construction, even if a building permit has not been issued and/or construction has not begun.

## 9. Indemnification Agreement

The applicant shall hold harmless, defend, and indemnify the City of Berkeley and its officers, agents, and employees against any and all liability, damages, claims, demands, judgments or other losses (including without limitation, attorney's fees, expert witness and consultant fees and other litigation expenses), referendum or initiative relating to, resulting from or caused by, or alleged to have resulted from, or caused by, any action or approval associated with the project. The indemnity includes without limitation, any legal or administrative challenge, referendum or initiative filed or prosecuted to overturn, set aside, stay or otherwise rescind any or all approvals granted in connection with the Project, any environmental determination made for the project and granting any permit issued in accordance with the project. This indemnity includes, without limitation, payment of all direct and indirect costs associated with any action specified herein. Direct and indirect costs shall include, without limitation, any attorney's fees, expert witness and consultant fees, court costs, and other litigation fees. City shall have the right to select counsel to represent the City at Applicant's expense in the defense of any action specified in this condition of approval. City shall take reasonable steps to promptly notify the Applicant of any claim, demand, or legal actions that may create a claim for indemnification under these conditions of approval.

### IV. ADDITIONAL CONDITIONS IMPOSED BY THE ZONING ADJUSTMENTS BOARD

Pursuant to BMC 23B.32.040.D, the Zoning Adjustments Board attaches the following additional conditions to this Permit:

### **Prior to Submittal of Any Building Permit:**

10. Project Liaison. The applicant shall include in all building permit plans and post onsite the name and telephone number of an individual empowered to manage construction-related complaints generated from the project. The individual's name, telephone number, and responsibility for the project shall be posted at the project site for the duration of the project in a location easily visible to the public. The individual shall record all complaints received and actions taken in response, and submit written reports of such complaints and actions to the project planner on a weekly basis. Please designate the name of this individual below:

☐ Project Liaison			
	Name	Phone #	

# **Prior to Issuance of Any Building Permit:**

- **11.** The applicant shall file an "Address Assignment Request Application" with the Permit Service Center (1947 Center Street) for any address change or new address associated with this Administrative Use Permit. The new address(es) shall be assigned prior to issuance of a building permit.
- **12.** The applicant shall provide the recorded driveway easements, as depicted on the Site Plan, to the Zoning Officer.

- 13. Geotechnical Plan Review. The applicant shall follow all conditions and recommendations outlined in the geotechnical report and response letters prepared by Peters and Ross (December 16, 2016, May 12, 2017, and October 2018) and the peer reviews prepared by Cotton, Shires and Associates, Inc. (February 6, 2017, May 24, 2017, and October 2018). In addition, the applicant's geotechnical consultant shall review and approve all geotechnical aspects of the project building and grading plans (i.e., site preparation and grading, site drainage improvements and design parameters for foundations, retaining walls, and driveway) to ensure that their recommendations have been properly incorporated. In addition the consultant shall review project drainage and grading plans and verify that proposed site drainage discharge is acceptable from a geotechnical perspective. The results of the plan review shall be summarized by the geotechnical consultant in a letter and submitted to the City Engineer for review and approval prior to issuance of building permits.
- **14.** <u>Toxics</u>. The applicant shall contact the Toxics Management Division (TMD) at 1947 Center Street or (510) 981-7470 to determine which of the following documents are required and timing for their submittal:
  - A. Environmental Site Assessments:
    - 1) Phase I & Phase II Environmental Site Assessments (latest ASTM 1527-13). A recent Phase I ESA (less than 6 months old\*) shall be submitted to TMD for developments for:
      - All new commercial, industrial and mixed use developments and all large improvement projects.
      - All new residential buildings with 5 or more dwelling units located in the Environmental Management Area (or EMA).
      - EMA is available online at:
      - http://www.cityofberkeley.info/uploadedFiles/IT/Level\_3\_-\_General/ema.pdf
    - 2) Phase II ESA is required to evaluate Recognized Environmental Conditions (REC) identified in the Phase I or other RECs identified by TMD staff. The TMD may require a third party toxicologist to review human or ecological health risks that may be identified. The applicant may apply to the appropriate state, regional or county cleanup agency to evaluate the risks.
    - 3) If the Phase I is over 6 months old, it will require a new site reconnaissance and interviews. If the facility was subject to regulation under Title 15 of the Berkeley Municipal Code since the last Phase I was conducted, a new records review must be performed.
  - B. Soil and Groundwater Management Plan:
    - 1) A Soil and Groundwater Management Plan (SGMP) shall be submitted to TMD for all non-residential projects, and residential or mixed-use projects with five or more dwelling units, that: (1) are in the Environmental Management Area (EMA) and (2) propose any excavations deeper than 5 feet below grade. The SGMP shall be site specific and identify procedures for soil and groundwater management including identification of pollutants and disposal methods. The SGMP will identify permits required and comply with all applicable local, state and regional requirements.
    - 2) The SGMP shall require notification to TMD of any hazardous materials found in soils and groundwater during development. The SGMP will provide guidance on managing odors during excavation. The SGMP will provide the name and phone number of the individual responsible for implementing the SGMP and post the name and phone number for the person responding to community questions and complaints.
    - 3) TMD may impose additional conditions as deemed necessary. All requirements of the approved SGMP shall be deemed conditions of approval of this Administrative Use Permit.
  - C. Building Materials Survey:
    - 1) Prior to approving any permit for partial or complete demolition and renovation activities involving the removal of 20 square or lineal feet of interior or exterior walls, a building

materials survey shall be conducted by a qualified professional. The survey shall include, but not be limited to, identification of any lead-based paint, asbestos, polychlorinated biphenyl (PBC) containing equipment, hydraulic fluids in elevators or lifts, refrigeration systems, treated wood and mercury containing devices (including fluorescent light bulbs and mercury switches). The Survey shall include plans on hazardous waste or hazardous materials removal, reuse or disposal procedures to be implemented that fully comply state hazardous waste generator requirements (22 California Code of Regulations 66260 et seq). The Survey becomes a condition of any building or demolition permit for the project. Documentation evidencing disposal of hazardous waste in compliance with the survey shall be submitted to TMD within 30 days of the completion of the demolition. If asbestos is identified, Bay Area Air Quality Management District Regulation 11-2-401.3 a notification must be made and the J number must be made available to the City of Berkeley Permit Service Center.

- D. Hazardous Materials Business Plan:
  - A Hazardous Materials Business Plan (HMBP) in compliance with BMC Section 15.12.040 shall be submitted electronically at <a href="http://cers.calepa.ca.gov/">http://cers.calepa.ca.gov/</a> within 30 days if on-site hazardous materials exceed BMC 15.20.040. HMBP requirement can be found at http://ci.berkeley.ca.us/hmr/
- 15. The Coast Live Oak tree on the site, near the south property line, and its roots shall be protected from all injuries that could endanger survival. The applicant shall consult with the City's Arborist and, prior to excavation work or issuance of any building permit, provide a plan to protect and preserve the tree during and after construction for the City Arborist's approval. The plan shall include the following conditions for construction work:
  - The applicant shall provide an onsite sign that is visible from the street and includes the contact information of the person responsible for monitoring the site and ensuring tree protection measures are followed.
  - The applicant shall install a 6' fence, which shall remain for the duration of construction, to protect the area within the drip-line. No construction activity, including storage, may occur within the fenced area.
  - If roots are damaged, construction shall cease until a certified arborist has been contacted and comes on site and provides direction to protect the trees as necessary.
  - Failure to adequately protect the existing oak tree from damage such that one or more branch
    is removed through negligence or intentional action shall require corrective measures as
    determined by the Zoning Officer.
  - Any pruning that involves the removal of more than one-fourth of the functioning leaf, stem, or root system of a Coast Live Oak tree in any 24 month period is prohibited.
- **16.** Any proposed street tree removal shall be subject to the approval of a street tree removal permit by the City Forester.
- 17. Any proposed new trees, including planting, irrigation and maintenance methods, in the public right of way shall be approved by the City's Arborist and the Public Works Department prior to issuance of a building permit.

# **During Construction:**

- **18.** <u>Transportation Construction Plan</u>. The applicant and all persons associated with the project are hereby notified that a Transportation Construction Plan (TCP) is required for all phases of construction, particularly for the following activities:
  - Alterations, closures, or blockages to sidewalks, pedestrian paths or vehicle travel lanes (including bicycle lanes);
  - Storage of building materials, dumpsters, debris anywhere in the public ROW;
  - · Provision of exclusive contractor parking on-street; or
  - Significant truck activity.

The applicant shall secure the City Traffic Engineer's approval of a TCP. Please contact the Office of Transportation at 981-7010, or 1947 Center Street, and ask to speak to a traffic engineer. In addition to other requirements of the Traffic Engineer, this plan shall include the locations of material and equipment storage, trailers, worker parking, a schedule of site operations that may block traffic, and provisions for traffic control. The TCP shall be consistent with any other requirements of the construction phase.

Contact the Permit Service Center (PSC) at 1947 Center Street or 981-7500 for details on obtaining Construction/No Parking Permits (and associated signs and accompanying dashboard permits). Please note that the Zoning Officer and/or Traffic Engineer may limit off-site parking of construction-related vehicles if necessary to protect the health, safety or convenience of the surrounding neighborhood. A current copy of this Plan shall be available at all times at the construction site for review by City Staff.

- **19.** Construction activity shall be limited to between the hours of 8:00 a.m. and 6:00 p.m. on Monday through Friday, and between 9:00 a.m. and noon on Saturday. No construction-related activity shall occur on Sunday or on any Federal Holiday.
- 20. If underground utilities leading to adjacent properties are uncovered and/or broken, the contractor involved shall immediately notify the Public Works Department and the Building & Safety Division, and carry out any necessary corrective action to their satisfaction.
- **21.** Subject to approval of the Public Works Department, the applicant shall repair any damage to public streets and/or sidewalks by construction vehicles traveling to or from the project site.
- **22.** All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter in thickness and secured to the ground.
- **23.** All active construction areas shall be watered at least twice daily, and all piles of debris, soil, sand or other loose materials shall be watered or covered.
- **24.** Trucks hauling debris, soil, sand, or other loose materials shall be covered or required to maintain at least two feet of board.
- **25.** Public streets shall be swept (preferably with water sweepers) of all visible soil material carried from the site.
- **26.** The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way.

- **27.** The applicant shall ensure that all excavation takes into account surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.
- 28. Any construction during the wet season shall require submittal of a soils report with appropriate measures to minimize erosion and landslides, and the developer shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.
- Palt Work/Unanticipated Discovery of Tribal Cultural Resources. In the event that cultural resources of Native American origin are identified during construction, all work within 50 feet of the discovery shall be redirected. The project applicant and project construction contractor shall notify the City Planning Department within 24 hours. The City will again contact any tribes who have requested consultation under AB 52, as well as contact a qualified archaeologist, to evaluate the resources and situation and provide recommendations. If it is determined that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with State guidelines and in consultation with Native American groups. If the resource cannot be avoided, additional measures to avoid or reduce impacts to the resource and to address tribal concerns may be required.
- **30.** Archaeological Resources (*Ongoing throughout demolition, grading, and/or construction*). Pursuant to CEQA Guidelines Section 15064.5(f), "provisions for historical or unique archaeological resources accidentally discovered during construction" should be instituted. Therefore:
  - A. In the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant and/or lead agency shall consult with a qualified archaeologist, historian or paleontologist to assess the significance of the find.
  - B. If any find is determined to be significant, representatives of the project proponent and/or lead agency and the qualified professional would meet to determine the appropriate avoidance measures or other appropriate measure, with the ultimate determination to be made by the City of Berkeley. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and/or a report prepared by the qualified professional according to current professional standards.
  - C. In considering any suggested measure proposed by the qualified professional, the project applicant shall determine whether avoidance is necessary or feasible in light of factors such as the uniqueness of the find, project design, costs, and other considerations.
  - D. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while mitigation measures for cultural resources is carried out.
  - E. If significant materials are recovered, the qualified professional shall prepare a report on the findings for submittal to the Northwest Information Center.
- 31. Human Remains (Ongoing throughout demolition, grading, and/or construction). In the event that human skeletal remains are uncovered at the project site during ground-disturbing activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to CEQA Guidelines Section 15064.5 (e)(1). If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to Health and

Safety Code Section 7050.5(c), and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.

32. Paleontological Resources (Ongoing throughout demolition, grading, and/or construction). In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards [SVP 1995,1996]). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.

### **Prior to Issuance of Occupancy Permit or Final Inspection:**

- **33.** All construction at the subject property shall substantially conform to the approved Administrative Use Permit drawings or to modifications approved by the Zoning Officer.
- **34.** All landscape, site and architectural improvements shall be completed per the attached approved drawings dated January 8, 2019.

# At All Times (Operation):

- **35.** All exterior lighting shall be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
- **36.** <u>Drainage Patterns</u>. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.
- 37. Electrical Meter. Only one electrical meter fixture may be installed per dwelling unit.

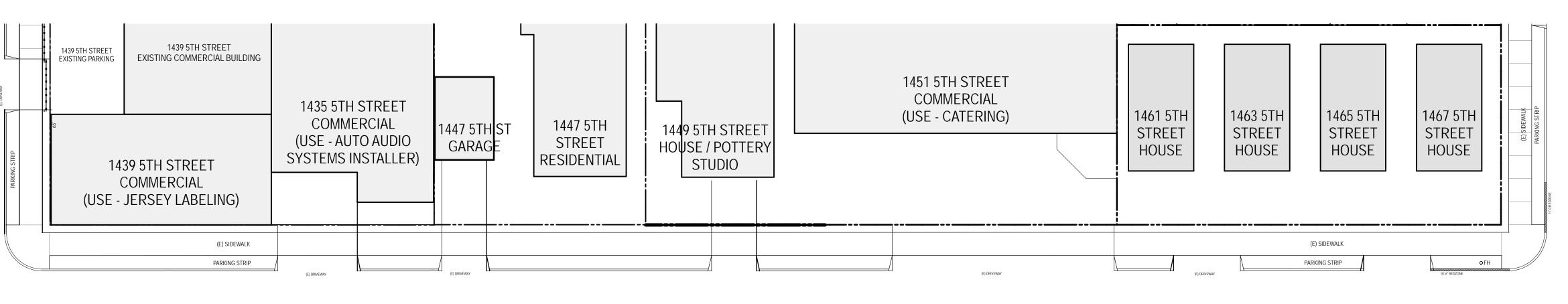
JAN 08 2019

RECEIVED

LAND USE PLANNING

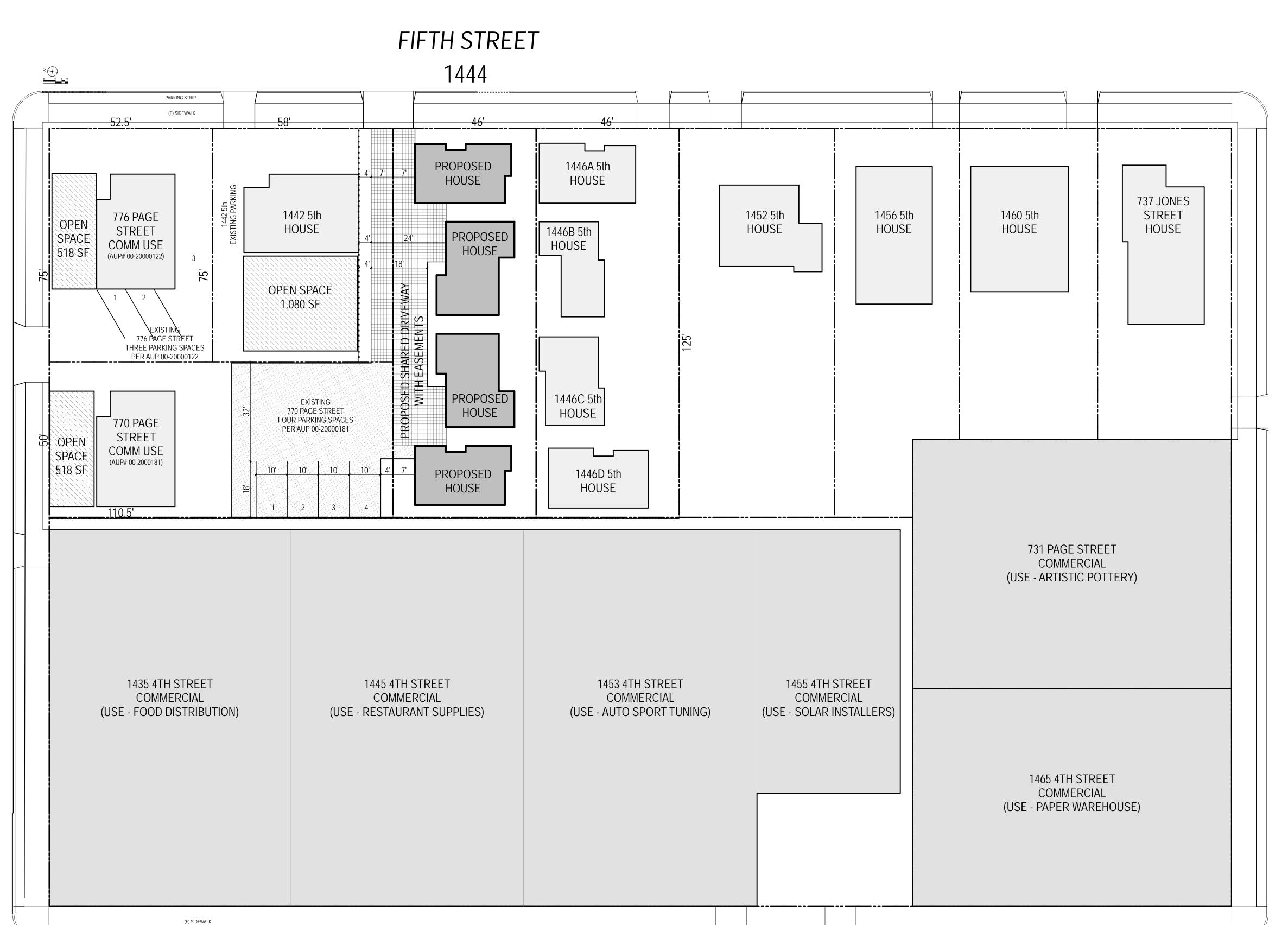
1444 5th STREET **VICINITY MAP** 

> WADLUND+ Design Studio 1444 5TH STREET -- AUP DECEMBER 2018



STREE

PAGE



1444 5TH STREET -- AUP REVISED DECEMBER 2018

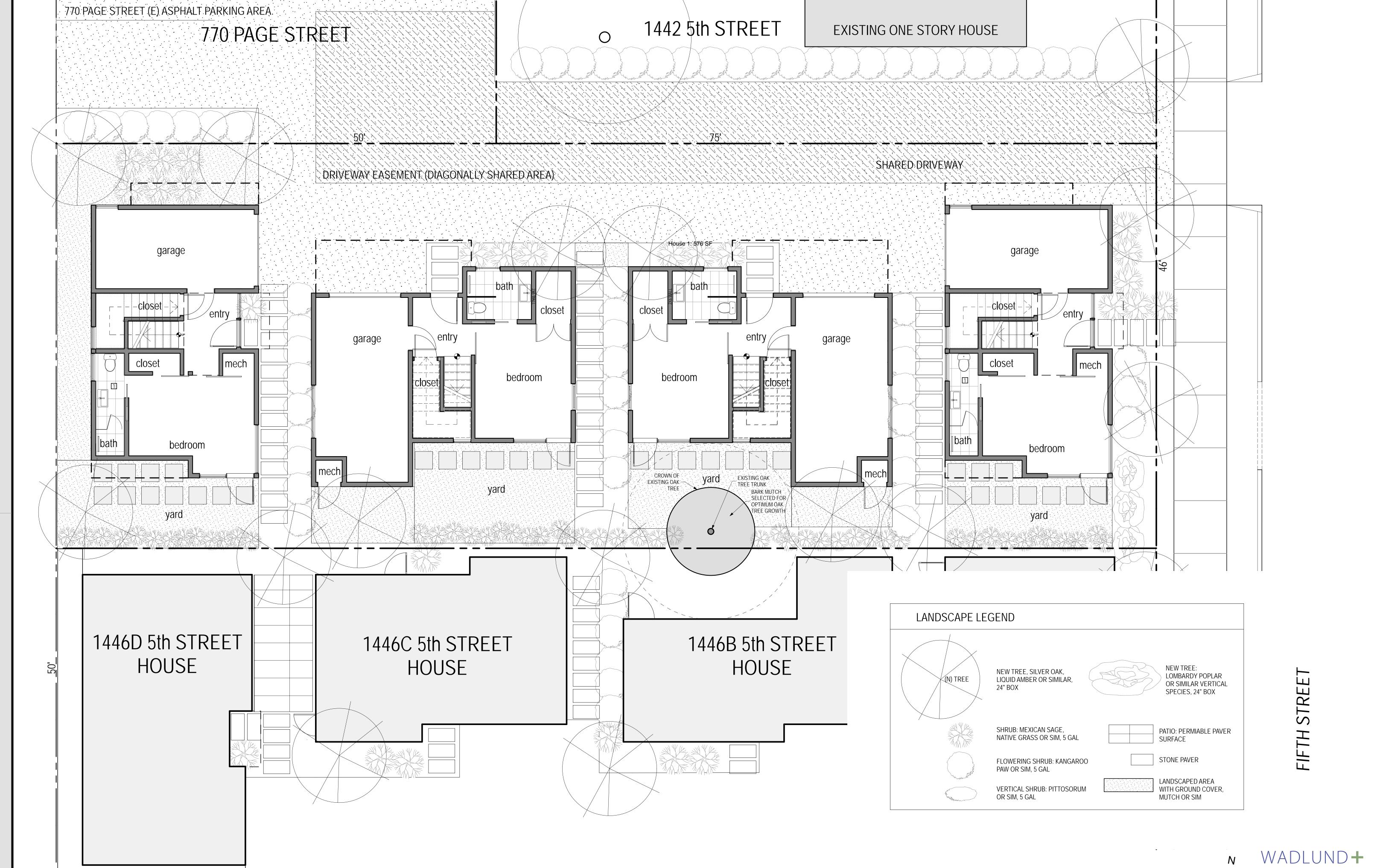
STREET

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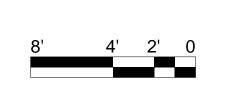
EXISTING WAREHOUSE FACING

STREET

EXISTING WAREHOUSE FACING



LANDSCAPE PLAN

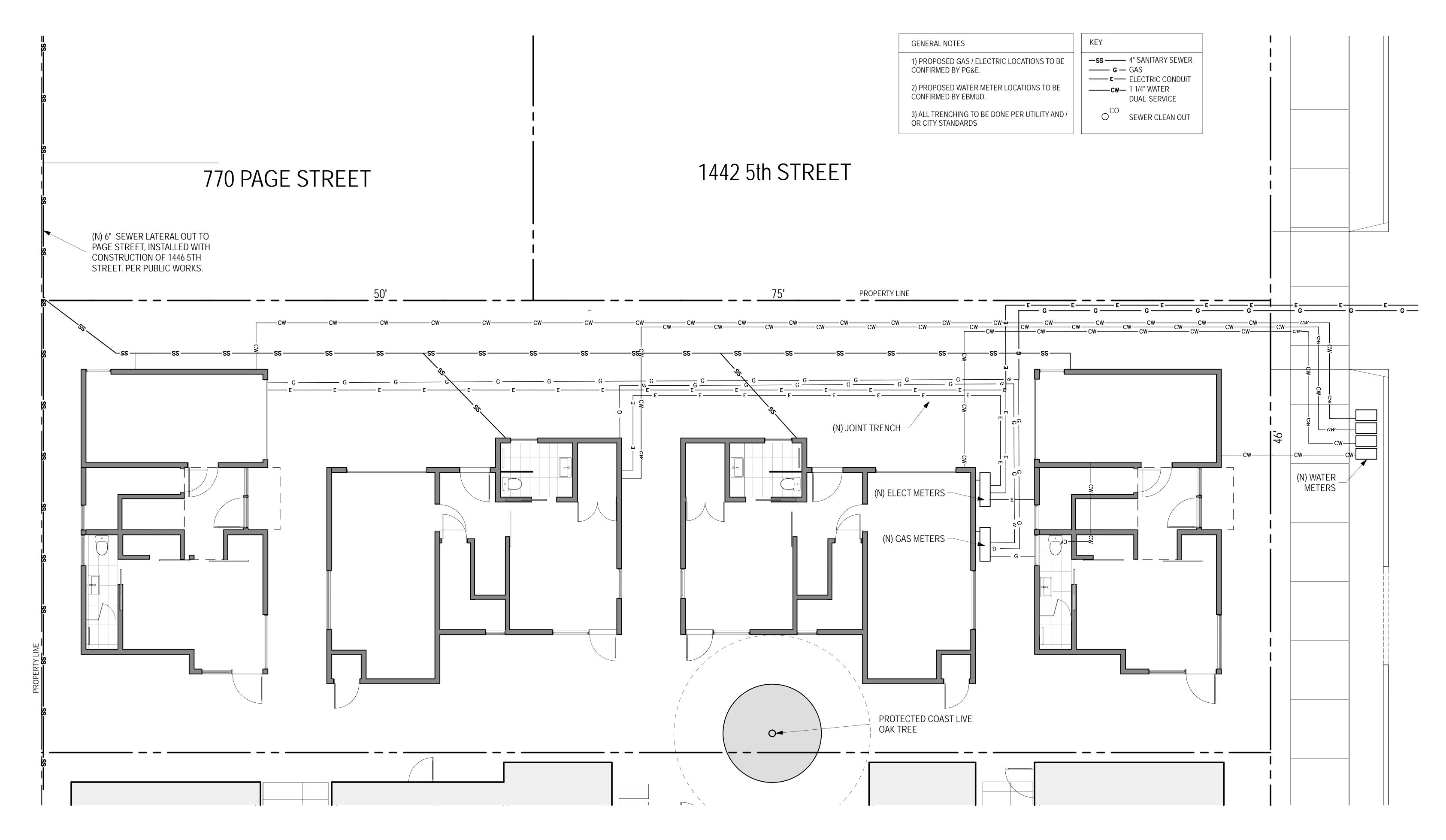




SITE OPEN SPACE & IMPERVIOUS COVERAGE

WADLUND+

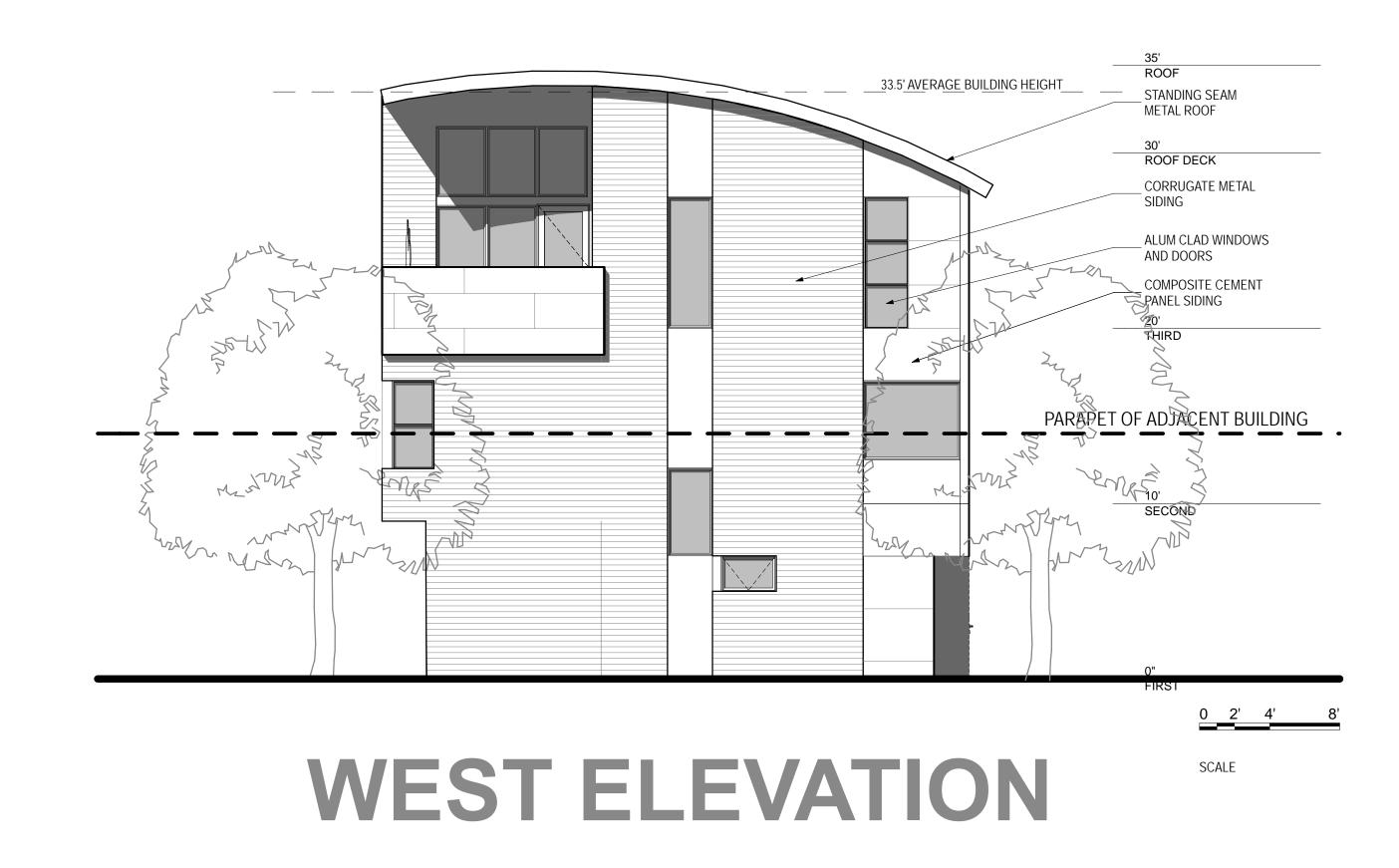
**Design Studio** 



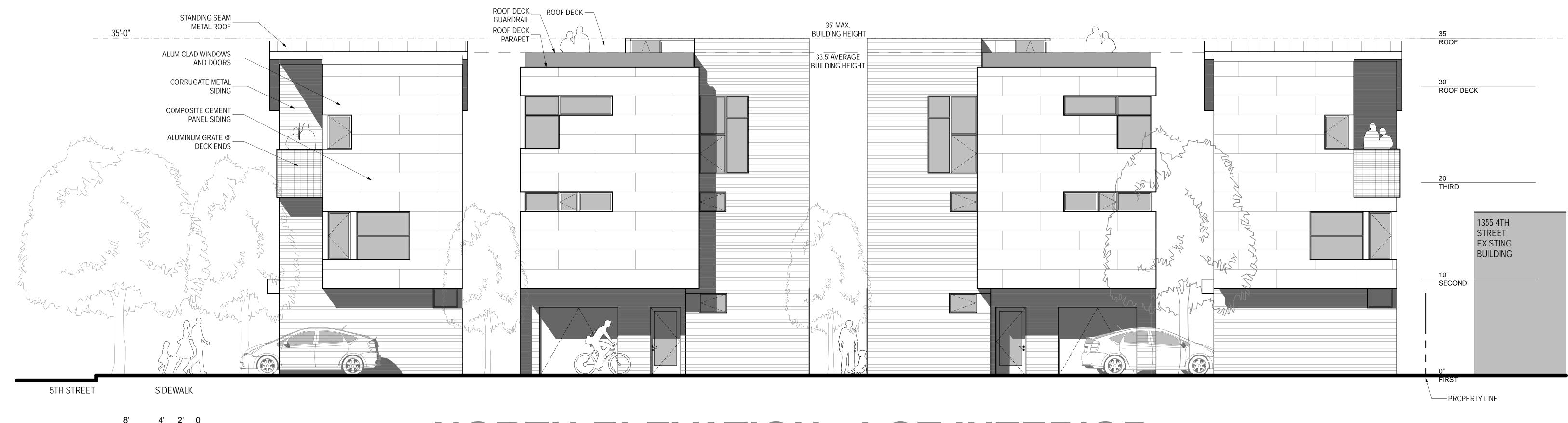












# NORTH ELEVATION - LOT INTERIOR



CITY CLERK DEPT

2/5/19

Ocean View Neighborhood Council Jeffrey Spahn and Niels Traynor 809 Page Street Berkeley, CA 94710 2019 FEB -6 PM 2: 15

To The Mayor and Berkeley City Council

Appeal of 1444 5th Street

ZP-2018-0172

Before Lot Line Adjustment by Public Works was complete,

1446 5<sup>th</sup> Street 6,251sf (size of lot can allow 5 units) 1444 5<sup>th</sup> Street 6,251sf 1442 5<sup>th</sup> Street 3,750sf 770 Page Street 5,126sf 776 Page Street 3,900sf

Total: 25,278sf Total Lot Development –

The developer disclosed that he plans to develop all 5 lots at the ZAB meeting, January 24<sup>th</sup> 2019.

#### Appeal Items:

- 1. Can Public Works override zoning laws? Should property sizes be reduced to avoid inclusionary housing requirement?
- 2. Lot Line Adjustments to reduce density is a violation of SB35. Lot Size reduction to reduce density is also a violation of the Housing Accountability Act. A city can not impose changes that reduce density or the percentage of a lot that may be occupied by a building or structure. If you allow one developer to do this then you allow anyone in the neighborhood to do this thereby eliminating the inclusionary housing. This is a major set back for affordable housing.
- 3. Piecemeal construction, with each project taking one year to complete means five years of construction in our neighborhood. This is a big negative impact on our neighborhood. It should be built all at one time.
- 4. Piecemeal development means no environmental impact study was needed.
- 5. Piecemeal development means no traffic Impact Analysis was needed, also a negative impact on our neighborhood. Unlike a very similar sized project at 739 Channing also in MUR zoning with a total combined square foot lot coverage of 16,300. This project provided a Traffic Impact Study. This project also provided/paid inclusionary housing fees. This project provided live work units which our neighborhood group requested. The developer Trachtenberg Architects worked with the neighbors to resolve conflicts. Finally this project is not being appealed.

- 6. The Driveway easement on 1442 5<sup>th</sup> and 770 Page is only needed because the developer reduced the lot size widths thereby making 1444 Fifth Street too narrow for a driveway.
- 7. We urge the city council to review, fix, and enforce 23C.12.020 inclusionary fees for ownership projects.
- 8. Add Conditional approval to Use Permit ZP-2018-0172. Approve but deny the lot line adjustments. Enforce inclusionary fees. If the fees are too high can these be negotiated with the city and paid in advance with a 20% reduction? Also please clarify if the developer does not pay the fee but they are included in the sale or escrow of the homes. Please Review this and add a piecemeal development ordinance in the future. When a developer owns contiguous lots in different LLC names they should be considered one.
- 9. Approve ZP-2018-0172 with the condition of a Traffic Impact Analysis to be done for all five projects.

Thank You. It was never when to be as one of the project was never when to be and occan View Neighborhood Council has charged considerably since that she ist public that and now that they she developer has admitted to the larger Desorm impact of Replicating the designs repeatedly this has NEW Design impacts of the entire sheet view and committee that they sheet when the entire sheet view and committee that they sheet where they have the sheet and they sheet. Thank you.



This attachment is on file and available for review at the City Clerk Department, or can be accessed from the City Council Website. Copies of the attachment are available upon request.

**City Clerk Department** 

2180 Milvia Street Berkeley, CA 94704 (510) 981-6900

or from:

The City of Berkeley, City Council's Web site <a href="http://www.cityofberkeley.info/citycouncil/">http://www.cityofberkeley.info/citycouncil/</a>

#### NOTICE OF PUBLIC HEARING-BERKELEY CITY COUNCIL SCHOOL DISTRICT BOARD ROOM, 1231 ADDISON STREET

ZAB APPEAL: ADMINISTRATIVE USE PERMIT #ZP2018-0172

Notice is hereby given by the City Council of the City of Berkeley that on TUESDAY, MAY 14, 2019 at 6:00 P.M. a public hearing will be conducted to consider an appeal against a decision by the Zoning Adjustments Board's approval of Administrative Use Permit #ZP2018-0172, to construct four detached, three-story, approximately 1,900 square-foot, single-family dwellings on a 5.744 square-foot vacant lot at 1444 Fifth Street.

A copy of the agenda material for this hearing will be available on the City's website at www.CityofBerkeley.info as of May 2, 2019.

For further information, please contact Leslie Mendez, Project Planner at (510) 981-7426 Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. Please note: email addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record. If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or clerk@cityofberkeley.info for further information.

Mark Numainville, City Clerk

Mailed: April 30, 2019

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

If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Berkeley at, or prior to, the public hearing. Background information concerning this proposal will be available at the City Clerk Department and posted on the City of Berkeley webpage at least 10 days prior to the public hearing.



ACTION CALENDAR May 14, 2019

To: Honorable Mayor and Members of the City Council

From: Berkeley Energy Commission

Submitted by: Ryan Bell, Chairperson, Berkeley Energy Commission

Subject: Recommendations for a Fossil Fuel Free Berkeley

#### RECOMMENDATION

The Berkeley Energy Commission recommends the City Council refer to the City Manager to implement the recommendations listed below as well as additional measures outlined in the attached report to aggressively reduce greenhouse gas (GHG) emissions in the city and the region.

### FISCAL IMPACTS OF RECOMMENDATION Unknown.

#### **CURRENT SITUATION AND ITS EFFECTS**

This report responds to the Fossil Free Berkeley and Climate Emergency referrals from the June 12, 2018 Council meeting sponsored by Council member Davila, Mayor Arreguin and Councilmember Harrison. The Energy Commission has prepared a Fossil Fuel Free Berkeley Report including the following recommendations to achieve the goals outlined by council to address the climate emergency and transition Berkeley away from fossil fuels.

#### Four Fast Track Proposals

- Opt all East Bay Community Energy accounts to 100% renewable electricity in 2019.
   This would result in an immediate 10% reduction in GHGs.
- Integrate greenhouse gas (GHG) reduction goals into the objectives and responsibilities of every city department. Amend funding priorities to support this initiative.
- Develop an updated Climate referendum to put before the voters that includes challenging proposals and why they are necessary. A successful referendum campaign would provide the platform for massive public education and support Council decision making.
- Lead a regional effort to change the Utility Users Tax structure in order to assess taxes on natural gas usage separately from electricity usage, followed by a referendum asking voters to approve raising the natural gas usage tax. Funds raised would be dedicated to de-carbonization efforts.

#### Summary of Recommendations

#### **Citywide Transportation**

- 1. Accelerate infrastructure changes to support walking, biking, and small electric and human powered vehicles.
  - a. Build all high priority projects in the city's bicycle, pedestrian, and BeST plans including tier 1 projects in the bike plan by 2025.
  - Re-prioritize road and sidewalk capital expenditures to accelerate changes in favor of walking, human powered vehicles, and other low carbon footprint mobility alternatives.
  - c. Add 3 FTE to the Transportation Division to expedite implementation.
- 2. Explore developing Berkeley shuttle services similar to the Emery Go-Round using EVs.
- 3. Develop effective communication and education strategies. Continue to expand programs that encourage residents to shift to fossil fuel free modes of transport.
- 4. Consider free transit passes for youth, restricted vehicle access to certain streets, and additional parking fees. Funds raised would be used to support fossil fuel free transportation programs.

#### **Residential and Commercial Buildings**

- Opt all accounts in Berkeley up to 100% renewable EBCE electricity in 2019, with a policy of no added cost for CARE customers and an outreach campaign to enroll all eligible customers in the CARE program. This is the most significant action the city can take to reduce GHGs.
- 2. Expand BESO and include electrification along with energy efficiency. Consider more triggers that require an energy audit, more detailed energy audits, requiring the seller to complete the audit to the buyer, and requiring implementation of some of audit recommendations.
- Stop expansion of natural gas infrastructure by prohibiting gas cooktops and dryers in new residences. Place a moratorium on new gas hook ups if possible.
- 4. Funding options for electrification and energy efficiency upgrades:
  - a. Sales transfer tax rebates, similar to the seismic rebate but tied to implementation of BESO recommendations.
  - b. A new, very low interest revolving loan fund.
  - c. Strategic relaxation of the Planning Code in exchange for electrification and energy efficiency measures.
- 5. Develop an effective communication and education strategy that reaches the Berkeley community at large. This strategy should include updating the City's permit service center website to reflect the City's prioritization of electrification, and low carbon footprint and low toxic construction. The City's website needs to offer clear guidance reflecting the urgency of the climate crisis.

#### **Regional Action**

- 1. Lead a regional effort to make changes to the Utility Users Tax structure in order to assess taxes on natural gas usage separately from electricity usage. The City Council adopted a resolution in favor of this change and is awaiting support from other cities in the region to share the fees PGE would charge to modify the billing. Once complete, the City should submit a referendum to voters that would raise the tax on natural gas usage and dedicate the funds to de-carbonization efforts.
- Encourage the Bay Area Air Quality Management District (BAAQMD) to adopt rules with future effective dates to prohibit sale of gas powered appliances. It has used the authority in the past to prohibit the sale of polluting products like high VOC paints and to restrict installation of wood burning fireplaces.
- 3. Increase regional and support state efforts to expand availability of low global warming potential refrigerant, heat pump space and water heaters for the retrofit markets.
- 4. Initiate regional policy consistent with fossil free goals for ride hailing services and the introduction of autonomous vehicles. Support state programs that restrict the use of fossil fuel by ride hailing services and autonomous vehicles. Regulate these services to reduce overall per capita VMT.
- 5. Explore viability of reducing R-1 zoning to increase housing availability, opportunities for home ownership and improve transit access through increasing densification. Such transit oriented development can provide the density to support expansion of regional transit.

Given statutory limitations on specific authorities held by the City, the Energy Commission is not able to determine a date by which Berkeley could be completely fossil fuel free. However, aiming to be fossil fuel free by 2030 to the fullest extent possible is a compelling goal. Urgency prompts the Commission to recommend aggressively prioritizing options with high early impacts. Lastly, Berkeley will only become a carbon sink if it is also virtually fossil free. The City has little capacity to sequester carbon.

At the January 23, 2019 meeting, the commission took the following action:

Action: Motion/Second (Weems/Patel) to approve the Fossil Fuel Report with amendments and recommend City Council refer to the City Manager to implement the recommendations in the report to aggressively reduce GHG emissions in the city and the region.

Vote: Ayes –Leger, Bell, Patel, Weems, Paulos, Stromberg; Noes – None; Abstain – None; Absent – Luce, Schlachter.

#### **BACKGROUND**

The Fossil Free Berkeley and Climate Emergency resolutions asked the Energy Commission to consider actions "to further implement the Climate Action Plan and establish the goal of becoming a Fossil Fuel Free Berkeley" and to consider several actions the city might take as part of this review.

#### **ENVIRONMENTAL SUSTAINABILITY**

These recommendations are intended to accelerate citywide reductions in GHGs.

#### RATIONALE FOR RECOMMENDATION

While making recommendations for all of the actions the Council requested that the commission consider, the main recommendations for reducing GHG emissions focus on transportation and residential and commercial buildings as they are responsible for 98% of Berkeley's GHG emissions.

#### ALTERNATIVE ACTIONS CONSIDERED

None considered.

#### CITY MANAGER

See Companion Report.

#### **CONTACT PERSON**

Billi Romain, Energy Commission Secretary

#### Attachments:

1: Berkeley Energy Commission Recommendations for a fossil fuel free Berkeley.

### **Fossil Free Berkeley Report**

**Berkeley Energy Commission January 23, 2019** 

#### **Council Referral**

On June 12, the Berkeley City Council passed item 30 "Fossil Free Berkeley" which refers "to the Energy Commission and Transportation Commission consideration of the proposed resolution or similar action to further implement the Climate Action Plan and establish the goal of becoming a Fossil Fuel Free Berkeley, and further consider:

Establishing a date by which we are committed to being a Fossil Fuel Free City;

Opposing further transportation of oil, gas, and coal;

Fully implementing Berkeley Deep Green Building, raising the citywide LEED certification requirement above the current LEED Silver, and applying the same requirements to newly constructed city facilities, and major renovations;

Requiring all future City government procurements of vehicles to minimize emissions, and establishing a goal and plan for transitioning the city's vehicle fleet to all electric vehicles:

Establishing a goal and plan for transitioning to 100% renewable energy for municipal operations and a community wide goal of 100% reductions by 2030;

Formally opposing the recent expansion of offshore drilling by the Trump Administration; and

Calling for region-wide solutions to carbon emissions, including rapid adoption of renewable energy sources, affordable densification of cities and low-emissions public transportation infrastructure."

On June 12, the Berkeley City Council also passed item 49 "Declaration of a Climate Emergency" which refers "to the Energy Commission to study and report back to Council on **a** path for Berkeley to become a "Carbon Sink" as quickly as possible, and to propose a deadline for Berkeley to achieve this goal" ideally by 2030.

This Report is the Energy Commission's response to Council's June 12 referrals.

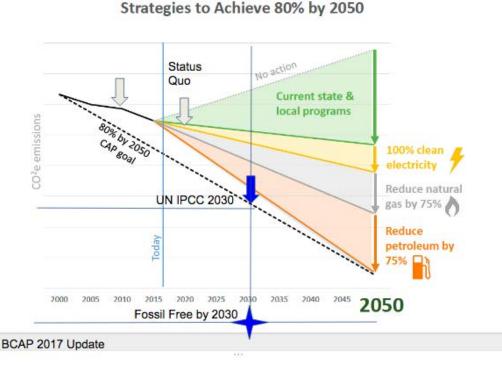
#### **Executive Summary**

The City Council's Climate Emergency Resolution lists record breaking climate related catastrophes and urges 'out of the box' thinking for solutions.

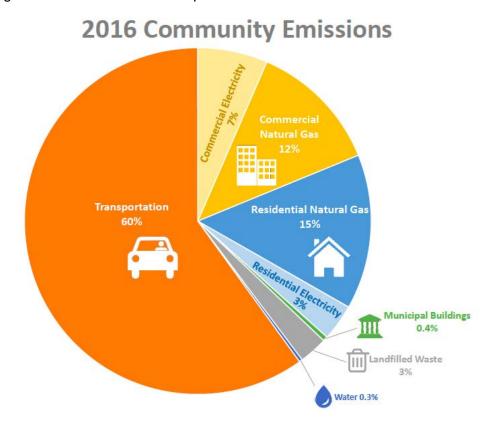
As if intended to support the Council's climate emergency declaration, the UN IPCC issued a heart rattling Special Report (IPCC-SR15, 10/9/2018) noting global temperatures are rising faster than predicted an myriad of cascading effects are happening sooner, and reiterating a worldwide goal to keep warming to no more than 1.5 °C. It asserts Greenhouse pollution must be reduced 45 percent from 2010 levels by 2030 and 100 percent by 2050.

The trajectory of the Berkeley Climate Action Plan's 2020 emission reduction targets, extended to 2030, is roughly in line with the IPCC-SR15 goal. However, according to the city's 2018 Annual Progress Update Berkeley is significantly behind in achieving the Climate Action Plan 2020 reduction goals, let alone extending that trajectory through 2030 as recommended by IPCC-SR15, or doubling down to become 100% fossil free by 2030 as to be considered in the Fossil Fuel Free Berkeley Resolution Council adopted in June.

#### IPCC and Fossil Free by 2030 goals superimposed on 2017 CAP update



Clearly in order to meet <u>any</u> of these 2030 goals we need a sea change in commitment. Specifically, we must exert the will to honestly accept and meet the challenge we face. The 2018 CAP Update shows where we need to act:



Given statutory limitations on specific authorities held by the City, the Energy Commission is not able to determine a date by which Berkeley could be completely fossil fuel free. However, aiming to be fossil fuel free by 2030 to the fullest extent possible is a compelling goal. Urgency prompts the Commission to recommend aggressively prioritizing options with high early impacts. Lastly, Berkeley will only become a carbon sink if it is also virtually fossil free. The City has little capacity to sequester carbon.

#### Four Fast Track Proposals

- Opt all East Bay Community Energy accounts to 100% renewable electricity in 2019. This would result in an immediate 10% reduction in GHGs.
- Integrate greenhouse gas (GHG) reduction goals into the objectives and responsibilities of every city department. Amend funding priorities to support this initiative.
- Develop an updated Climate referendum to put before the voters that doesn't soft pedal very challenging proposals and why they are necessary. A successful referendum campaign would provide the platform for massive public education and

- support Council decision making. This referendum would be submitted to the voters in November 2020 and would include binding mandates and specific priorities for emissions reductions.
- Lead a regional effort to make changes to the Utility Users Tax structure in order to assess taxes on natural gas usage separately from electricity usage. Once complete, the City should submit a referendum to voters that would raise the tax on natural gas usage and dedicate the funds to decarbonization efforts.

#### Summary of Recommendations

#### **Citywide Transportation**

- 1. Accelerate infrastructure changes to support walking, biking, and small electric and human powered vehicles.
  - Build all high priority projects in the city's bicycle, pedestrian, and BeST plans including tier 1 projects in the bike plan by 2025.
  - Re-prioritize road and sidewalk capital expenditures to accelerate changes in favor of walking, human powered vehicles, and other low carbon footprint mobility alternatives.
  - c. Add 3 FTE to the Transportation Division to expedite implementation.
- 2. Adopt financial incentives and disincentives to reduce transportation carbon emissions such as: free transit passes for youth, restricted vehicle access to certain streets, and additional parking fees. Funds raised would be used to support fossil fuel free transportation programs.
- 3. Explore developing Berkeley shuttle services similar to the Emery Go-Round using EVs.
- Develop effective communication and education strategies. Continue to expand programs that encourage residents to shift to fossil fuel free modes of transport.

#### **Residential and Commercial Buildings**

- 1. Opt all accounts in Berkeley up to 100% renewable EBCE electricity with a policy of no added cost for CARE customers and an outreach campaign to enroll all eligible customers in the CARE program. This is the most significant immediate thing the city can to do reduce greenhouse gas emissions. A ton of GHG gases eliminated in 2019 is far more impactful in slowing climate change than a ton eliminated in 2025 or even in 2020 because of the impact of positive feedback loops.
- Expand BESO and include electrification along with energy efficiency. Consider instituting more triggers that require an energy audit, more detailed energy audits, not allowing the seller to transfer the audit to the buyer, and required implementation of some of the measures recommended in the energy audit.

- 3. Stop expansion of natural gas infrastructure by prohibiting gas cooktops and dryers in new residences. Place a moratorium on new gas hook ups if possible.
- 4. Funding options for electrification and energy efficiency upgrades:
  - a. Sales transfer tax rebates, similar to the seismic rebate but tied to implementation of BESO recommendations.
  - b. A new, very low interest revolving loan fund.
  - Strategic relaxation of the Planning Code, such as density and/or parking requirements, or accelerated review in exchange for electrification and energy efficiency measures.
- 5. Develop an effective communication and education strategy that reaches the Berkeley community at large. This strategy should include updating the City's website to reflect the City's prioritization of electrification, and low carbon footprint and low toxic construction. Updated green building information should be easily found on the Permit Service Center home page. The City's website needs to offer clear guidance reflecting the urgency of the climate crisis.

#### **Regional Action**

- Lead a regional effort to make changes to the Utility Users Tax structure in order to assess taxes on natural gas usage separately from electricity usage. The City Council adopted a resolution in favor of this change and is awaiting support from other cities in the region to share the fees PGE would charge to modify the billing. It is time to look aggressively for the necessary funds and initiate the process. Once complete, the City should submit a referendum to voters that would raise the tax on natural gas usage and dedicate the funds to decarbonization efforts.
- 2. Encourage the Bay Area Air Quality Management District (BAAQMD) to adopt rules with future effective dates to prohibit sale of gas powered appliances. It has used the authority in the past to prohibit the sale of polluting products like high VOC paints and to restrict installation of wood burning fireplaces. Prohibiting sale of gas powered appliances would support electrification.
- Increase regional and support state efforts to expand availability of low global warming potential refrigerant heat pump space and water heaters for the retrofit markets.
- 4. Initiate regional policy consistent with fossil free goals for ride hailing services and the introduction of autonomous vehicles. Support state programs that restrict the use of fossil fuel by ride hailing services and autonomous vehicles. Regulate these services to reduce overall per capita VMT.
- 5. Explore viability of reducing R-1 zoning to increase housing availability, opportunities for home ownership and improve transit access through increasing densification. Such transit oriented development can be adopted throughout the region to reduce development pressure on open spaces, provide more housing near jobs, and provide the density to support expansion of regional transit.

#### **Analysis**

### I. Establishing a date by which we are committed to being a Fossil Fuel Free City

#### Recommendations

- Consider a new ballot initiative for updating the Climate Action Plan in order to engage Berkeley residents in the comprehensive and ambitious efforts that will be needed.
- The City should take aggressive, immediate, and sustained action to achieve the goal of a fossil free Berkeley to the fullest extent possible while simultaneously calling for necessary and immediate complementary emergency actions by other local, regional (e.g. MTC/ABAG, BAAQMD, RayREN) state and federal governmental bodies.

#### **Discussion**

The Energy Commission believes that the Berkeley Residents who initiated "Fossil Free Berkeley" intend it to apply to the entire city, not just municipal operations. Our comments reflect this point of view.

The two Council items 30 and 49 taken together suggest a goal of 2030 for Berkeley to become fossil free. It should be noted that this is far more ambitious than recommendations by the IPCC and recently adopted state laws<sup>1</sup> which taken together would suggest a goal of 50% reduction of greenhouse gas (GHG) emissions by 2030.

In some ways, Berkeley is better positioned than many cities to take the initiative to make accelerated and meaningful reductions in fossil fuel consumption.

• Unlike many other GHG emissions sectors, techniques for eliminating building GHGs--specifically improving energy efficiency, electrifying remaining energy uses, and using renewably generated electricity--are all commercially available, and can improve comfort and safety and offer property owners economic savings over time. Energy efficiency programs have been around for decades and the city's unique BESO energy audit program helps property owners prioritize efficiency upgrade spending. Because of recent developments in heat pump technologies making electric heat pump space and water heating more than 3 times as efficient as their gas equivalents and the dramatic

<sup>&</sup>lt;sup>1</sup> SB 100 commits state utilities to provide 60% renewable electricity by 2030, and zero carbon electricity by 2045.

AB 3232 charges the California Energy Commission with assessing how to reduce emissions from the state's building stock by 40 percent below 1990 levels by 2030.

SB 1477 will expand the accessibility of clean heating technologies by promoting them in the market with incentives and training.

Executive Order B-55-18 commits California to economy-wide carbon neutrality by 2045.

increase of renewables on the electricity grid, all electric homes, even without solar panels, can produce substantially less GHGs than natural gas powered ones.

Berkeley's size, density, mild and dry climate, and mass transit infrastructure
make it ideally suited for an accelerated reduction in transportation related
GHGs. The recent commercial introduction of vehicle sharing programs and
proliferation of small electric vehicles such as electric bikes, scooters, and
tricycles solve two of the main long time challenges to rethinking the
transportation picture in Berkeley. They dramatically reduce costs of electric
transport and offer small scale power assisted options, particularly for hills
residents.

According to the 2017 Bicycle Plan a "2015 survey of Berkeley residents showed 90 percent of Berkeley residents already bicycle or would consider bicycling if the right bikeway facility or roadway conditions were available. That is a larger percentage than any other city that has conducted a similar study, including Portland...."

• Finally, residents voted overwhelming in favor of the Berkeley Climate Action plan in 2006 and are likely to support new targeted programs to accelerate reductions in GHGs.

The challenges to accelerating GHG reductions cannot be overstated. They are technological, political and social. And, the more ambitious the reduction goals the greater the challenges. While Berkeley is better set up to meet a goal of 100% reduction by 2030 than many communities, it is still a very difficult task.

- The vast majority of buildings rely on natural gas for operation. Every one of them will need to be shifted from gas to all electric operation. Every fossil fuel operated vehicle on the roads will need to be eliminated. How do we motivate ourselves to electrify our buildings and give up our fossil fuel vehicles?
- As much as a quarter of Berkeley's past GHG reductions are a result of state programs such as the renewable fuels portfolio standard. To push ahead with an accelerated GHG reduction goal, the city will need to rely on local programs.
- There are real technological hurdles that need to be solved before complete electrification of the California or US economy can occur. It is hoped these problems will be solved by 2030 or much sooner. While they do not prohibit Berkeley from being fossil free by 2030 as an isolated entity, they do drive up the cost for some of the needed technologies, particularly in relationship to vehicles and battery storage. In addition, regional and state governments will be reluctant to set goals without confidence that the technologies are in place to meet them, so Berkeley will likely be out of step with others the more aggressively it pursues accelerated GHG reductions.

Finally, the urgency of the climate crisis requires use of the simplest, cheapest and most available tools at hand to achieve high early results. A ton of GHG gases eliminated in 2019 is far more impactful in slowing climate change than a ton eliminated in 2025 or even in 2020. Because of positive feedback loops, the effects of GHG emissions are amplified. For example warmer, dryer forests burn more which releases more CO2 which contributes to more forest fires. Establishment of new manufacturing facilities and a city scale power company would take decades. It will be far more effective to work with existing programs such as East Bay Community Choice Energy, BESO, and the Berkeley Bicycle Plan.

#### II. Opposing further transportation of oil, gas, and coal

#### Recommendations

- 1. In order to put the brakes on the transport of refinery feedstock and refined products traveling though Berkeley, call for a plan to a responsibly wind down all Bay Area refineries as California demand wanes.
- 2. Consider a ban on the storage and transport of coal within the City

#### **Discussion**

It should be noted that the City of Berkeley has already adopted a more specific position in opposition to transport of oil, gas and coal: joining neighboring communities in September in calling for a ban on coal shipments through East Bay Communities.

Unfortunately, the Federal Government has jurisdiction over rail transport limiting the City's options for preventing travel by rail through Berkeley.

Eliminating transport of fossil fuels would require the shutdown of all Bay Area oil refineries, because their products are trucked to and through Berkeley for cars, trucks, planes and trains operating in the Bay Area. It would also mean that all ground vehicles, including trains would have to be converted to run on 100% carbon-free electricity, and air transport be fueled by bio-fuel or by imported fossil fuels.

Regarding the shutdown of local refineries, Communities for a Better Environment has drafted a California Refinery Study and will soon launch a campaign to responsibly wind down all California refineries by 2035, by requiring annual emission reductions of 5% beginning in 2020. Mayors of Benicia and Richmond, home to the Valero and Chevron refineries, are already making public statements in support of winding down Bay Area refineries. As California electrifies it vehicles, we must ensure refineries are not permitted to maintain or increase refining activities such that fossil fuel exports increase and frontline communities remain subject to the health consequences of this dirty, outdated industrial sector.

III. Fully implementing Berkeley Deep Green Building plan, raising the citywide LEED certification requirement above the current LEED Silver,

### and applying the same requirements to newly constructed city facilities, and major renovations

#### **Municipal Buildings Recommendations**

- Immediately convene a citywide departmental summit including Public Works and Planning and Development to establish a timeline and budget for electrifying all city owned buildings and installing solar plus storage at City buildings wherever possible.
- 2. Review and re-prioritize all funds currently earmarked for capital improvements to facilitate rapid electrification of municipal buildings.
- 3. Work with East Bay Community Energy to secure grants for solar with storage.
- 4. Use the 2 x 2 process to coordinate with BUSD in establishing a fossil fuel free goal and providing BUSD with technical and policy assistance to achieve it.
- 5. Set higher goals for municipal buildings related to indoor air quality, lowered carbon footprint, and all electric as outlined in Berkeley Deep Green Building and Healthy Building Network's HomeFree Spec guidance.<sup>2</sup> In addition to developing expertise that can be shared with Berkeley residents and property owners, these changes would have health, environmental, and economic benefits. The City can decide the standards which municipal buildings must be built or remodeled to. It is our understanding that currently, there is no requirement beyond meeting minimum state building codes.

#### Residential and Commercial Buildings Recommendations

- 1. Develop options for expanding the coverage of the current LEED requirements to other areas of the City including mandatory points in certain sections.
- Strategically relax the Planning Code, such as density and/or parking requirements or accelerated permit review in exchange for electrification and energy efficiency measures.
- 3. Place moratorium on natural gas cooktops and dryers in new residences or on new gas hook ups if possible.
- 4. Institute a transfer tax rebate for energy efficiency upgrades and electrification at time of sale.
- 5. Ensure every plan checker is trained in methods of electrification, and instructed to present that information to property owners at the beginning of the permit application process. In this way, every interaction with property owners becomes an opportunity to educate them on their options for home energy efficiency and

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<sup>&</sup>lt;sup>2</sup> https://homefree.healthybuilding.net/reports

- electrification and their importance. Building owners need to understand the importance of reducing energy consumption and electrification and to switch out fossil fuel appliances for electric whenever possible.
- 6. Expand BESO and shift focus to include electrification along with energy efficiency. To be considered are: instituting more triggers that require an energy audit, more detailed energy audits, not allowing the seller to transfer the audit to the buyer, and required implementation of some of the measures recommended in energy audit.
- 7. Develop an effective communication and education strategy that reaches the Berkeley community at large. This strategy should include updating the City's website to reflect the City's prioritization of electrification, and low carbon footprint and low toxic construction. Updated green building information should be easily found on the Permit Service Center home page. Many architects, builders and homeowners begin the design process online, making key decisions based on information found online. It is critical the City's website offer clear guidance reflecting the urgency of the climate crisis.
- 8. Work with PG&E to develop a plan for eventually shutting down natural gas service in Berkeley. Priority should be given to areas most vulnerable to the effects of climate change and earthquakes and those where infrastructure has not yet been upgraded to plastic. Funds that would be spent on upgrading gas infrastructure can instead be used for electrifying buildings and under-grounding electrical lines.
- 9. Consider the development of a long term funding plan such as a very low interest revolving loan fund to assist property owners to decarbonize their buildings.
- 10. The City should work with the BAAQMD to adopt rules with future effective dates to prohibit sale of gas powered appliances.
- 11. Increase regional and support state efforts to expand availability of low global warming potential refrigerant heat pumps space and water heaters for retrofit markets.

#### **Discussion**

The Berkeley Deep Green Building (BDGB) initiative, adopted by the City Council in 2017, outlines best practices for green building including zero net energy and all electric construction, low carbon footprint and low toxicity building materials, and water conservation. City staff has provided a detailed analysis and review of progress in implementation. See the <a href="Energy Commission">Energy Commission</a> Agenda from 4-25-18 for copy of this review.

Energy efficiency measures including: low toxic, low carbon footprint insulation, air sealing, and replacing incandescent with LED lights, have long been recognized as important to greenhouse gas reduction. BDGB argues in addition that going all electric is foundational to achieving fossil fuel free goals. Historically energy efficiency standards and incentive programs have been based on the assumption that natural

gas appliances have lower environmental impacts than electric appliances. However, this is no longer the case. The dramatic increase of renewables in supplying electricity and the development of heat pump technologies for space and water heating, which are more than 3 times as efficient as their gas equivalents, have turned this balance around. If the significant fugitive emissions from gas infrastructure and their concomitant climate changing and indoor air quality impacts are added to the equation, the scale definitely tips in favor of all electric buildings.

Natural gas is also a safety issue in Berkeley. The recent gas line explosions around Lawrence Massachusetts are only the most recent in a long line of such incidents. Even though PG&E is working to upgrade existing infrastructure, rising sea levels in West Berkeley and the overdue earthquake on the Hayward fault threaten Berkeley. Electricity infrastructure has its safety issues as well. Money saved on gas infrastructure could be used on improving the safety and reliability of electric power.

One of the stumbling blocks to a fossil free California is energy storage. All electric, energy efficient buildings can be key in addressing this problem by reducing overall energy demand and drawing energy for space and water heating in the middle of the day when it is most abundant and storing it for use in the evening after the sun goes down. As a quarter of all energy used in the home is for water heating, state policymakers and manufacturers are already working on ways to incorporate tanked electric water heaters into energy management programs.

Heat pump space and water heaters are commercially available and can be economical. Recent studies of homes by Rocky Mountain Institute and NRDC<sup>3</sup> have found that all electric construction can be cost effective, especially in new construction where there are significant savings from not installing natural gas plumbing and infrastructure. All electric construction can also be economical in remodels in cases were natural gas equipment is older and needs replacing and where electrification is coupled with solar PV installation.

As the city is largely built out, construction tends to focus on remodels and new construction of high rise apartment buildings. Every effort needs to be made to guide these projects to be all electric. Currently it appears the economics for high rise residential buildings in Berkeley favor electric heating and air conditioning paired with central gas heat for water. Though adding significant cost to construction, some developers will run natural gas to individual units for the perceived increased value of a gas cooktop. It should be noted that building owners who install natural gas heating and appliances now will be left with stranded assets as society is quickly shifting to all electric operation.

<sup>&</sup>lt;sup>3</sup> <u>https://rmi.org/insight/the-economics-of-electrifying-buildings/</u> https://www.nrdc.org/experts/pierre-delforge/new-report-heating-next-clean-energy-frontier-ca

The biggest challenge in Berkeley is electrifying existing buildings -- particularly where no work is anticipated or no permit is obtained for the work. This is a major source of greenhouse gases in our city and across the state. Several state level assistance programs can help property owners with improvements. However they generally fall short of amounts needed and currently rebates are not available for switching gas appliances to electric.

California has been a leader in improving energy efficiency and expanding renewable electricity generation. Several state laws from 2018 will continue that effort:

- SB 100 commits state utilities to provide 60% renewable electricity by 2030, and zero carbon electricity by 2045.
- AB 3232 charges the California Energy Commission with assessing how to reduce emissions from the state's building stock by 40 percent below 1990 levels by 2030.
- SB 1477 will expand the accessibility of clean heating technologies by promoting them in the market with incentives and training.
- Executive Order B-55-18 commits California to economy-wide carbon neutrality by 2045.

While California has been a leader in improving energy efficiency, state laws and regulations have been slow to guide and in some cases act as barriers to the transition to all-electric construction. Many of these barriers are obscure and buried deep in regulatory policy:

- 3 prong test. The 3 prong test is policy established in the early 1990s originally intended to ensure fuel switching did not occur that caused adverse effects on the environment. At the time it generally meant discouraging shifts from natural gas to electric. However the policy assumptions continue to serve the same purpose even as the climate impacts of the two fuels have completely changed places. This policy is the core of why PG&E will not provide energy upgrade rebates when changing gas to electric heat.
- Title 24 assumptions. Title 24 is the shorthand name for the energy efficiency standards of the California Building Code. These are updated every 3 years and currently include several assumptions that favor gas heating and air conditioning over electric.
- Energy rate structure. Retail prices for natural gas do not reflect the GHG emissions of gas compared to electricity, or the grid benefits of flexible electric loads like tanked electric water heaters.

Of these barriers, only the assumptions in title 24 have begun to shift in PG&E territory. The standards that will go into effect in 2020 will no longer penalize use of

heat pump water heaters in low rise residential construction. However many other assumptions within the new standards will continue to support use of natural gas such as the climate benefits of electricity in the TDV and the lack of credit given to tanked electric water heaters for energy storage.

At the regional level, BAAQMD has the authority to regulate air pollution including GHGs. It has used the authority in the past to prohibit the sale of polluting products like high VOC paints. It could prohibit sale of gas powered appliances to support electrification and elimination of GHG emissions.

Working within state level constraints, planning staff have developed and pushed policies that improve the energy efficiency of buildings in Berkeley and encourage a shift to all electric, carbon free operation. Policies they have developed unique to Berkeley include:

- New non-residential construction and additions in the downtown area need to be LEED Gold or equivalent.
- Free advice and consultation on green building design and strategies.
- Building renovation and new construction over 10,000 square feet needs to have an energy analysis and a completed green building checklist.
- Under the BESO program, at time of sale for residences and more frequently for commercial properties, owners must complete an energy audit of the building.

City staff are pursuing many additional efforts:

- Reviewing the BESO program to improve effectiveness. Scope of review to
  include requiring energy audits sooner for more properties, expanding the
  triggers that require an audit to include remodeling, more detailed energy
  audits including electrification, elimination of the option of allowing the buyer to
  perform the audit, and implementation of some of the upgrades recommended
  by the energy audits.
- Expanding heat pump water heater availability through collaboration on BayRen's mid-market expansion grant program.
- Pursuing "reach" building codes for the 2020 building codes that give regulatory advantage to all electric construction. The most important priority for this effort is new multi-unit high rise apartment buildings and major remodels.
- Advocating for state level policies that allow building owners to receive energy efficiency rebates when switching fuels.

 Advocating for removal of all biases against electrification within the state building energy codes including Total Daily Value (TDV) and computer modeling assumptions.

Care should be taken that solutions do not create additional problems. Many building materials are coming under increasing scrutiny for their long trail of environmental and health impacts, such as polystyrene and PVC plastics and organo-halogenated materials. Others have such a high global warming footprint, such as certain foam plastic insulations that their use minimizes the GHG reduction benefits of the projects. The refrigerants commonly used in most heat pumps in the U.S.A. also have very high global warm potential. While heat pumps still have dramatic energy saving benefits over other options, phase out of these chemicals under state Air Resources Board programs will improve their GHG benefits.

IV. Requiring all future City government procurements of vehicles to minimize emissions, and establishing a goal and plan for transitioning the city's vehicle fleet to all electric vehicles

See V. for discussion and recommendation concerning 100% renewable energy for municipal vehicles.

V. Establishing a goal and plan for transitioning to 100% renewable energy for municipal operations and a community wide goal of 100% reductions by 2030.

See III. for discussion and recommendation concerning 100% renewable energy for buildings.

#### **Municipal Transportation Recommendations**

- Assess the city's transportation vehicle needs and develop an aggressive timeline for transitioning to all electric.<sup>4</sup> This assessment would include consideration of: 1) Switching to lower carbon transport options such as electric carts or bicycles where possible and 2) the timing of technology development and commercialization for car batteries.
- 2. Immediately switch diesel vehicles to run on renewable diesel in the interim until fossil fuel free options are available for the tasks they perform.

<sup>&</sup>lt;sup>4</sup> Ref: San Francisco Ordinance 115-17 Administrative Code Section 4.10-1:

c) By December 31, 2022, all light duty vehicles in the City fleet must be Zero Emission Vehicles in compliance with Environment Code Section 404, unless there is a waiver. exemption, or applicable exception. detailed in Environment Code Chapter 4.

#### **Citywide Transportation Recommendations**

The Energy Commission would like to coordinate recommendations with the Transportation and Public Works Commissions to accelerate a reduction in fossil fuel vehicles in Berkeley. To begin the process, the Energy Commission makes the following recommendations:

- Re-prioritize road and sidewalk capital expenditures to accelerate changes in favor of walking, human powered vehicles, and other low carbon footprint mobility alternatives. The Council should amend funding priorities to reflect the climate emergency.
- Adopt financial incentives and disincentives to reduce transportation carbon emissions such as: free transit passes for youth, restricted vehicle access to certain streets, and additional parking fees. Funds raised would be used to support fossil fuel free transportation programs.
- 3. Develop and implement a transit plan in support of the Climate Action Plan. The transit plan could include detailed accountability metrics such as required dates for identified new routes, dates for replacement of fossil fueled busses and shuttles with electric busses and shuttles, and smaller intra-neighborhood subsidiary transit (shuttles). The city should explore developing its own shuttle services similar to the Emery Go-Round using EVs as part of the transit plan.
- 4. Add 3 FTE to the Transportation Division to expedite implementation of the city's bicycle, pedestrian, and BeST plans.
- 5. Build all high priority projects in the city's bicycle, pedestrian, and BeST plans including tier 1 projects in the bike plan by 2025.
- Develop a communication strategy to inform residents of fossil free and lower carbon footprint personal mobility options and the desirability of prioritizing these options.
- 7. Continue to develop and expand programs that encourage residents to shift to fossil fuel free modes of transport, such as electric bike and scooter sharing, Waterside Workshop, and Safe Routes to School.
- 8. Work with State authorities to prohibit operation of autonomous vehicles within city limits unless they are electric vehicles.
- Use the 2x2 process to encourage the BUSD to develop a plan for phasing out fossil fuel vehicles and supporting families to safely get to and from school without cars.
- 10. Lobby and work collaboratively with public and private transportation providers and the commercial sector to convert all vehicle fleets to electric power.

11. Support state programs that restrict the use of fossil fuel vehicles by ride hailing services such as Uber and Lyft.

#### **Discussion**

One of the greatest challenges we face is how to eliminate emissions from transportation. By far the most promising way to make transportation renewable is with electric vehicles.

The vast majority of fossil fuel powered vehicles operated in the city are owned by individuals and companies and government entities outside of the city simply driving through the city or entering the city for business or pleasure. For the purposes on this report, the fossil fuel free goal will be focused on reducing fossil fueled vehicular traffic on city streets. It should be noted that for Berkeley to be truly fossil free, all ground vehicles, including trains, must be converted to electric power. We recognize the City has no independent way to get Amtrak and freight trains off fossil fuels.

The Commission believes that the goal of 100% emission reduction from vehicles is most likely to happen using batteries. Fuels other than electricity are possible but less likely to be adopted. Biofuels have a limited role because of lack of feedstock availability without associated environmental damage (the food vs. fuel problem).

Electric automobiles are quieter and more economical to operate than gas cars. Although only 2% of new car sales in the United States in 2018 were electric, that represented an 81% increase in sales over 2017. Electric auto sales were about 6% of new cars in California in 2018, and reached 10% in December. Because of their lower operating and maintenance costs, electric cars are competitive in lifetime costs of ownership. Residents of homes without garages (of which there are many in Berkeley), and apartments without charging stations, face a serious challenge to find a place to plug in. We encourage further city action on this.

Another option is hydrogen. To be emission-free the hydrogen has to be produced from renewable electricity or directly from sunlight with a catalyst. The problem is that hydrogen storage is very expensive either as a liquid or as a high pressure gas, both because it is energy intensive and because the container is expensive. Furthermore, the likelihood of leakage is much higher than, say, natural gas and the likelihood of explosive ignition in the presence of oxygen is also much higher than natural gas.

One biofuel that can play a useful role in Berkeley as bridge to electrification is renewable diesel. Renewable diesel though made entirely from vegetable oils is not biodiesel. It is processed to meet the exact performance specifications required for diesel motors. It does not void manufacturer warranties and can be used in any diesel vehicle. The emissions are much cleaner, the carbon footprint is lower and it is cheaper than diesel. While its use should be minimized because of the potential food vs fuel concerns, it can be used immediately in all city diesel vehicles until they can be replaced with fossil fuel free alternatives.

The city already has advocated walking, human powered vehicles, electric vehicles and mass transportation accessibility to all in its 2009 Climate Action Plan. In achieving a fossil fuel free goal, there are important timing issues. Several significant transportation changes are just over the horizon that will dramatically reshape our city street experience including:

- Expanded ride hailing operations such as Uber and Lyft, especially as autonomous vehicle operation is perfected;
- Docked and undocked ride sharing vehicles; and
- Proliferation of varied electric vehicles including electric golf carts, bicycles, tricycles, stand-up scooters, hoverboards, Segways, and wheelchairs.
- Breakthroughs in battery technologies that will dramatically lower the cost and improve performance of electric vehicles.

The city should be careful about engaging in longer term contracts and that decisions be revisited regularly as new technologies mature and the economics change for different transportation modes.

### VI. Formally opposing the recent expansion of offshore drilling by the Trump Administration

#### Offshore Drilling Recommendation

Formally endorse California laws intended to block offshore drilling if it has not done so already.

#### **Discussion**

The State legislature has passed and the Governor has signed SB 834 (an act to add Section 6245 to the Public Resources Code, relating to state lands) and SB 1775 (an act to add Section 6245 to the Public Resources Code, relating to state lands). Both Sections are entitled State lands: leasing: oil and gas. These new laws are intended to block the Trump administration's plan to expand offshore oil drilling by prohibiting new leases for new construction of oil and gas-related infrastructure, such as pipelines, within state waters if the federal government authorizes any new offshore oil leases.

## VII. Calling for region-wide solutions to carbon emissions, including rapid adoption of renewable energy sources, affordable densification of cities and low-emissions public transportation infrastructure

The Council has rightly included the need for regional coordination to address energy supply, housing and transportation. It's safe to say all Bay Area cities are grappling with these issues in one way or another, with significant disparities among them in both priorities and resources. It will take trust, willingness to move away from a

provincial mentality, leadership from MTC/ABAG and BAAQMD and probably some State action to facilitate deep progress in these areas.

#### VII.1. Renewable Energy Sources

#### **Renewable Energy Sources Recommendations**

- 1. Opt up all Berkeley's municipal, commercial and residential accounts to EBCE's<sup>5</sup> 100% Renewable electricity with a policy of no added cost for CARE customers and an outreach campaign to enroll all eligible customers in the CARE program in 2019.
- 2. Partner with all cities in CCAs to influence state legislators, the Governor, and CPUC Commissioners to develop guiding legislation, policies, and rules that support the continued existence of CCAs.

#### Discussion

It is critical to move toward 100% clean energy generation sources as soon as possible in order to fully realize GHG emission reductions through "fuel switching" from combustion to electricity in all spheres. There is long established worldwide consensus that the path to climate stabilization requires, in this order:

- 1. Deep reductions in energy demand through conservation and efficiency,
- 2. Conversion to clean electricity generation, and
- 3. Massive electrification.

Once established, a CCA is authorized to automatically enroll all accounts in its jurisdiction in the new energy program. Customers have the option of changing the product they are enrolled in or switching back to PG&E. EBCE currently offers three electricity supply products to its residential, commercial and municipal customers:

- Bright Choice a mix of electricity generated by fossil fuels, renewable sources and large scale hydro, which the State of California does not classify as renewable. It is offered at a slightly lower in price than electricity from PG&E;
- Brilliant 100 a mix of renewable energy and large hydropower at the same price as PG&E power; and
- Renewable 100 100% renewable energy at a slightly higher price.

<sup>&</sup>lt;sup>5</sup> A regional approach to increase reliance on renewable energy sources is possible through our new energy provider: East Bay Community Energy (EBCE). EBCE was initiated under a state law passed in 2002 that allowed government jurisdictions to create agencies (called Community Choice Aggregators or CCAs) to purchase power on their residents' behalf as a way to provide energy options to Californians. As a local government agency, EBCE is not for profit and is entirely devoted to the community. Even before EBCE was providing electricity, it was developing a plan to invest locally in energy development. In July 2018, the Board of EBCE adopted a groundbreaking Local Development Business Plan which spells out strategies for local clean energy, energy efficiency, and energy storage projects specifically to help address the environmental, economic, and social justice needs of the East Bay community.

Both Berkeley (through BESO and other programs) and California (largely through frequent Energy Code updates) have long standing, successful conservation and efficiency requirements. We are national leaders in this and continue to press forward with program improvements and new initiatives. Now that a 100% renewable option is available from EBCE, Berkeley can immediately convert the entire city to clean electricity generation, and turn its focus to the challenge to 'electrifying everything.' Shifting accounts to 100% renewable will reduce community-wide GHG emissions by a whopping 10%.<sup>6</sup>

Under the Climate Emergency Resolution, Council has signaled the intention to act boldly. Berkeley has already fallen significantly behind in achieving it's 2050 GHG emission reduction goal as set forth in the 2009 Climate Action Plan. Opting all its EBCE customers to the Renewable 100 plan is the single most impactful and timely action the City can take in 2019, both because of immediate emission reductions, and to avoid GHG emissions from future increases in demand due to electrification. It is critical to do this now because by the end of 2020, EBCE will be required to sign long term contracts for 65% of its supply portfolio. Once these long term contracts are signed, it will be more difficult for EBCE to shift the sources of its power mix. For these reasons, the Energy Commission recommends that Berkeley move to 100% renewable electricity in 2019.

While EBCE energy mix options were being established last spring, the Berkeley City Council, as did most EBCE cities, chose to enroll all residential and commercial accounts in Bright Choice. Berkeley enrolled its municipal accounts in Brilliant 100. The City of Albany enrolled all accounts in Brilliant 100, Hayward enrolled its residential accounts in Brilliant 100, and the City of Piedmont enrolled all accounts in Renewable 100. We note that ten jurisdictions in Los Angeles and Ventura counties served by Clean Power Alliance (CPA, a CCA) were enrolled in Green Power, its 100% renewable product, as the default. These ten jurisdictions cover a third of CPA's one million customers.<sup>8</sup>

CPA, like EBCE, also has a Community Advisory Committee to help prioritize local renewable energy development and job creation, rebates and incentives. For California's progressive cities and counties, enrollment in 100% renewable energy is a climate action whose time has clearly come. Because 35% of EBCE's power purchase agreements are not required to be long term and electrification will increase demand, we anticipate ample opportunities for EBCE to make significant investments in local

<sup>&</sup>lt;sup>6</sup> Berkeley Climate Action Plan Annual Progress Update, Office of Energy and Sustainable Development, Planning Department, Slide 5, December 6, 2018

<sup>&</sup>lt;sup>7</sup> Berkeley Climate Action Plan Annual Progress Update, Office of Energy and Sustainable Development, Planning Department, Slide 14, December 7, 2017

<sup>&</sup>lt;sup>8</sup> Clean Power Exchange, Alliance will provide clean, competitive energy, January 12, 2019 <a href="https://cleanpowerexchange.org/alliance-will-provide-clean-competitive-energy/">https://cleanpowerexchange.org/alliance-will-provide-clean-competitive-energy/</a>

energy development. As the local development market matures, there will be rolling opportunities to incorporate locally generated power into long term contracts.

There were initial concerns that new EBCE customers would opt out and go back to PG&E. There were also worries that customers would opt out if enrolled in a cleaner mix of energy generation priced at the same or slightly higher cost than PG&E rates. Both of these fears have been shown to be unfounded for the inner East Bay cities of Alameda County. In fact, among all Alameda County cities in EBCE, only the City of Livermore, at 5.56%, has had an opt out rate greater than 2.07%. Piedmont's experience in making Renewable 100 the default level is instructive. As of December 2018, 6.8% of customers opted down to Brilliant 100 or Bright Choice, and only 2.07% opted out and went back to PG&E. The takeaway is that few customers took any action, and of those who did, the overwhelming majority (77.7%) chose to stay in EBCE.

Concerns have also been raised that opting all customers to the 100% Renewable product would harm low-income customers. The Energy Commission recommends that EBCE follow CPA's lead in which "customers in 100 percent renewable energy communities who are enrolled in CARE, FERA or Medical Baseline will get Green Power at no extra charge." We understand that EBCE is reporting strong net revenues which could be allocated to subsidize CARE customers. Alternatively, non-CARE customers could absorb the additional cost. Furthermore, the value of the non-binding nature of the enrollments is that price sensitive customers can opt down. Unlike an increase in property taxes, nonCARE customers who cannot afford to pay any more for power can simply opt down to the lower priced option.

It has recently come to light that Bright Choice power may in fact have a higher carbon content that electricity provided by PG&E.<sup>11</sup> The City Council has the opportunity right now, while the nascent EBCE is locking in long term contracts for power, to opt all accounts to fossil fuel free power to ensure that joining the CCA does in fact reduce citywide GHGs.

The political landscape for CCAs is fraught with heavy opposition from PG&E and its entrenched allies in State government even as they supply electricity that is cleaner and cheaper than their for-profit counterparts.<sup>12</sup> Berkeley needs to partner with all Bay

<sup>&</sup>lt;sup>9</sup> EBCE Enrollment Update, December 5, 2018

<sup>&</sup>lt;sup>10</sup> Clean Power Exchange, Alliance will provide clean, competitive energy, January 12, 2019 <a href="https://cleanpowerexchange.org/alliance-will-provide-clean-competitive-energy/">https://cleanpowerexchange.org/alliance-will-provide-clean-competitive-energy/</a>

<sup>&</sup>lt;sup>11</sup> See comments in: <a href="https://www.berkeleyside.com/2018/12/11/why-does-your-december-electricity-bill-look-different">https://www.berkeleyside.com/2018/12/11/why-does-your-december-electricity-bill-look-different</a>

<sup>&</sup>lt;sup>12</sup> A 2016 UCLA study found that CCAs in California offered 25% more renewable energy compared to the investor-owned utility (IOU) in the same area resulting in an estimated reduction of 600,000 metric tons of CO2 in 2016.

Area cities in CCAs to work with our elected representatives to defeat legislative threats and overcome obstacles at the California Public Utilities Commission. Also, the CCA's themselves need to ensure unity and coordinated responses to initiatives aimed at undermining success.

#### VII.2. Affordable Densification of Cities

#### Affordable Densification Recommendations

- Work with MTC/ABAG, BART cities and counties to reframe and expand Transit
  Oriented Development concepts to conform with internationally used approaches
  that look beyond infill at already heavily used transit hubs, and prioritize infill
  housing everywhere developed in concert with expanded transportation strategies
  and expanded services (educational, recreational, commercial and environmental
  enhancement).
- 2. Work with Bay Area cities and counties to develop a regional funding mechanism to subsidize low income and affordable housing in all jurisdictions.
- 2. Explore viability of reducing R-1 zoning to increase housing availability, opportunities for home ownership and improve transit access through increasing densification. In addition, support adoption of such transit oriented development throughout the region to reduce development pressure on open spaces, provide more housing near jobs, and provide the density to support expansion of regional.

#### **Discussion**

In order to provide affordable densification we need massive housing construction, housing subsidies and expanded transit opportunities. The high cost of living in the Bay Area includes the high cost of construction. If we want to reduce vehicle miles traveled (VMT) and the unhealthy stress of long commutes we must find ways to subsidize housing for average people, because at the present time people living on average incomes who do not already own homes cannot afford to live in the Bay Area either as renters or homeowners, forcing many into ever longer vehicular commutes. This is something that needs to be addressed by both the region and the state. There is too much disparity in wealth across the region for the problem to be completely solved by individual cities.

A desire for walkable neighborhoods and transit access has contributed to gentrification in Berkeley and San Francisco. This new gentrification is fueled by the migration of young professionals from the suburbs to these two cities in particular because they both have ample neighborhood scale services. Remarkably, the median price paid per square foot of living space is no longer significantly higher in most R-1 zones where access to transit is often limited.<sup>13</sup> This indicates that the hunger for the amenities of a more urban lifestyle is widespread. It's quite possible that there is an

<sup>&</sup>lt;sup>13</sup> (https://www.trulia.com/real\_estate/Berkeley-California/market-trends/)

untapped openness to neighborhood-scale services and transit development in existing suburbs too. This possibility needs to be explored. Any such nascent cultural shifts should be identified and reinforced. The suburbs have already absorbed job growth in the form of large business parks. Likewise, rails to trails conversions have acculturated suburban residents to walking and biking where convenient. Managed thoughtfully, initiatives to increase suburban infill housing coupled with increased transit, active transportation options and some small scale services could be welcome developments.

The push for housing densification in the Bay Area has relied on a concept of transitoriented development (TOD) defined by MTC as [emphases added]:

"the clustering of homes, jobs, shops and services near *rail stations, ferry terminals* or bus stops with high-frequency service"

#### defined by BART as:

"mixed-use, higher density development adjacent to frequent transit."

and directed by Berkeley's General Plan to:

"[e]ncourage and maintain zoning that allows greater commercial and residential density and reduced residential parking requirements in *areas with above-average transit service* such as Downtown Berkeley."

This perspective pre-supposes that densification is not a serious goal beyond existing heavily used transit corridors, or beyond cities that are already dense. Plan Bay Area forecasts the need for 800,000 new housing units by 2040. It seems doubtful that so much new housing can be built only around existing transit lines. Recent state legislation for infill housing fell victim to this kind of limited thinking.

In other parts of the world, TOD includes community scale planning with new transit service in mind, not just placing new homes near existing heavily used transit. We need to expand the mindset of housing development in the Bay Area to one of transit coordinated development (TCD). We need suburban infill housing developed in concert with public transit strategies, and educational, recreational and commercial services. Infill housing and transit alone do not address human needs for social, commercial and fitness activities. Enhancement of ecological surroundings is also important. A comprehensive TCD approach would improve the quality of life in many ways, serve as an attractor to development and significantly reduce GHG emissions.

Note that a substantial amount of new housing units in the suburbs will need to be subsidized for the reasons described above. Affordable and workforce housing is critical for every Bay Area city and county. Plan Bay Area has set forth affordable housing goals for the whole region, but so far every city is failing. Taking a comprehensive TCD approach would make such infill projects more relevant and attractive to existing residents.

One action cities such as Berkeley can take is to change zoning restrictions to eliminate R-1 zoning. Berkeley's General Plan institutionalizes R-1 low density housing:

"These areas are generally characterized by single-family homes. Appropriate uses for these areas include: residential, community services, schools, home occupations, recreational uses, and open space and institutional facilities. Building intensity will range from one to 10 dwelling units per net acre, not including secondary units, and the *population density will generally not exceed 22 persons per acre*." [Emphasis added.]

The recent move to allow Accessory Dwelling Units is too restrictive to increase density to the extent needed on the land that is most available. It also preserves privilege, in failing to foster home ownership for additional residents.

Berkeley's R-1 zoning is visually correlated with the legacy of red-lining. Its perpetuation restricts growth in areas with the most open land that could support densification. There is quite a lot of aging housing stock in the Berkeley that needs significant renovation, including in R-1 zones. Under current policies, large houses in R-1 cannot be subdivided to allow for more occupants. As a result when modernized they grow larger and more luxurious, a sort of "deep gentrification." It's well documented, but rarely acknowledged, that such consumption drives GHG emission increases.

If the zoning was changed and subsidies provided, we could see small scale condo development like is happening in areas with higher density zoning, and much lower average household CO2e emissions because all the infill would be natural gas free as well as house more people. We could also reverse gentrification and truly become a city that prioritizes diversity. Increased density in R-1 areas would facilitate increased transit service and car sharing, and reduce congestion in shopping corridors. The fact is, many people actually spend little free time in their homes and gardens, preferring to recreate elsewhere, and even when self or contractually employed, preferring to go to work spaces and coffee shops with other people. Children in R-1 zones don't generally play in their neighborhoods, but are shuttled daily to many activities, increasing VMT. Densifying housing in R-1 areas could eventually prompt further zoning changes along the more major roads already served by public transit leading to infill services and commercial development there as well such as the two small and well used commercial districts in Kensington. The result could very well be both environmentally preferable and lead to an increase in our city-wide happiness quotient. Human happiness is correlated with low economic disparity. Our zoning ordinances should be reviewed to see how they amplify disparity and/or inhibit community happiness and act as a bias toward creating GHGs.

#### VII.3. Low Emissions Public Transportation Infrastructure

**Public Transportation Recommendations** 

The Energy Commission would like to coordinate recommendations with the Transportation and Public Works Commissions for accelerating a reduction in fossil fuel vehicles in Berkeley. To begin the process, the Energy Commission makes the following recommendations.

- 1. Work with AC Transit to convert all public transit to EVs.
- Work with AC Transit and major employers to expand existing bus service and add all manner of appropriately sized bus and shuttle services, including into the suburbs.
- Work to create dedicated bus/shuttle-only lanes on all bridges, freeways and major streets.
- 4. Work to normalize ride sharing.
- 5. Work with MTC, regional transit providers and the state to augment subsidies such that public transit is affordable for all.
- 6. Lobby the state to regulate ride hailing services to reduce overall per capita VMT.

#### **Discussion**

MTC distributes enormous sums of money and wields huge power over regional transportation decisions but has not seriously addressed how the region can mitigate climate pollutants from transportation. As a start we need to press MTC to set clean transportation goals commensurate with the damage to our climate that dirty transportation has wrought and the urgency to make drastic emission cuts by 2030. The goal setting process must include a planning document showing the path to take, and policy commitment to achieve the goals.

The Bay Area's freeways are already some of the most crowded in the nation. As housing affordability has worsened, more people are commuting farther distances to their Bay Area jobs. According to MTC, time spent in weekly traffic in the Bay Area shot up 80% between 2010 and 2016. All this traffic is increasing transportation emissions, with no end in sight. Clearly there is a need for increased transportation options, and they need to be carbon free. To expand clean public transits as quickly as possible, light rail is not likely to play a large role. EV buses and shuttles can be built and routed in the time frame we need.

Given the number of tech workers (living all over the region, including the suburbs) who now take buses to their jobs, it is clear that old ideas about who will use bus transit is completely obsolete.

Like housing, transportation is an equity issue. All driving services, public or private, should be required to provide a living wage to drivers. Likewise, we cannot expand public transportation services without massive investment to assure affordability for all. This is a wealthy region that can afford such investments. Significant wealth generated

in this region is also sent to Sacramento. We need the state to assist in subsidizing the transition to clean, affordable public transit available to all.

On June 12, the Berkeley City Council also passed item 49 "Declaration of a Climate Emergency" which refers "to the Energy Commission to study and report back to Council on a path for Berkeley to become a "Carbon Sink" as quickly as possible, and to propose a deadline for Berkeley to achieve this goal."

#### **Carbon Sink Recommendations**

- 1. Plant more trees.
- 2. Apply compost (and biochar where possible) to city parks, median strips and generally all planted areas.
- 3. Support use of low carbon construction materials both in municipal buildings and commercial and residential projects.
- 4. Support urban farming: for example through recently adopted urban farming policies and also planting suitable edible perennials in public spaces.
- 5. Support citywide programs, such as the Ecology Center's farmers market program, that give all residents access to fresh, organic, regionally grown foods.

#### **Discussion**

Carbon sequestration is an essential component of comprehensive state, national and global efforts to meet climate change reduction goals. The October 9, 2018 UN IPCC report recommends that at least 1000 gigatons of CO2 be removed from the atmosphere and sequestered by the end of the century. A wide range of strategies are being looked at to remove and sequester atmospheric carbon. The most promising strategies, biological sequestration, rely on natural processes, including afforestation and carbon farming. The California Air Resources Board is already providing Cap and Trade funds to support and expand these promising approaches to carbon sequestration.

Because of the density of habitation, Berkeley is unlikely to be able to be a carbon sink until annual emissions have been reduced by about 99%. Citywide CO2 emissions totaled 640,000 metric tons in 2015. With roughly 6 square miles of space not covered with buildings and roads, only a very small fraction of these annual emissions could be offset with biological sequestration.<sup>14</sup>

<sup>&</sup>lt;sup>14</sup> Background for Carbon Sink section:

Carbon sequestering buildings: While using rapidly renewable materials such as wood, straw and bamboo can sequester carbon in buildings, the amount is quickly offset by the vastly greater energy intensity of metals, plastics and concrete required in taller buildings and

While not having significant climate benefits, carbon sequestering strategies such as afforestation and application of biochar to the soil can have health and resilience benefits for the city residents improving air quality and local sources of food.

seismically active zones. In Berkeley, the effects of low carbon footprint construction can at best lower the carbon footprint of an individual building, which is important. However, it cannot provide a means to offset carbon emissions in the city generally.

Biological sequestration in soil: It is practical to sequester carbon from the atmosphere in two ways, changing farming practices to capture more carbon in soils, and reversing deforestation. (It is also possible to capture CO2 from the air but because of the low concentration of CO2 in the air, the cost is prohibitive. Sequestering the captured CO2 is also expensive, , requiring either mineralization or pressurization in a natural cavern (think Aliso Canyon) which is not present in Berkelev.)

Berkeley is 10.5 square miles. If 40% is impervious surfaces, then approximately 6.3 square miles would be available for carbon sequestration.

(https://en.wikipedia.org/wiki/Impervious\_surface#Total\_impervious\_area) If the City and its residents were to implement ambitious carbon building land management practices, the land could optimistically sequester 2 metric tons of CO2 per acre annually or about 8000 metric tons of CO2.( Soil Carbon Restoration: Can Biology do the Job? by Jack Kittredge, policy director, NOFA/Mass www.nofamass.org August 14, 2015) This compares to annual emissions of approximately 640,000 metric tons.

Purchasing carbon offsets: Carbon offsets cost between \$5.50 and \$29 per ton of CO2. Taking the average, it would cost \$1.1 mill to offset 640,000 metric tons or about \$90 per resident. (https://www.whatitcosts.com/carbon-offsets-cost-prices/) However, purchasing carbon offsets should be discouraged since it transfers money away from Berkeley without addressing our local objective of becoming fossil free.



ACTION CALENDAR May 14, 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: Companion Report: Recommendations for a Fossil Fuel Free Berkeley

#### RECOMMENDATION

Refer to the City Manager to continue to implement existing policies and programs that are consistent with the recommendations in the Berkeley Energy Commission's Fossil Fuel Free Berkeley Report, such as the Building Energy Saving Ordinance and development of new building codes that promote building electrification, and also to complete new evaluations and analyses of current and potential future greenhouse gas reduction programs and policies in order to inform next steps for accelerating progress to a Fossil Fuel Free Berkeley.

#### **SUMMARY**

This report is in response to the excellent "Fossil Fuel Free Berkeley Report" developed by the Berkeley Energy Commission. In response to City Council's Climate Emergency Declaration and "Fossil Fuel Free Berkeley" referral to the Energy and Transportation Commissions, the Energy Commission conducted research and developed a report that makes a range of recommendations for accelerating the community's progress toward becoming fossil fuel free. This item has not yet been reviewed and discussed by the Transportation Commission.

Staff fully agrees with the urgency of the climate crisis and with the intent of the Energy Commission's recommendations to accelerate GHG reductions. However, as always, the challenge with doing more, faster, is that it requires additional staff and other resources to do so.

The Energy Commission report identifies 22 recommendations, all of which require additional staff time to implement. Staff is already advancing several of the Energy Commission's recommendations, including development of new energy "reach" codes that would promote building electrification, evaluating and updating the Building Energy Saving Ordinance (BESO), and expanding clean transportation infrastructure. Further, staff also recently released a "Pathway to Clean Energy" RFP which is designed to dovetail with the Energy Commission report, and focuses on how to equitably transition the existing building stock in Berkeley from natural gas to 100% clean energy. Staff has

also begun work on an Electric Mobility Roadmap, which will include action-oriented next steps for transitioning our transportation sector to clean, active forms of mobility.

#### FISCAL IMPACTS OF RECOMMENDATION

Staff is undertaking several concrete steps that are consistent with the Energy Commission's recommendation and that are designed to accelerate reductions in GHG emissions and create other co-benefits. Additional staff and other financial resources are required in order to implement new outreach and other programs that go beyond existing efforts. The City's recently released "Pathway to Clean Energy" RFP is designed to dovetail with the Energy Commission report and the work will provide a range of recommendations, including implementation costs and potential funding options, that are designed to accelerate GHG reductions in buildings The Electric Mobility Roadmap, scheduled for completion in Fall 2019, will also provide action-oriented strategies to reduce transportation related GHG emissions and identify implementation timeline and resources.

#### CURRENT SITUATION AND ITS EFFECTS

The Energy Commission's report was prepared in response to two referrals adopted by the City Council on June 12, 2018: The Fossil Fuel Free Berkeley referral and Council's Declaration of a Climate Emergency.

The Energy Commission's "Fossil Fuel Free Berkeley Report" is consistent with several actions already underway, including implementation and evaluation of the Building Energy Savings Ordinance (BESO), efforts to transition municipal buildings away from natural gas, education and outreach on electrification and clean electricity opportunities through East Bay Community Energy and other partners, and analysis of legal opportunities to ban natural gas in new construction. In addition, work is underway that is specifically designed to determine the timing, costs, and prioritization of further measures to transition both buildings and transportation away from fossil fuels. These efforts include the Electric Vehicle Roadmap, BESO Evaluation, the Pathway to Clean Energy Buildings study, and the Building Electrification Initiative. These studies will dovetail with the Energy Commission recommendation and identify the highest value policies and programs to achieve equity in the transition to clean energy in buildings and transportation. The resulting initiatives will provide research-based approaches that foster resilience and promote equity while minimizing unintended consequences.

#### **BACKGROUND**

The City of Berkeley has a longstanding commitment to climate action and community resilience. In 2006, Berkeley voters overwhelmingly approved Measure G, which called for reducing the community's GHG emissions by 80% below year 2000 levels by 2050. As a result, the Berkeley Climate Action Plan (CAP) was developed through a community-wide process and adopted by the City Council in 2009. The City achieved 15% reductions in GHG emissions from 2000 to 2016.

On June 12, 2018, City Council referred "to the Energy Commission and Transportation Commission consideration of the proposed resolution or similar action to further implement the Climate Action Plan and establish the goal of becoming a Fossil Fuel Free Berkeley, and further consider:

Establishing a date by which we are committed to being a Fossil Fuel Free City; Opposing further transportation of oil, gas, and coal;

Fully implementing Berkeley Deep Green Building, raising the citywide LEED certification requirement above the current LEED Silver, and applying the same requirements to newly constructed city facilities, and major renovations;

Requiring all future City government procurements of vehicles to minimize emissions, and establishing a goal and plan for transitioning the city's vehicle fleet to all electric vehicles;

Establishing a goal and plan for transitioning to 100% renewable energy for municipal operations and a community wide goal of 100% reductions by 2030; Formally opposing the recent expansion of offshore drilling by the Trump Administration; and

Calling for region-wide solutions to carbon emissions, including rapid adoption of renewable energy sources, affordable densification of cities and low-emissions public transportation infrastructure."

On June 12, 2018 the City Council also adopted a "Declaration of a Climate Emergency" which referred "to the Energy Commission to study and report back to Council on a path for Berkeley to become a "Carbon Sink" as quickly as possible, and to propose a deadline for Berkeley to achieve this goal," ideally by 2030.

The Energy Commission's report was developed in response to those two Council referrals.

Both the Berkeley City Council and the Berkeley Energy Commission have demonstrated leadership and commitment to accelerating bold and transformative reductions in GHG emissions. In response to this urgent priority, staff is addressing many of the recommendations provided by the Energy Commission, and is committed to implementing existing and new ambitious programs and policies to help achieve these goals. Some programs that are currently being implemented to achieve these goals include:

<u>Berkeley's Building Energy Saving Ordinance</u>: BESO became effective December 1, 2015 as part of the Berkeley Municipal Code chapter 19.81. BESO requires Berkeley building owners to complete energy efficiency opportunity assessments and publicly

report the building's energy efficiency information at time of sale, and on an on-going basis. The City is currently conducting an in-depth evaluation of the program to align it with new electrification priorities and integrate the transfer tax rebate incentives, as referred by Council on November 27, 2018.

Community Choice Energy: East Bay Community Energy (EBCE) is a community-governed, local power supplier that provides cleaner electricity to Alameda County residents and businesses, at rates that are lower or comparable to PG&E. Council approved joining EBCE on November 1, 2016. On April 24, 2018, Council voted to opt up its municipal accounts to EBCE's 100% carbon-free electricity service – Brilliant 100 – to help the city achieve its CAP goals. With Brilliant 100 the City reduced its municipal GHG emissions by more than 50%. Staff has been conducting education and outreach to discourage opt-outs and encourage opt-up to the emissions-free electricity product. This outreach is in collaboration with local community-based organizations and in partnership with the Berkeley Climate Action Coalition.

<u>Building Electrification strategies</u>: Staff is currently conducting outreach and education to support the electrification of buildings, consistent with the Deep Green Building referral put forth by Council on February 28, 2017. In addition, staff is collaborating with other cities and regional agencies to conduct research on regulatory pathways to encourage or mandate electrification in new construction, and on strategies to use the California Environmental Quality Act (CEQA). In addition to the Electrification Expo, attended by over 300 people on February 7, 2019, staff is planning additional community engagement and education events, including technical trainings for building professionals.

<u>Building Electrification Initiative (BEI)</u>: The City is currently receiving services through a grant from the Urban Sustainability Directors' Network to support the development of building electrification strategies in the low-rise residential sector through the Building Electrification Initiative. The BEI seeks to achieve large-scale market adoption of air source heat pumps and heat pump water heaters across North America within five years as a critical strategy to reducing GHG emissions from building heating, cooling, and hot water production.

Electric Vehicle (EV) Roadmap Strategic Plan: The City is currently developing a comprehensive action-based EV Roadmap to find opportunities to increase equitable access to EVs within Berkeley's diverse community. This project, to be completed in 2019, will identify specific EV goals and strategies to support Berkeley's climate, resilience, and equity goals with timelines, estimated costs, and opportunities for funding.

<u>Pathway to Clean Energy Buildings RFP and Report</u>: Staff is conducting a procurement process for national experts to conduct a high-level policy analysis and develop a detailed implementation plan for Berkeley to equitably transition existing buildings to be 100% fossil fuel free. This analysis will evaluate options, including those recommended

in the Energy Commission's report. This contract will utilize \$50,000 previously allocated by the City Council to identify and develop a set of high value, cost-effective programs and policies to incentivize residential energy efficiency and electrification investments. This work should be completed in 2020.

<u>Equity</u>: Equity is an essential consideration to determine the most valuable programs and policies to create an inclusive path to a clean energy future in Berkeley. Staff is incorporating an equity-centered approach to evaluate who benefits from City sustainability programs and how to eliminate structural inequality and racism. Engaging communities most impacted in defining the problems and finding the solutions is an essential part of the City's commitment to increasing inclusiveness, accessibility, and equity.

#### **ENVIRONMENTAL SUSTAINABILITY**

These recommendations would accelerate reductions in GHG emissions, consistent with Climate Action Plan goals.

#### RATIONALE FOR RECOMMENDATION

Staff is working at capacity on numerous existing projects and programs that are consistent with the goals and recommendations outlined in the Fossil Fuel Free Berkeley Report. Work is underway to identify and develop strategies that provide the highest value for the community, with multiple benefits in equity and resilience, all consistent with the Energy Commission's recommendations.

#### ALTERNATIVE ACTIONS CONSIDERED

Significant additional resources would be required to implement the 22 actions identified in the Energy Commission Fossil Fuel Free Berkeley Report. Staff is, however, currently at work on several of the Energy Commission's recommendations, and is also conducting several new analyses that are informed by the Energy Commission's recommendations.

#### CONTACT PERSON

Billi Romain, Manager, Office of Energy and Sustainable Development, Planning and Development Department, (510) 981-7432

#### Attachments:

- 1: "Fossil Fuel Berkeley" referral, June 12, 2018
- 2: "Declaration of a Climate Emergency" referral, June 12, 2018

Item 9a Energy Commission July 25, 2018

## ANNOTATED AGENDA BERKELEY CITY COUNCIL MEETING

Tuesday, June 12, 2018 6:00 P.M.

COUNCIL CHAMBERS - 2134 MARTIN LUTHER KING JR. WAY

JESSE ARREGUIN, MAYOR
Councilmembers:

DISTRICT 1 – LINDA MAIO

DISTRICT 5 – SOPHIE HAHN

DISTRICT 2 – CHERYL DAVILA

DISTRICT 6 – SUSAN WENGRAF

DISTRICT 7 – KRISS WORTHINGTON

DISTRICT 4 – KATE HARRISON

DISTRICT 8 – LORI DROSTE

Tuesday, June 12, 2018 ANNOTATED AGENDA Page 1

#### **Council Consent Items**

#### 30. Fossil Fuel Free Berkeley

From: Councilmember Davila, Mayor Arreguin, and Councilmember Harrison **Recommendation:** Refer to the Energy Commission and Transportation Commission the proposed resolution to further implementation of the Climate Action Plan and establish the goal of becoming a Fossil Fuel Free Berkeley: - Establish a date by which we are committed to being a Fossil Fuel Free City. - Oppose further transportation of oil, gas, and coal. - Strengthen green building requirements for newly constructed city facilities, and major renovations, including the potential for Zero Net Energy and further integration of considering climate impacts in capital planning projects. Current requirements are LEED Silver, which are far below what we require for new buildings in the Downtown. - All future City government procurements of vehicles should minimize emissions and set a goal of transitioning the city's vehicle fleet to all electric vehicles. - Establish a goal of transitioning to 100% renewable energy for municipal operations and community wide goal of 100% reductions by 2030. - Formally oppose recent expansion of offshore drilling by the Trump Administration. - Call for region-wide solutions to carbon emissions, including rapid adoption of renewable energy sources, affordable densification of cities and low-emissions public transportation infrastructure.

Financial Implications: Unknown

Contact: Cheryl Davila, Councilmember, District 2, 981-7120

**Action:** Moved to Action Calendar. 8 speakers. M/S/C (Harrison/Wengraf) to approve the recommendations in Item 30 and Item 49 as amended in the revised items submitted by Councilmember Hahn. Councilmembers Davila (Chair), Harrison, and Hahn appointed to Ad Hoc Committee.

Revised Recommendation for Item 30:

Refer to the Energy Commission and Transportation Commission consideration of the proposed resolution or similar action to further implement the Climate Action Plan and establish the goal of becoming a Fossil Fuel Free Berkeley, and further consider:

- Establishing a date by which we are committed to being a Fossil Fuel Free City.
- Opposing further transportation of oil, gas, and coal.
- Fully implementing Berkeley Deep Green Building, raising the citywide LEED certification requirement above the current LEED Silver, and applying the same requirements to newly constructed city facilities, and major renovations.
- Requiring all future City government procurements of vehicles to minimize emissions, and establishing a goal and plan for transitioning the city's vehicle fleet to all electric vehicles
- Establishing a goal and plan for transitioning to 100% renewable energy for municipal operations and a community wide goal of 100% reductions by 2030.
- Formally opposing the recent expansion of offshore drilling by the Trump Administration.
- Calling for region-wide solutions to carbon emissions, including rapid adoption of renewable energy sources, affordable densification of cities and lowemissions public transportation infrastructure.

**Vote:** Ayes – Maio, Davila, Harrison, Hahn, Wengraf, Worthington, Droste, Arreguin; Noes – None; Abstain – None; Absent – Bartlett.



Councilmember Cheryl Davila District 2

CONSENT CALENDAR June 12, 2018

**To**: Honorable Mayor and Members of the City Council

From: Councilmember Cheryl Davila, Mayor Jesse Arreguin and Councilmember

Kate Harrison

**Subject**: Fossil Fuel Free Berkeley

#### **RECOMMENDATION**

Refer to the Energy Commission and Transportation Commission the proposed resolution to further implementation of the Climate Action Plan and establish the goal of becoming a Fossil Fuel Free Berkeley:

- Establish a date by which we are committed to being a Fossil Fuel Free City.
- Oppose further transportation of oil, gas, and coal.
- Strengthen green building requirements for newly constructed city facilities, and major renovations, including the potential for Zero Net Energy and further integration of considering climate impacts in capital planning projects. Current requirements are LEED Silver, which are far below what we require for new buildings in the Downtown.
- All future City government procurements of vehicles should minimize emissions and set a goal of transitioning the city's vehicle fleet to all electric vehicles
- Establish a goal of transitioning to 100% renewable energy for municipal operations and community wide goal of 100% reductions by 2030.
- Formally oppose recent expansion of offshore drilling by the Trump Administration.
- Call for region-wide solutions to carbon emissions, including rapid adoption of renewable energy sources, affordable densification of cities and low-emissions public transportation infrastructure.

## FISCAL IMPACTS OF RECOMMENDATION Unknown

#### **ENVIRONMENTAL SUSTAINABILITY**

Establishing the goal of achieving a Fossil Free City, and strengthening green building, city vehicle procurement, and renewable energy initiatives will further implementation of the Climate Action Plan.

#### Page 2 of 6

#### **BACKGROUND**

On June 1, 2017, the 45th president and administration announced its intention to pull the United States out of the Paris Agreement, reached by 194 countries at the United Nations Conference of Parties 21 meeting in November, 2015. This action undercuts commitments the United States has made to our global partners and to United States citizens to combat climate change and reduce our GHG emissions. The 45th Administration has removed "global warming" and "climate change" content from many Federal agency websites and has proposed to cut funding for Federal research on clean energy, energy efficiency, clean fuels and clean transportation.

The Interior Department recently proposed opening Federal waters to new leases for oil and gas drilling, including off the coast of California. These and other reckless climate denial actions by the current federal Administration create tremendous risk and instability to the world's efforts to forestall climate catastrophe now and for future generations. It is now critical that cities double our climate commitments and actions. Cities must say no to new or expanded fossil fuel projects/use and move more rapidly to 100% clean energy. The City of Berkeley must accelerate and expand our leadership on issues laid out in our Climate Action Plan. This resolution is modeled after a resolution passed in Portland, Oregon and is part of the Fossil Fuel Free campaign by 350.org.

#### **CONTACT PERSONS**

Councilmember Cheryl Davila 510.981.7120

#### Page 3 of 6

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

#### ESTABLISHING A GOAL OF ACHIEVING A FOSSIL FREE CITY

WHEREAS, the City of Berkeley Climate Action Plan has commendable goals of 33% reduction in greenhouse gases compared to 2000 by 2020 and 80% reduction by 2050; and

WHEREAS, the December 7, 2017 report from City staff shows only a 12% reduction as of 2015, indicating that the City is well behind in achieving both its 2020 and 2050 goals; and

WHEREAS, global temperatures are rising at an accelerating rate, averaging 0.9°C above 1950 - 1981 temperatures in 2017 <u>according to NASA</u>, and could reach the UN limit of 1.5°C as early as 2032 at the current rate of increase; and

WHEREAS, the current warming is already leading to an increase in heat waves, wildfires, floods, droughts, stronger hurricanes, extreme weather, and rising oceans, climate refugees, and

WHEREAS, the State of California has a goal to reduce greenhouse gases by 40% by 2030 but is also making insufficient progress towards achieving that goal, and

WHEREAS, this resolution is intended to substantially further both the City of Berkeley and the State goals, and

WHEREAS most of the greenhouse gases that have accumulated in the atmosphere can be attributed to the consumption of fossil fuels that companies such as Chevron, Exxon, BP, Shell, ConocoPhilips extracted, refined, transported, and sold; and

WHEREAS the processes by which Chevron, Exxon, BP, Shell, ConocoPhilips extract, refine, transport, market and/or sell fossil fuels in California generally and in Berkeley specifically create pollution that causes severe environmental harms that also constitute grave environmental injustices, and threaten catastrophic harms in Berkeley such as sea level rise, drought, and wildfires; and

WHEREAS fossil fuel companies have systematically distorted climate science, lied about climate change, and misled the public about the dangers of fossil fuels in order to impede any transition from fossil fuels to clean energy in California generally and in Berkeley specifically; and

#### Page 4 of 6

WHEREAS, transportation of coal using open top rail cars results in significant volumes of materials escaping during transit, exposing local communities to toxic heavy metals in coal dust and particulates at levels potentially harmful to adjacent communities, workers, wildlife and nature; and

WHEREAS, investments in clean energy solutions create more jobs than fossil fuels and spur innovation and growth of the U.S. clean energy economy; and

WHEREAS, local, regional and global economies are transitioning to low-carbon energy sources, and businesses are leaders in providing renewable energy and energy efficiency; and

WHEREAS, dozens of American communities have passed resolutions addressing fossil fuel industry expansion, and hundreds of public officials, including governors, state and federal agencies, tribes, health organizations, religious leaders and other community leaders, have recognized the harms presented by fossil fuels to our environment and our communities; and

WHEREAS the Federal government is the nation's largest emitter of greenhouse gas and is currently governed by an administration committed both to fossil fuels and to climate denial; and

WHEREAS, Berkeley's first preference for meeting energy needs is energy efficiency, and the City remains committed to acquiring at a minimum all cost-effective energy efficiency available with a particular focus on achieving energy efficiency in low-income housing; and

WHEREAS, the transportation sector accounts for 56 percent of greenhouse gas emissions in the City of Berkeley, and significant reductions in emissions from transportation are essential to achieving our climate-protection goals; and

WHEREAS, electrifying car, truck, and bus fleets will bring environmental and economic benefits to local residents, including lower cost transportation options for low income households; and

NOW THEREFORE BE IT RESOLVED that the City of Berkeley will actively oppose the expansion of fossil fuel infrastructure, including but not limited to those owned and/or operated by Chevron, Exxon, BP, Shell, ConocoPhilips, the primary purpose of which is to extract, refine, transport or store fossil fuels in or through city limits or adjacent waterways, including offshore drilling and;

#### Page 5 of 6

**NOW THEREFORE BE IT RESOLVED,** that the City of Berkeley shall commit to a goal of 100% clean, carbon-free energy and a 100% reduction in total greenhouse gas emissions, including from transportation and buildings, as soon as possible and no later than 2030.

BE IT FURTHER RESOLVED, all future government procurements of vehicles should minimize emissions and phase-out the internal combustion engine as soon as possible; and

BE IT FURTHER RESOLVED, the City of Berkeley opposes the rollback of climate policy at the federal level and affirms its ongoing commitment to the goals of the Paris Climate Agreement and the City's responsibility to meet its proportionate greenhouse gas reductions for the United States under the Paris Climate Agreement; and

BE IT FURTHER RESOLVED, the City of Berkeley will establish a goal of supplying 100 percent of electricity for City operations from renewable energy by 2022 through a combination of on-site renewable electricity generation, utility-supplied renewables, dedicated off-site renewable resources, and renewable energy credit (REC) purchases; and

BE IT FURTHER RESOLVED, the City of Berkeley will prioritize renewable resources over the purchase of RECs with the intention of reducing reliance on RECs during the transition to 100% renewable resources over time; and

BE IT FURTHER RESOLVED, the City of Berkeley will prioritize community-based development of renewable energy infrastructure and should make investments in community based organizations to build capacity to lead such development to meet 100% renewable community-wide energy needs including transportation, heating, and electricity via such infrastructure; and

BE IT FURTHER RESOLVED, the City of Berkeley will partner with labor unions, and others to develop training and retraining programs to serve workers who would be displaced by this transition or workers who would otherwise be working in the energy field so that they are well-equipped for the "renewable energy" economy; and

BE IT FURTHER RESOLVED, a renewable energy transition is an opportunity to redress historical inequities in our community and must be just. This means, in part, prioritizing the resources to train and hire people from within communities of color and women that have traditionally been underrepresented in renewable energy, energy efficiency, and the workforce needed to implement a successful renewable energy transition; and

#### Page 6 of 6

BE IT FURTHER RESOLVED, City projects and procurements under this proposal will use proven policies to ensure the jobs created are high-quality, family-wage jobs that meet our high standards of workforce inclusion for women and communities of color; and

BE IT FURTHER RESOLVED, the City of Berkeley will partner with energy providers and to accelerate the transition to renewable energy and minimize dependence on fossil fuels, expressing the City's preferences for resources consistent with its renewable energy goals and opposition to any new fossil fuel power project; and

BE IT FURTHER RESOLVED, the City of Berkeley urges utility companies to maximize energy efficiency, demand control technologies, energy storage, and renewable energy and avoid any new commitments to ownership of or long-term contracts from non-renewable sources; and

BE IT FURTHER RESOLVED, the City of Berkeley will partner with energy providers and community-based organizations to adopt policies that reduce the cost-burden for low-income customers, and make incentives available to foster equality in energy burdens as a percent of household incomes; and

BE IT FURTHER RESOLVED, the City of Berkeley urges the governor of California to adopt a 100% renewable energy goal that will continually update as new scientific findings are discovered that change our timeline and support SB 100.

# ANNOTATED AGENDA BERKELEY CITY COUNCIL MEETING

Tuesday, June 12, 2018 6:00 P.M.

COUNCIL CHAMBERS - 2134 MARTIN LUTHER KING JR. WAY

#### JESSE ARREGUIN, MAYOR

#### Councilmembers:

DISTRICT 1 – LINDA MAIO

DISTRICT 5 – SOPHIE HAHN

DISTRICT 2 – CHERYL DAVILA

DISTRICT 6 – SUSAN WENGRAF

DISTRICT 7 – KRISS WORTHINGTON

DISTRICT 4 – KATE HARRISON

DISTRICT 8 – LORI DROSTE

#### 49. Declaration of Climate Emergency

From: Councilmembers Davila and Harrison

**Recommendation:** Adopt a Resolution endorsing the declaration of a Climate Emergency and partner with institutions, organizations, community groups, businesses, neighboring city and county governments to plan and organize a regional Climate Emergency Town Hall.

Financial Implications: Unknown

Contact: Cheryl Davila, Councilmember, District 2, 981-7120

**Action:** 8 speakers. M/S/C (Harrison/Wengraf) to approve the recommendations in Item 30 and Item 49 as amended in the revised items submitted by Councilmember Hahn. Councilmembers Davila (Chair), Harrison, and Hahn appointed to Ad Hoc Committee.

Revised Recommendation for Item 49:

Adopt Resolution No. 68,486–N.S., amended to change "citizens" to "residents," endorsing the declaration of a Climate Emergency and commit the City Council to partner with institutions, organizations, community groups, businesses, and neighboring city and county governments to plan and organize a regional Climate Emergency Town Hall, and carry forward the Climate Action Resolutions.

Refer to the Energy Commission to study and report back to Council on a path for Berkeley to become a "Carbon Sink" as quickly as possible, and to propose a deadline for Berkeley to achieve this goal.

Establish a Council Ad Hoc Subcommittee to organize a Global Climate Action Summit and undertake other actions outlined in the Resolution, and appoint a Subcommittee Chair.

**Vote:** Ayes – Maio, Davila, Harrison, Hahn, Wengraf, Worthington, Droste, Arreguin; Noes – None; Abstain – None; Absent – Bartlett.



Councilmember Cheryl Davila District 2

ACTION CALENDAR
June 12, 2018

**To**: Honorable Mayor and Members of the City Council **From**: Councilmembers Cheryl Davila and Kate Harrison

**Subject**: Declaration of Climate Emergency

#### RECOMMENDATION

Adopt a Resolution endorsing the declaration of a Climate Emergency and partner with institutions, organizations, community groups, businesses, neighboring city and county governments to plan and organize a regional Climate Emergency Town Hall.

### FISCAL IMPACTS OF RECOMMENDATION Unknown

#### **ENVIRONMENTAL SUSTAINABILITY**

Declaration of a Climate Emergency, and a regional Climate Emergency collaborative will further the City's environmental sustainability goals.

#### **BACKGROUND**

Human activities have warmed the Earth enough to end the 12,000-year period of climate stability that allowed agriculture and human civilization to develop. Global warming has already set in motion catastrophic changes to the Earth system, including accelerating ice mass loss from the Greenland and West Antarctic Ice Sheets and the thawing of the borders of the vast Arctic permafrost, which holds twice as much stored carbon as the entire atmosphere. NASA scientists have concluded that the complete collapse of the Greenland Ice Sheet alone could raise sea levels 23 feet, creating several billion climate refugees and a "global-scale catastrophe." The arctic ice sheet went above freezing in winter of 2017 indicating near term melt. With the Trump administration aggressively thwarting our ability to prevent climate catastrophe, our situation is dire. Over 19,000 scientists have signed a Second Warning to Humanity proclaiming that "a great change in our stewardship of the Earth and the life on it is required if vast human misery is to be avoided"; The global economy's overshoot of ecological limits and, increasingly climate change, are driving a global fresh water scarcity crisis and the sixth mass extinction of species, which could devastate much of life on earth for the next 10 million years. All this and more demonstrate we are in the midst of a climate emergency.

#### **CONTACT PERSONS**

Councilmember Cheryl Davila 510.981.7120

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

#### RESOLUTION ENDORSING THE DECLARATION OF A CLIMATE EMERGENCY

**WHEREAS**, human activities have warmed the Earth enough to end the 12,000-year period of climate stability that allowed agriculture and human civilization to develop;

**WHEREAS**, the world came together in December 2015 to address the end to this period of climate stability due to global warming, agreeing to keep warming to "well below 2°C above pre-industrial levels" and to "pursue efforts to limit the temperature increase to 1.5°C";

**WHEREAS**, in 2017 the global surface temperature was over 1°C warmer than the pre-industrial base period;<sup>1</sup>

**WHEREAS**, global warming has already set in motion catastrophic changes to the Earth system, including accelerating ice mass loss from the Greenland and West Antarctic Ice Sheets and the thawing of the borders of the vast Arctic permafrost, which holds twice as much stored carbon as the entire atmosphere;

**WHEREAS**, according to the latest climate projections, humanity is on track to warm the Earth a sustained average of 1.5°C above pre-industrial levels as soon as 2026;<sup>2</sup>

**WHEREAS**, the Greenland Ice Sheet, which is likely to completely collapse at 1.6°C warming, which NASA scientists have concluded would lead to 23 feet of sea-level rise, billions of climate refugees, and a "global-scale catastrophe";

**WHEREAS**, it is estimated that sustained 1.5°C warming could cause a long-term, "continuous thaw" of the Arctic permafrost, which could turn the tundra from carbon sink into source in the 2020s:

**WHEREAS**, such tipping points must be avoided at all costs, as they will have positive feedback effects on the climate system, causing further and increasingly uncontrollable global warming;

**WHEREAS**, failure to uphold the Paris goal of keeping warming "well below 2°C" would lead to the disappearance of island nations and "certain death" for Africa, Chief Negotiator for the G77 Lumumba Stanislaus Di-Aping warned in 2009;

**WHEREAS**, over 19,000 scientists have signed a <u>Second Warning to Humanity</u> proclaiming that "a great change in our stewardship of the Earth and the life on it is required, if vast human misery is to be avoided";

<sup>&</sup>lt;sup>1</sup> Hansen, James, et al., Global Temperature in 2017 (18 January 2018).

<sup>&</sup>lt;sup>2</sup> See, *inter alia*, Henley, B. J., and A. D. King (2017), *Trajectories toward the 1.5°C Paris target: Modulation by the Interdecadal Pacific Oscillation*, Geophys. Res. Lett., 44, 4256–4262, doi: 10.1002/2017GL073480; Jacob, D., Kotova, L., Teichmann, C., Sobolowski, S. P., Vautard, R., Donnelly, C., Koutroulis, A. G., Grillakis, M. G., Tsanis, I. K., Damm, A., Sakalli, A. and van Vliet, M. T. (2018), *Climate Impacts in Europe Under +1.5°C Global Warming*. Earth's Future, 6: 264-285. doi:10.1002/2017EF000710

**WHEREAS**, it is estimated that humanity currently uses the equivalent of about 1.6 earths per year in resource consumption and waste disposal, a figure that is headed toward 3 earths per year in 2030;

**WHEREAS**, the global economy's overshoot of ecological limits and, increasingly, climate change are driving a global fresh water scarcity crisis and the sixth mass extinction of species, which could devastate much of life on Earth for the next 10 million years;

**WHEREAS**, England's chief scientific advisor has warned that humanity faces a "perfect storm of global events" by 2030 as climate change, population growth, and growing demand for food, energy and fresh water incites violent conflict over diminishing resources that are essential to human life and dignity;

**WHEREAS**, climate change has been called a "threat multiplier" that exacerbates preexisting tensions and political instability in regions across the globe by both the United States Department of Defense and North Atlantic Treaty Organization, and has been linked to the Syrian war, the rise of Boko Haram in Nigeria, as well as the famines, water shortages, and resulting conflict in Yemen, Somalia, and South Sudan;

**WHEREAS,** climate-fueled droughts, famines, and diseases have already killed millions of people in the Global South, and displaced millions more;<sup>3</sup>

**WHEREAS**, indigenous and low-income communities and communities of color in the United States and abroad have suffered the gravest consequences of the extractive economy since its inception;

**WHEREAS**, according to the National Centers for Environmental Information (NCEI), in 2017, "the U.S. was impacted by 16 separate billion-dollar disaster events tying 2011 for the record number of billion-dollar disasters for an entire calendar year," with a cumulative cost of \$309.5 billion, shattering the previous U.S. annual record cost of

\$219.2 billion in 2005 due to Hurricanes Dennis, Katrina, Rita and Wilma;<sup>4</sup>

**WHEREAS**, the death and destruction already wrought by global warming of 1°C demonstrate that the earth is already too hot for safety and justice;

**WHEREAS**, it is an act of unspeakable injustice and cruelty to knowingly subject our fellow humans now and into the future to societal disintegration, food and clean water shortages, economic collapse, and early death on an increasingly uninhabitable planet;

**WHEREAS**, Pope Francis has declared that humanity is on the verge of a "global"

<sup>&</sup>lt;sup>3</sup> A 2009 report estimated that "climate change causes 400,000 deaths on average each year today, mainly due to hunger and communicable diseases that affect above all children in developing countries." It further noted, "Our present carbon-intensive energy system and related activities cause an estimated 4.5 million deaths each year linked to air pollution, hazardous occupations and cancer." A Guide to the Cold Calculus of a Hot Planet, Climate Vulnerability Monitor 2nd Edition.

<sup>&</sup>lt;sup>4</sup> In fact, NCEI notes, "2017 arguably has more events than 2011 given that [its] analysis traditionally counts all U.S. billion-dollar wildfires, as regional-scale, seasonal events, not as multiple isolated events." NOAA NCEI U.S. Billion-Dollar Weather and Climate Disasters (2018).

suicide," noting that we will destroy ourselves if we destroy God's creation, and has called for a life-sustaining economy;

**WHEREAS**, common sense and morality indicate that humanity can no longer safely emit greenhouse gases and must seek to draw down the excess carbon from the atmosphere in order to restore a safe level of greenhouse gas concentrations and global average temperatures well below today's levels and back to preindustrial levels as quickly as possible;

**WHEREAS**, reversing global warming and restoring a safe and stable climate requires an emergency mobilization to reach zero greenhouse gas emissions across all sectors at wartime speed, to rapidly and safely drawdown or remove all the excess carbon from the atmosphere, and to implement safe measures to protect all people and species from the consequences of abrupt warming in the near-term;

**WHEREAS**, reversing ecological overshoot and halting the sixth mass extinction requires an effort to preserve and restore half Earth's biodiversity in interconnected wildlife corridors and to humanely stabilize population. as well as a shift toward a climate-resilient society and culture that prioritize conservation, community, and mutual aid over consumerism and narcissism:

**WHEREAS**, justice requires that those countries, classes, and industries that have contributed the most to this global climate and ecological cataclysm carry a commensurate burden in reversing it and protecting those most impacted from the lethal impacts already underway;

**WHEREAS**, justice also requires, in developing and carrying out the emergency mobilization to restore a safe climate, the active consultation, participation, and protection of communities that have historically borne the brunt of the extractive economy;

**WHEREAS**, the United States of America has disproportionately contributed to the climate and ecological crises and to preventing a transition away from fossil fuels, and Americans thus bear an extraordinary responsibility to solve the crises:

**WHEREAS**, as a part of the United States, the community of Berkeley and surrounding counties, despite well-meaning efforts, have disproportionately contributed to dangerous greenhouse gas emissions and thus must substantially curtail use of fossil fuels and greenhouse gas emissions on behalf of the larger planetary community to enable a rapid, just transition to a stable climate;

**WHEREAS**, severe rainfall in February 2017 across northern and central California resulted in at least five deaths and an estimated \$1.5 billion in damage, including to the Oroville Dam spillway, causing a multi-day evacuation of 188,000 residents, and to the city of San Jose, flooding neighborhoods and forcing 14,000 residents out of their homes.

**WHEREAS**, the October 2017 Northern California wildfires caused more than \$9.4 billion in damage, destroying over 8,900 structures, displacing many people, killing 44, and injuring another 192;

**WHEREAS**, we cannot wait for more devastating floods, heatwaves, fires, droughts, rising sea levels, and public health and humanitarian crises that threaten local residents, ecologies, businesses, and the broader Bay Area population to begin the necessary emergency response;

**WHEREAS**, during World War II, the Bay Area came together across race, age, class, gender and other differences in an extraordinary regional mobilization, building and repairing Liberty ships, converting car assembly plants into tank manufacturing facilities, rapidly switching to mass transit systems, and serving as the most important symbol of freedom in the Pacific Theater during the war as well as the site of the signing of the United Nations Charter at its conclusion;

**WHEREAS**, the following mayors in the greater Bay Area have committed to adopt, honor, and uphold the Paris agreement, noting, "We will intensify efforts to meet each of our cities' current climate goals, push for new action to meet the 1.5 degrees Celsius target, and work together to create a 21st century clean energy economy . . . The world cannot wait—and neither will we": Mayor Jesse Arrequin of Berkeley, Mayor Peggy McQuaid of Albany, Mayor Trish Herrera Spencer of Alameda, Mayor Charles Stone of Belmont, Mayor Lori S Liu of Brisbane, Mayor Ricardo Ortiz of Burlingame, Mayor Mark Landman of Cotati, Mayor Darcy Paul of Cupertino, Mayor Juslyn Manalo of Daly City, Mayor David Haubert of Dublin, Mayor Janet Abelson of El Cerrito, Mayor John J. Bauters of Emeryville, Mayor Lily Mei of Fremont, Mayor Debbie Ruddock of Half Moon Bay, Mayor Barbara Halliday of Hayward, Mayor Shaun McCaffery of Healdsburg, Mayor Mary Prochnow of Los Altos, Mayor Gary Waldeck of Los Altos Hills, Mayor Marico Savoc of Los Gatos, Mayor Rob Schroder of Martinez, Mayor Kirsten Keith of Menlo Park, Mayor Reuben D. Holober of Millbrae, Mayor Ken Rosenberg of Mountain View, Mayor Jill Techel of Napa, Mayor Libby Schaaf of Oakland, Mayor Greg Scharff of Palo Alto, Mayor David Glass of Petaluma, Mayor John Seybert of Redwood City, Mayor Jake Mackenzie of Rohnert Park, Mayor Tom Butt of Richmond, Mayor Bob Grassilli of San Carlos, Mayor Mark Farrell of San Francisco, Mayor Sam Liccardo of

San Jose, Mayor Pauline Russo Cutter of San Leandro, Mayor Rick Bonilla of San Mateo, Mayor Lisa M. Gillmor of Santa Clara, Mayor Chris Coursey of Santa Rosa, Mayor Rachel Hundley of Sonoma, Mayor Glenn Hendricks of Sunnyvale, and Mayor Debora Fudge of Windsor;

**WHEREAS**, the Global Climate Action Summit, the purpose of which is to "bring people together from around the world to showcase climate action and inspire deeper commitments from national governments, and each other, in support of the Paris Agreement," will be held in San Francisco in September 2018;

**WHEREAS**, the community of Berkeley and surrounding counties have the insight, drive, capacity and capital to take a moral stand and do all we can to restore a safe climate within our own boundaries and on behalf of our planetary community;

**WHEREAS**, in Berkeley and the broader Bay Area, we can rise to the challenge of the greatest crisis in history by organizing politically to catalyze a national and global climate emergency effort, employing local workers in a mobilization effort building and installing renewable energy infrastructure, growing healthy food that stays in the community, restoring ecosystems, and retrofitting and redesigning our built environment, electric grid, and transportation systems;

**WHEREAS**, the Global Climate Action Summit presents an unparalleled opportunity for the City of Berkeley and the greater Bay Area to inspire and influence summit attendees to end emissions from all sources at emergency speed through a just mobilization and, in so doing, to affect the course of human history;

WHEREAS, the Berkeley Climate Action Coalition has laid the foundation for a just emergency climate mobilization through its work, including raising the profile of and implementing key goals of the Berkeley Climate Action Plan, championing community choice energy for Alameda County, enhancing Berkeley's biking and pedestrian access by promoting complete streets projects, developing local guidelines and policy to promote vacant lot conversion to community gardens and sponsoring water saving projects and education during record-breaking drought;

**WHEREAS**, the City of Berkeley can act as a global leader by both converting to an ecologically, socially and economically restorative economy, and by catalyzing a unified regional climate emergency mobilization effort this year; and

**1000NOW BE IT THEREFORE RESOLVED**, the City of Berkeley declares that we face an existential Climate Emergency that threatens our city, region, state, nation, civilization, humanity and the natural world;

**BE IT FURTHER RESOLVED**, the City of Berkeley endorses a just citywide emergency mobilization effort to citywide greenhouse gas emissions as quickly as possible and immediately initiates an effort to safely draw down carbon from the atmosphere;

**BE IT FURTHER RESOLVED**, the City of Berkeley commits to becoming a carbon sink by 2030;

**BE IT FURTHER RESOLVED**, the City of Berkeley commits to educating our citizens about the climate emergency and working tirelessly to catalyze a just emergency climate mobilization at the local, state, national, and global local to protect our citizens as well as all the people and species of the world;

**BE IT FURTHER RESOLVED**, the City of Berkeley underscores the need for full community participation and support, and recognizes that the citizens of Berkeley, the Berkeley Climate Action Coalition, the Ecology Center, and other community organizations will be integral to the mobilization effort;

**BE IT FURTHER RESOLVED**, the City of Berkeley commits to keeping the considerations of disadvantaged communities central to all climate emergency mobilization planning processes and to inviting and encouraging such communities to actively participate in order to advocate directly for their needs;

**BE IT FURTHER RESOLVED**, the City of Berkeley, in order to ensure a just transition, will consult with environmental justice, economic justice, and racial justice organizations at every step of the climate emergency mobilization planning process; **BE IT FURTHER RESOLVED**, the City of Berkeley calls for a Regional Just Transition and Climate Emergency Mobilization Collaborative Effort, inviting concerned citizens, youth, faith, labor, environmental, economic and social justice organizations as well as

other community groups, and all elected officials in and from Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma Counties, and especially all the mayors who have signed on to enact the Paris Agreement, to initiate a just local, state, national, and global climate emergency mobilization to restore a safe climate:

**BE IT THERE RESOLVED**, the City of Berkeley seeks to partner with local and regional agencies to participate in this regional emergency just mobilization effort and to intensify support of a comprehensive just transition to restore a safe climate;

**BE IT FURTHER RESOLVED**, the City of Berkeley will coordinate with other organizations and agencies to organize a regional emergency town hall in advance of the September 2018 Global Climate Action Summit to begin to envision the Regional Just Transition and Climate Emergency Mobilization Collaborative Effort; **BE IT FURTHER RESOLVED**, the City of Berkeley calls on the State of California to initiate a just statewide emergency mobilization effort to reverse global warming, which, with appropriate financial and regulatory assistance from Federal authorities, ends statewide greenhouse gas emissions as quickly as possible and immediately initiates an effort to safely draw down carbon from the atmosphere;

**BE IT FURTHER RESOLVED**, the City of Berkeley calls on the United States of America to initiate a just national emergency mobilization effort to reverse global warming, which ends national greenhouse gas emissions as quickly as possible and immediately initiates an effort to safely draw down carbon from the atmosphere; and

**BE IT FURTHER RESOLVED**, the City of Berkeley calls on all governments and peoples worldwide to initiate a just global emergency mobilization effort to reverse global warming, which ends global greenhouse gas emissions as quickly as possible and immediately initiates an effort to safely draw down carbon from the atmosphere.



ACTION CALENDAR May 14, 2019

To: Honorable Mayor and Members of the City Council

From: Sugar-Sweetened Beverage Product Panel of Experts (SSBPPE)

Commission

Submitted by: Poki Namkung, Chairperson, SSBPPE Commission

Subject: Grant Allocation: Approve Funding Recommendation for Programs to Reduce

Consumption of Sugar-Sweetened Beverages (SSBs)

#### RECOMMENDATIONS

Approve the SSBPPE Commission's recommendations and adopt thirteen (13) Resolutions authorizing the City Manager or her designee to enter into contracts with the Berkeley Unified School District and the Community Based Organizations (CBOs) listed below to distribute a total of \$3,800,000 for FY 2020 and FY 2021 according to the schedule below and to also provide \$950,000 to the City of Berkeley Public Health Division (BPHD) during the same period to support administering and enhancing this program as approved by the Berkeley City Council as follows:

- 1. \$1,900,000 total grant to **Berkeley Unified School District** to implement the *Gardening and Cooking Program* for FY 2020 and FY 2021 to be disbursed as follows--\$950,000 for FY 2020 and \$950,000 for FY 2021.
- 2. \$285,000 total grant to the **Ecology Center** to implement *For Thirst, Water First!* program for FY 2020 and FY 2021 to be disbursed as follows--\$142,500 in FY 2020 and \$142,500 in FY 2021.
- 3. \$590,000 grant to **Healthy Black Families** to implement *Thirsty for Change!* (T4C) program for FY 2020 and FY 2021 to be disbursed as follows--\$295,000 in FY 2020 and \$295,000 in FY 2021.
- 4. \$30,000 grant to the **Multicultural Institute** to implement the *Life Skills/Day Laborer Program: Health Activity* program for FY 2020 and FY 2021 to be disbursed as follows: \$15,000 in FY 2020 and \$15,000 in FY 2021.
- 5. \$140,000 grant to the **YMCA of the East Bay** to implement the *YMCA Diabetes Prevention* (YDPP) program for FY 2020 and FY 2021 to be disbursed as follows: \$70,000 in FY 2020 and \$70,000 in FY 2021.

- 6. \$170,000 grant to the **YMCA of the East Bay** to implement the *YMCA Healthy Me!* program for FY 2020 and FY 2021 to be disbursed as follows: \$85,000 in FY 2020 and \$85,000 in FY 2021.
- 7. \$270,000 grant to **Lifelong Medical Care** to implement the *Chronic Disease and Oral Health Prevention Project* for FY 2020 and FY 2021 to be disbursed as follows: \$135,000 in FY 2020, and \$135,000 in FY 2021.
- 8. \$80,000 grant to **Spiral Garden** to implement the *Spiral Gardens Community Food Security Project* for FY 2020 and FY 2021 to be disbursed as follows: \$40,000 in FY 2020, and \$40,000 in FY 2021.
- 9. \$32,792 grant to **Fresh Approach** to implement the *Veggie Rx Program for Healthy Foods and Beverages* program for FY 2020 and FY 2021 to be disbursed as follows: \$16,396 in FY 2020, and \$16,396 in FY 2021.
- 10.\$135,880 grant to **Bay Area Community Resources** to implement the *Healthy Options at Point of Sale* program for FY 2020 and FY 2021 to be disbursed as follows: \$67,940 in FY 2020, and \$67,940 in FY 2021.
- 11.\$69,328 grant to **Community Health Education Institute** to implement the *Artists Against Soda* program for FY 2020 and FY 2021 to be disbursed as follows: \$34,664 in FY 2020, and \$34,664 in FY 2021.
- 12. \$97,000 grant to **Berkeley Youth Alternatives** to implement the *Urban Agriculture and Team Nutrition Program* for FY 2020 and FY 2021 to be disbursed as follows: \$48,500 in FY 2020 and \$48,500 in FY2021.
- 13. \$950,000 to the **City of Berkeley Public Health Division** (BPHD) to support the SSBPPE Commission and assist with outside evaluations to be disbursed as follows: \$475,000 in FY 2020 and \$475,000 in FY 2021 with 10% of those funds in both years designated for a media campaign.
- 14. The Commission recommends that indirect or administrative expenses not exceed 15% of the program budget and that these funds not be used to supplant any other source of funding.
- 15. The Commission recommends that City Council authorize the City Manager to authorize advances for BUSD and the selected community agencies receiving funds in FY 2020 and FY2021. The advances are to be equivalent to 25% of the agency's allocation.

#### **SUMMARY**

The SSBPPE Commission asks the City Council to approve and authorize distribution of \$4,750,000 for FY 2020 and FY 2021 allocated for community-based agencies under Project Code HHHSSB1901 as follows:

- 1. \$1,900,000 total grant to **Berkeley Unified School District** to implement the *Gardening and Cooking Program* for FY 2020 and FY 2021 to be disbursed as follows--\$950,000 for FY 2020 and \$950,000 for FY 2021 that will:
  - Increase awareness and knowledge about the health impacts of consuming SSBs;
  - b. Improve access to water;
  - c. Increase family engagement;
  - d. Subcontract with 18 Reasons to implement the *Cooking Matters* program: \$100,000 to be disbursed in FY 2020 (\$50,000) and FY 2021 (\$50,000) that will:
    - i. Advocate for all BUSD schools to adopt healthy policies for fundraising, celebrations, and sporting events.
    - ii. Train 5 Early Childhood Education teachers to be Health Promoters in order to facilitate *Cooking Matters* programs in their own communities with at least 400 participants participating in the series and tour programs; and
    - iii. Expand and strengthen outreach to licensed family child care homes in South and West Berkeley.
- \$285,000 grant to the Ecology Center to implement For Thirst, Water First!
   Program to be disbursed in FY 2020 (\$142,500) and FY 2021 (\$142,500) that
   will:
  - a. Increase capacity of Berkeley High School's Universal 9<sup>th</sup> Grade curriculum to deliver nutrition activities and benefits of drinking water vs SSBs. All freshman students will receive a free water bottle (Kleen Kanteen);
  - b. Increase tap water and healthy food consumption among youth and family members; and
  - c. Develop capacity of 30 Berkeley youth to serve as spokespeople, ambassadors, and advocates of timely policy initiatives that promote the consumption of tap water and healthy foods.
- \$590,000 grant to Healthy Black Families to continue the Thirsty for Change!
  Program to be disbursed in FY 2020 (\$295,000) and FY 2021 (\$295,000) that
  will:
  - a. Continue to partner with Center for Food, Faith and Justice (CFFJ) who will engage 180 students in monthly activities related to SSBs at B-Tech, lead 12 gardening workshops, support 6 CFFJ Fellows who will reach 720 people with Rethink Your Drink and Health Equity presentations;
  - b. Deliver "Cook Smart" and "Meal Challenge" classes, engaging 480 women and their families in farmers market tours, hands-on cooking demonstrations,

- nutrition education and customized tours of grocery stores and convenience markets;
- c. Train water ambassadors to share information about SSBs and water at events throughout the year;
- d. Implement Voices for Change, the advocacy arm of T4C, to move beyond community education to community capacity to engage in longer term policy, systems, and/or environmental (PSE) changes; and
- e. Promote adoption of at least 5 new policies per year to address barriers to SSB reduction at church and community events.
- 4. \$30,000 grant to the **Multicultural Institute** to implement the *Life Skills/Day Laborer: Health Activity Program* to be disbursed in FY 2020 (\$15,000) and FY 2021 (\$15,000) that will:
  - Offer cultural and language appropriate information on the serious risks of consuming SSBs to uninsured or underinsured immigrants, day laborers, and other low-income families in West Berkeley.
  - b. Provide information about health conditions related to SSBs;
  - c. Offer prevention resources, and connect families to key services for these conditions when needed; and
  - d. Create a policy to provide healthier food and beverages in their meal/snack offerings.
- 5. \$270,000 grant to **Lifelong Medical Care** to implement the *Chronic Disease and Oral Health Prevention Project* to be disbursed in FY 2020 (\$135,000) and FY 2021 (\$135,000) that will:
  - Reach approximately 20,000 low income residents with chronic disease prevention and oral health education;
  - b. Conduct 3,250 hypertension screenings and 250 dental treatments; and
  - c. Expand opportunities to bring the Dental Van to six Heart 2 Heart events annually.
- 6. \$140,000 grant to the **YMCA of the East Bay** to implement a *Diabetes Prevention Program* to be disbursed in FY 2020 (\$70,000) and FY 2021 (\$70,000) that will:
  - a. Utilize a Centers for Disease Control (CDC)-recognized curriculum to prevent type 2 diabetes and prediabetes through coaching in healthy eating, physical activity, and behavior changes for adults (18+) at high risk of developing type 2 diabetes; and
  - b. Promote systems change through partnerships with Head Start and Lifelong Medical Care.

- 7. \$170,000 grant to the **YMCA of the East Bay** to implement the *Healthy ME Program* to be disbursed in FY 2020 (\$85,000) and FY 2021 (\$85,000) that will:
  - a. Provide the Healthy Me Kids Music and Movement Program to all children in the YMCA, BUSD, Centro Vida, and UC Berkeley Childcare sites focusing on choosing water over SSBs combining with nutrition, fitness, hygiene, and social skills;
  - b. Provide water hydration stations (tap water is acceptable) at the 4 YMCA sites; and
  - c. Organize quarterly family engagement meetings.
- 8. \$69,328 grant to the **Community Health Education Institute** to implement the *Artists against Soda* program to be disbursed in FY 2020 (\$34,664) and FY 2021 (\$34,664) that will:
  - Advocate to the City Council on the need to adopt a city-wide policy on SSBs, meaning no procurement, no selling, no serving;
  - Advocate to prohibit supermarkets and grocery stores from displaying SSBs near the checkout counter and establish healthy checkout aisles in the downtown area;
  - c. Offer student created art with information on the health hazards of SSBs to replace advertising for SSBs;
  - d. Award merchants who display youth art, reduce soda space, and/or soda promotional signage with awards at City Council;
  - e. Form a Berkeley City College (BCC) Health Awareness Club to recruit student mentors to educate youth to promote the reduction of SSBs; and
  - f. Hold a downtown Berkeley art show/art awards/art contest with youth entries at BCC.
- \$135,880 grant to Bay Area Community Resources to implement the Healthy Options at Point of Sale program to be disbursed in FY 2020 (\$67,940) and FY 2021 (\$67,940) that will:
  - a. Continue with recruitment and training of advocates to form a Berkeley Advocacy Team to increase knowledge of food justice and the role of retail food environment in contributing to diet-related disease and developing research, facilitation, and speaking skills; and
  - b. Continue and strengthen collaboration with Healthy Black Families, Alameda County Public Health Department, Center for Science in the Public Interest (CSPI), Community Health Education Institute, Ecology Center, and other CBOs to gain support for the passage of a city-wide healthy check-out policy.

- 10.\$80,000 grant to **Spiral Gardens** to implement the *Spiral Gardens Community Food Security Project* to be disbursed in FY 2020 (\$40,000) and FY 2021 (\$40,000) that will:
  - a. Install water hydration station (tap water is acceptable);
  - b. Expand community farm engagement and production and nursery food plant production;
  - c. Improve outdoor classroom with more seating, shelter and improved cooking facilities for cooking demos for increased number of workshops;
  - d. Offer outside teachers stipends for their time; and
  - e. Hire a nursery growth manager to expand nursery healthy food production and income.
- 11.\$97,000 grant to **Berkeley Youth Alternatives** to implement the *Urban Agriculture and Team Nutrition Program* to be disbursed in FY 2020 (\$48,500) and FY 2021 (\$48,500) that will:
  - Recruit, hire, and train 4 garden and nutrition youth educators to promote healthy alternatives to SSBs and conduct interactive workshops to at least 1000 children and youth;
  - Engage Youth Educators to re-launch the BYA "no-cost" Community-Supported Agriculture (CSA) Program to provide monthly boxes of fresh fruits and vegetables; and
  - c. Engage in a campaign to convert unused land into a community garden.
- 12.\$32,792 grant to **Fresh Approach** to implement *VeggieRx Program for Healthy Food and Beverages* to be disbursed in FY 2020 (\$16,396) and FY 2021 (\$16,396) that will:
  - a. Utilizing a train-the-trainer approach with AmeriCorps volunteers to maximize the resources; and
  - b. Develop and institutionalize successful nutrition education classes in group settings by creating a resource kit on SSBs that will standardize education on this topic for future years and will allow evaluation of the outcomes.
- 13. \$950,000 to the **City of Berkeley Public Health Division** (BPHD) to support the SSBPPE Commission; assist with outside evaluations; coordinate and monitor the grant process; evaluate and enhance the *Healthy Berkeley Program*; and produce an annual report that informs the public and disseminates outcome data; to be disbursed as follows: \$475,000 in FY 2020 and \$475,000 in FY 2021 with 10% of those funds in both years designated for a media campaign. The BPHD shall use the additional funds on policy, system, and/or environmental (PSE) strategies to support and enhance the *Healthy Berkeley Program* and collaborate with the community-based organizations. The BPHD will work in partnership with

the SSBPPE Commission in a transparent and open manner to plan and strategize for the best use of these new funds (Exhibit A).

#### FISCAL IMPACTS OF RECOMMENDATION

There are no additional financial impacts to the City. The Council allocated \$4,750,000 from the General Fund on January 22, 2019 (Resolution No. 68,746-N.S.) for grants to BUSD cooking and gardening program and community agencies in FY 2020 and FY 2021.

#### **CURRENT SITUATION AND ITS EFFECTS**

On March 17, 2019, the SSBPPE Commission selected 12 programs from community-based organizations and the Berkeley Unified School District (BUSD) for funding recommendation. All proposals were scored using a standard set of questions for each of the nine criteria articulated in the Request for Proposals (RFP). On March 21, 2019, the SSBPPE Commission reviewed its initial recommendations and approved a final list of funding recommendations as listed above. The following was the voting on this March 21, 2019 item:

Moved to accept the proposed Council Report with final corrections, edits, and changes to be made by the Commission Chair, Dr. Poki Namkung, and to be submitted for the City Council Meeting as early as possible as and no later than May 24, 2019.

M/S/C: Commissioners Morales/Rose

Ayes: Commissioners Crawford, Ishii, Morales, Namkung, and

Rose

**Noes:** None **Abstain:** None

Absent from vote: Commissioner Browne

**Recused:** Commissioners Moore and Scheider

Excused:

The Commission was determined not to dilute the impact of funding by spreading the funds too thinly across programs.

#### BACKGROUND

In November of 2014, Berkeley voters passed Measure D, requiring both the collection of a 1 cent per ounce tax on the distribution of sugary drinks in the City of Berkeley and the convening of the Sugar Sweetened Beverage Products Panel of Experts (SSBPPE) to recommend investments to both reduce the consumption of sugary drinks as well as to address the health consequences of the consumption of sugary drinks.

On January 22, 2019, the Berkeley City Council unanimously approved Action Items 27A and 27B (Resolution No. 68,746-N.S.). Action Item 27A recommended an

allocation of \$4.75 million over two years, FY 2020 and FY 2021, to fund the Healthy Berkeley Program. Action Item 27B was a companion report which accepted the SSBPPE Commission's report in 27A with consideration of attached clarifications. The clarifications included a table with tax revenues from Measure D, however, as Measure D is a General Tax, its revenues cannot be aligned dollar for dollar with the Healthy Berkeley Program and 27B offered no other fiscal recommendation.

The assumption of the SSBPPE Commission is that the Council approval of 27A and 27B meant that the Council approved the full funding amount (\$4.75 million from the General Fund) recommended by the Commission. The Commission recommended that the funds be distributed as follows:

- 1) Up to 40% of the allocated funds (\$1.9 million) to be distributed to BUSD through a grant proposal process guided by the RFP developed by the SSBPPE.
- At least 40% of the allocated funds (\$1.9 million) to be distributed through an RFP process to community-based organizations consistent with the goals of the RFP.
- 3) 20% of the allocated funds (\$950,000) to be used by the Berkeley Public Health Division (BPHD) to coordinate and monitor the grant process, coordinate the overall program evaluation and produce an annual report. At least 10% of this distribution (\$95,000) is to be used for a media campaign.

On January 25, 2019 the BPHD released a Request for Proposals (RFP) soliciting program proposals from CBOs that promote reduction of consumption of SSBs and address the effects of SSB consumption on health. The RFP announcement was widely distributed to CBOs serving Berkeley.

On February 27, 2019, the City of Berkeley received proposals from 16 CBOs and BUSD. The proposals were reviewed and scored by two parallel review panels (SSBPPE Commission Review Panel and BPHD Staff Review Panel). Five Commissioners reviewed the proposals (three Commissioners recused themselves from the entire review process due to potential conflict of interest).

On March 21, 2019, the SSBPPE Commission passed a motion to forward the following funding recommendations to the Berkeley City Council:

	FY 2020		FY 2021		2 Year Total	
BUSD	\$	950,000.00	\$	950,000.00	\$	1,900,000.00
<b>Ecology Center</b>	\$	142,500.00	\$	142,500.00	\$	285,000.00
<b>Healthy Black Families</b>	\$	295,000.00	\$	295,000.00	\$	590,000.00
Multicultural Institute	\$	15,000.00	\$	15,000.00	\$	30,000.00
Lifelong Medical Care	\$	135,000.00	\$	135,000.00	\$	270,000.00

YMCA of the East Bay			
YDPP	\$ 70,000.00	\$ 70,000.00	\$ 140,000.00
YMCA of the East Bay			
—Healthy Me!	\$ 85,000.00	\$ 85,000.00	\$ 170,000.00
Berkeley Youth			
Alternatives	\$ 48,500.00	\$ 48,500.00	\$ 97,000.00
Spiral Garden	\$ 40,000.00	\$ 40,000.00	\$ 80,000.00
Fresh Approach	\$ 16,396.00	\$ 16,396.00	\$ 32,792.00
Bay Area Community			
Resources	\$ 67,940.00	\$ 67,940.00	\$ 135,880.00
Community Health			
Education Institute	\$ 34,664.00	\$ 34,664.00	\$ 69,328.00
City of Berkeley PHD	\$ 475,000.00	\$ 475,000.00	\$ 950,000.00
Totals	\$ 2,350,000.00	\$ 2,350,000.00	\$ 4,750,000.00

### **ENVIRONMENTAL SUSTAINABILITY**

When the recommended allocations are implemented, the SSBPPE expects the following contributions to environmental sustainability:

- 1. Significant increase in awareness about health impacts of SSB consumption,
- Increase in the number of trained youth peer educators, nutritionists, and teachers in low-income communities to reduce consumption of SSBs, and to promote healthy choices and increase consumption of Berkeley's high quality tap water, and
- 3. Significant reduction in access to sugary drinks in Berkeley.

### RATIONALE FOR RECOMMENDATION

The Commission believes that investing \$4,750,000 in grants to CBOs, BUSD, and the BPHD will increase the City of Berkeley's likelihood of reducing the consumption of SSBs and improving the health of Berkeley children and youth, particularly those with limited resources, and communities-of-color that are most impacted by obesity, diabetes, tooth decay, and heart diseases and that are targeted by Big Soda marketing. These grants will increase the capacity of CBOs to develop and implement multi-level interventions that include education, system and/or environmental change. Excellent, on-going, peer-reviewed research has confirmed the decline in the consumption of SSBs in the most effected neighborhoods of our city from 21% the first year of the Healthy Berkeley Program to 55% the third year, a phenomenal achievement.

### ALTERNATIVE ACTIONS CONSIDERED

Should the Mayor and City Council of Berkeley decide to decrease the funding for the Healthy Berkeley Program to the City Manager recommended amount of \$4,363,079 for FY 2020 and FY 2021 then the SSBPPE recommends that the City of Berkeley Public

Health Division allocation of \$950,000 be decreased by \$386,921 to \$563,079. This decrease will not harm BUSD or the CBOs recommended for funding in FY 2020 and FY2021.

### CITY MANAGER

See Companion Report

### **CONTACT PERSON**

Dechen Tsering, MPH, Secretary, SSBPPE Commission, (510) 981-5394

#### Attachments:

- 1: Resolution: Funding Allocation to Berkeley Unified School District for the Gardening and Cooking Program
- 2: Resolution: Funding Allocation to the Ecology Center to Implement For Thirst, Water First! Program
- 3: Resolution: Funding Allocation to Healthy Black Families to Implement Thirsty For Change! Program
- 4: Resolution: Funding Allocation to Multicultural Institute to Implement the Life Skills Day Laborer: Healthy Activity Program
- 5: Resolution: Funding Allocation to YMCA of the East Bay to Implement the YMCA Diabetes Prevention and YMCA Healthy Me Programs
- 6: Resolution: Funding Allocation to Lifelong Medical Care to Implement the Chronic Disease and Oral Health Prevention Project
- 7: Resolution: Funding Allocation to Spiral Gardens to Implement the Community Food Security Project
- 8: Resolution: Funding Allocation to the Bay Area Community Resources to Implement the Healthy Options at the Point of Sale Project
- 9: Resolution: Funding Allocation to Fresh Approach to Implement VeggieRx Program for Healthy Food and Beverages
- 10: Resolution: Funding Allocation to Berkeley Youth Alternatives to Implement the Urban Agriculture and Teen Nutrition Program
- 11: Resolution: Funding Allocation to the Community Health Education Institute to Implement the Artists Against Soda Project
- 12: Resolution: Funding Allocation to the City of Berkeley Public Health Division to Implement the Healthy Berkeley Program
  - Exhibit A: Best Use Examples for Policy, Environmental and/or Systems Changes
- 13: Resolution: Allocation: \$4.75 Million Total for Reduction of Sugar-Sweetened Beverage Consumption Grant Program in FY 2020 and FY 2021

# CONTRACT: TOTAL FUNDING ALLOCATION OF \$1,900,000 FOR FY 2020 AND FY 2021 TO THE BERKELEY UNIFIED SCHOOL DISTRICT FOR THE GARDENING AND COOKING PROGRAM

WHEREAS, the consumption of Sugar-Sweetened Beverages (SSBs) in Berkeley is impacting the health of the people in Berkeley; and

WHEREAS, the City Council is committed to decreasing the consumption of SSBs and mitigating the harmful impacts of SSBs on the population of Berkeley; and

WHEREAS, on January 22, 2019, the City Council allocated \$4.75 million for FY 2020 and FY 2021 toward funding two-year grants for the purpose of reducing consumption of SSBs and addressing the effects of SSB consumption on health; and

WHEREAS, a Resolution No. 68,746-N.S. included a total allocation of up to 40% of the total allocated funds to Berkeley Unified School District to reduce the consumption of sugar-sweetened beverages (SSBs) through the implementation and enhancement of the BUSD gardening and cooking program for the period, July 1, 2019 to June 30, 2021; and

WHEREAS, a Request for Proposal (RFP) was released on January 25, 2019 and BUSD submitted a proposal in response to the RFP, which was evaluated by two separate review panels of SSBPPE Commissioners and the City of Berkeley Public Health Division staff, and determined to be responsive in meeting all aspects of the scope of the work and selection criteria and among the best selection for this contract; and

WHEREAS, funds in the total amount of \$1,900,000 to BUSD for two years (July 1, 2019 – June 30, 2021 will cover the expenses to implement the Gardening and Cooking Program to be disbursed in two equal amounts of \$950,000 each in FY 2020 and FY 2021 and will increase awareness and education about the health impacts of sugar drinks; improve access to water, increase family engagement, and encourage consumption of drinks with less/no sugar to BUSD students and their families; and

WHEREAS, the Gardening and Cooking Program requested \$872,600 annually in funding for FY 2020 and FY 2021, the additional funding amount of \$77,400 annually shall be used to enter into a subcontract of \$100,000 with the non-profit organization, 18 Reasons to implement the program, Cooking Matters in BUSD to be distributed as follows: \$50,000 per year in FY 2020 and FY 2021. Cooking Matters will: a. advocate for all BUSD schools to adopt a healthy celebrations/fundraising/sports program policy; b. train 5 Early Childhood Education teachers to be Health Promoters in order to facilitate Cooking Matters programs in their own communities with at least 400; and c. expand and strengthen outreach to licensed family child care homes in South and West Berkeley participants; and

WHEREAS, in addition to the Council's approval of the funding recommendation, the City Council action is required to authorize advances for BUSD in FY 2020 and FY2021. The advances are to be equivalent to 25% of the agency's allocation.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is authorized to execute a contract and any amendments with Berkeley Unified School District in the total amount not to exceed \$1,900,000 for the two-year period of July 1, 2019 to June 30, 2021.

A records signature copy of the said agreement and any amendments to be on file in the Office of the City Clerk.

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CONTRACT: TOTAL FUNDING ALLOCATION OF \$285,000 FOR FY 2020 AND FY2021 TO THE ECOLOGY CENTER TO IMPLEMENT FOR THIRST, WATER FIRST! PROGRAM

WHEREAS, high intake of Sugar-Sweetened Beverages (SSBs) is associated with risk of Type 2 diabetes, obesity, hypertension, dental decay and coronary heart disease; and

WHEREAS, over half of California adults (55%) have either prediabetes or diabetes; and

WHEREAS, the City Council is committed to decreasing the consumption of SSBs and mitigating the harmful impacts of SSBs on the population of Berkeley; and

WHEREAS, on January 22, 2019 (Resolution No. 68,746-N.S), the City Council allocated \$4.75 million for FY 2020 and FY 2021 toward funding two-year grants for the purpose of reducing consumption of SSBs and addressing the effects of SSB consumption on health; and

WHEREAS, a Request for Proposal (RFP) for CBOs was released on January 25, 2019, and the Ecology Center submitted a proposal in response to the RFP, which was evaluated by two separate review panels of SSBPPE Commissioners and City of Berkeley Public Health Division staff, and determined to be responsive in meeting all aspects of the scope of the work and selection criteria and among the best selection for this contract; and

WHEREAS, funds in the total amount of \$285,000 to the Ecology Center for two years (July 1, 2019 – June 30, 2021) will cover the expenses to implement For Thirst, Water First! Program to be disbursed in two equal amounts of \$142,500 each in FY 2020 and FY 2021 that will: a. increase capacity of Berkeley High School's Universal 9th Grade curriculum to deliver nutrition activities and benefits of drinking water vs SSBs. All freshman students will receive a free water bottle (Kleen Kanteen); b. increase tap water and healthy food consumption among youth and family members; and c. develop capacity of 30 Berkeley youth to serve as spokespeople, ambassadors, and advocates of timely policy initiatives that promote the consumption of tap water and healthy foods; and

WHEREAS, in addition to the Council's approval of the funding recommendation, the City Council action is required to authorize advances for select community agency receiving funds in FY 2020 and FY2021. The advances are to be equivalent to 25% of the agency's allocation.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager, or her designee, is authorized to execute a contract and any amendments with the Ecology Center in the total amount not to exceed \$285,000 for the two-year period of July 1, 2019 to June 30, 2021.

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A records signature copy of the said agreement and any amendments to be on file in the Office of the City Clerk.

Page 3 654

# CONTRACT: TOTAL FUNDING ALLOCATION OF \$590,000 FOR FY 2020 AND FY 2021 TO HEALTHY BLACK FAMILIES FOR THE THIRSTY FOR CHANGE! PROGRAM

WHEREAS, high intake of Sugar-Sweetened Beverages (SSBs) is associated with risk of Type 2 diabetes, obesity, hypertension, dental decay and coronary heart disease; and

WHEREAS, over half of California adults (55%) have either prediabetes or diabetes; and

WHEREAS, the City Council is committed to decreasing the consumption of SSBs and mitigating the harmful impacts of SSBs on the population of Berkeley; and

WHEREAS, on January 22, 2019 (Resolution No. 68,746-N.S), the City Council allocated \$4.75 million for FY 2020 and FY 2021 toward funding two-year grants for the purpose of reducing consumption of SSBs and addressing the effects of SSB consumption on health; and

WHEREAS, a Request for Proposal (RFP) for CBOs was released on January 25, 2019 and the Healthy Black Families submitted a proposal in response to the RFP, which was evaluated by two separate review panels of SSBPPE Commissioners and City of Berkeley Public Health Division staff members; determined to be responsive in meeting all aspects of the scope of the work and selection criteria; and stood out among the best selection for this contract; and

WHEREAS, funds in the total amount of \$590,000 to Healthy Black Families for two years (July 1, 2019 – June 30, 2021), budgeted will cover the expenses to implement Thirsty for Change! Program to be disbursed in two equal amounts of \$295,000 in FY 2020 and FY 2021 that will: a. continue to partner with Center for Food, Faith and Justice (CFFJ) who will engage 180 students in monthly activities related to SSBs at B-Tech, lead 12 gardening workshops, support 6 CFFJ Fellows who will reach 720 people with Rethink Your Drink and Health Equity presentations; b. deliver "Cook Smart" and "Meal Challenge" classes, engaging 480 women and their families in farmers market tours, hands-on cooking demonstrations, nutrition education and customized tours of grocery stores and convenience markets; c. train water ambassadors to share information about SSBs and water at events throughout the year; d. implement Voices for Change, the advocacy arm of T4C, to move beyond community education to community capacity to engage in longer term policy, systems, and/or environmental (PSE) changes; e. promote adoption of at least 5 new policies per year to address barriers to SSB reduction at church and community events; and

WHEREAS, in addition to the Council's approval of the funding recommendation, the City Council action is required to authorize advances for select community agency receiving funds in FY 2020 and FY 2021. The advances are to be equivalent to 25% of the agency's allocation.

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NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager, or her designee, is authorized to execute a contract and any amendments with Healthy Black Families in the amount not to exceed \$590,000 for the two-year period of July 1, 2019 to June 30, 2021.

A records signature copy of the said agreement and any amendments to be on file in the Office of the City Clerk.

Page 3 656

CONTRACT: TOTAL FUNDING ALLOCATION OF \$30,000 FOR FY 2020 AND FY 2021 TO THE MULTICULUTURAL INSTITUTE FOR THE LIFE SKILLS DAY LABORER: HEALTH ACTIVITY PROGRAM

WHEREAS, the consumption of Sugar-Sweetened Beverages (SSBs) in Berkeley is impacting the health of the people in Berkeley; and

WHEREAS, the City Council is committed to decreasing the consumption of SSBs and mitigating the harmful impacts of SSBs on the population of Berkeley; and

WHEREAS, on January 22, 2019 (Resolution No. 68,746-N.S), the City Council allocated \$4.75 million for FY 2020 and FY 2021 toward funding two-year grants for the purpose of reducing consumption of SSBs and addressing the effects of SSB consumption on health; and

WHEREAS, a Request for Proposal (RFP) for CBOs was released on January 25, 2019, and the Multicultural Institute submitted a proposal in response to the RFP, which was evaluated by two separate review panels of SSBPPE Commissioners and Public Health Division staff members; determined to be responsive in meeting all aspects of the scope of the work and selection criteria; and stood out among the best selection for this contract; and

WHEREAS, funds in the total amount of \$30,000 to Multicultural Institute for two years (July 1, 2019 – June 30, 2021) will cover the expenses to implement Life Skills Day Laborer: Health Activity program to be disbursed in two equal amounts of \$15,000 each in FY 2020 and FY 2021 that will: a. offer cultural and language appropriate information on the serious risks of consuming sugar sweetened beverages (SSB) to uninsured/underinsured immigrants, day laborers, and other low-income families in West Berkeley; b. provide information about health conditions related to SSBs, c. offer prevention resources and connect families to key services for these conditions when needed; d. create a policy to provide healthier food and beverages in their meal/snack offerings; and

WHEREAS, in addition to the Council's approval of the funding recommendation, the City Council action is required to authorize advances for select community agency receiving funds in FY 2020 and FY 2021. The advances are to be equivalent to 25% of the agency's allocation.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager, or her designee, is authorized to execute a contract and any amendments with Multicultural Institute in the amount not to exceed \$30,000 for the two-year period of July 1, 2019 to June 30, 2021.

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# CONTRACT: TOTAL FUNDING ALLOCATION OF \$310,000 FOR FY 2020 AND FY 2021 TO THE YMCA OF THE EAST BAY FOR THE YMCA DIABETES PREVENTION AND YMCA HEALTHY ME PROGRAMS

WHEREAS, the consumption of Sugar-Sweetened Beverages (SSBs) in Berkeley is impacting the health of the people in Berkeley; and

WHEREAS, the City Council is committed to decreasing the consumption of SSBs and mitigating the harmful impacts of SSBs on the population of Berkeley; and

WHEREAS, on January 22, 2019 (Resolution No. 68,746-N.S), the City Council allocated \$4.75 million for FY 2020 and FY 2021 toward funding two-year grants for the purpose of reducing consumption of SSBs and addressing the effects of SSB consumption on health; and

WHEREAS, a Request for Proposal (RFP) for CBOs was released on January 25, 2019, and the YMCA of the Central Bay submitted a proposal in response to the RFP, which was evaluated by two separate review panels of SSBPPE Commissioners and City of Berkeley Public Health Division staff members; determined to be responsive in meeting all aspects of the scope of the work and selection criteria; and stood out among the best selection for this contract; and

WHEREAS, funds in the total amount of \$310,000 to the YMCA of the East Bay for two years (July 1, 2019 – June 30, 2021) will cover the expenses to implement the YMCA Diabetes Prevention (YDPP) and the YMCA Healthy ME (YHME) programs to be disbursed in two equal amounts of \$70,000 for YDPP and \$85,000 for YHME in FY 2020 and FY 2021 that will: a. support the YMCA's Diabetes Prevention Program by: i) utilizing a CDC-recognized curriculum to prevent type 2 diabetes and prediabetes through coaching in healthy eating, physical activity, and behavior changes for adults (18+) at high risk of developing type 2 diabetes, and ii) promote systems change through partnerships with Head Start and Lifelong Care; and b. support the YMCA Healthy ME program to: i) provide the Healthy Me Kids Music and Movement Program to all children in the YMCA, BUSD, Centro Vida, and UC Berkeley Childcare sites focusing on choosing water over SSBs combining with nutrition, fitness, hygiene, and social skills; ii) provide water hydration stations at the 4 YMCA Head Start sites; and iii) organize quarterly family engagement meetings; and

WHEREAS, in addition to the Council's approval of the funding recommendation, the City Council action is required to authorize advances for select community agency receiving funds in FY 2020 and FY 2021. The advances are to be equivalent to 25% of the agency's allocation.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager, or her designee, is authorized to execute a contract and any amendments

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with the YMCA of the East Bay in the amount not to exceed \$310,000 for the two-year period of July 1, 2019 to June 30, 2021.

CONTRACT: TOTAL FUNDING ALLOCATION OF \$270,000 FOR FY 2020 AND FY 2021 TO LIFELONG MEDICAL CARE FOR THE CHRONIC DISEASE AND ORAL HEALTH PREVENTION PROJECT

WHEREAS, the consumption of Sugar-Sweetened Beverages (SSBs) in Berkeley is impacting the health of the people in Berkeley; and

WHEREAS, the City Council is committed to decreasing the consumption of SSBs and mitigating the harmful impacts of SSBs on the population of Berkeley; and

WHEREAS, on January 22, 2019 (Resolution No. 68,746-N.S), the City Council allocated \$4.75 million for FY 2020 and FY 2021 toward funding two-year grants for the purpose of reducing consumption of SSBs and addressing the effects of SSB consumption on health; and

WHEREAS, a Request for Proposal (RFP) for CBOs was released on January 25, 2019, and the Lifelong Medical Care submitted a proposal in response to the RFP, which was evaluated by two separate review panels of SSBPPE Commissioners and City of Berkeley Public Health Division staff members; determined to be responsive in meeting all aspects of the scope of the work and selection criteria; and stood out among the best selection for this contract; and

WHEREAS, funds in the amount of \$270,000 to Lifelong Medical Care for two years (July 1, 2019 – June 30, 2021) will cover the expenses to implement the Chronic Disease and Oral Health Prevention Project to be disbursed in two equal amounts of \$135,000 each in FY 2020 and FY 2021 developing and implementing an evidence-based dental caries prevention program that expands access to oral health screening, education and treatment for low-income Berkeley residents that will: a. reach approximately 20,000 low income residents with chronic disease prevention and oral health education; b. conduct 3,250 hypertension screenings and 250 dental treatments; and c. expand opportunities to bring the Dental Van to six Heart 2 Heart events annually; and

WHEREAS, in addition to the Council's approval of the funding recommendation, the City Council action is required to authorize advances for select community agency receiving funds in FY 2020 and FY 2021. The advances are to be equivalent to 25% of the agency's allocation.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager, or her designee, is authorized to execute a contract and any amendments with Lifelong Medical Care in the amount not to exceed \$270,000 for the two-year period of July 1, 2019 to June 30, 2021.

# CONTRACT: TOTAL FUNDING ALLOCATION OF \$80,000 FOR FY 2020 AND FY 2021 TO SPIRAL GARDENS FOR THE SPIRAL GARDENS COMMUNITY FOOD SECURITY PROJECT

WHEREAS, the consumption of Sugar-Sweetened Beverages (SSBs) in Berkeley is impacting the health of the people in Berkeley; and

WHEREAS, the City Council is committed to decreasing the consumption of SSBs and mitigating the harmful impacts of SSBs on the population of Berkeley; and

WHEREAS, on January 22, 2019 (Resolution No. 68,746-N.S), the City Council allocated \$4.75 million for FY 2020 and FY 2021 toward funding two-year grants for the purpose of reducing consumption of SSBs and addressing the effects of SSB consumption on health; and

WHEREAS, a Request for Proposal (RFP) for CBOs was released on January 25, 2019, and the Spiral Gardens submitted a proposal in response to the RFP, which was evaluated by two separate review panels of SSBPPE Commissioners and City of Berkeley Public Health Division staff members; determined to be responsive in meeting all aspects of the scope of the work and selection criteria; and stood out among the best selection for this contract; and

WHEREAS, funds in the amount of \$80,000 to Spiral Gardens for two years (July 1, 2019 – June 30, 2021) will cover the expenses to implement the Spiral Gardens Community Food Security Project to be disbursed in two equal amounts of \$40,000 each in FY 2020 and FY 2021 that will: a. expand community farm engagement and production and nursery food plant production; b. improve outdoor classroom with more seating, shelter and improved cooking facilities for cooking demos for increased number of workshops; c. offer outside teachers stipends for their time; d. hire a nursery growth manager to expand nursery healthy food production and income; and e. install a water hydration station; and

WHEREAS, in addition to the Council's approval of the funding recommendation, the City Council action is required to authorize advances for select community agency receiving funds in FY 2020 and FY 2021. The advances are to be equivalent to 25% of the agency's allocation.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager, or her designee, is authorized to execute a contract and any amendments with Spiral Gardens in the amount not to exceed \$80,000 for the two-year period of July 1, 2019 to June 30, 2021.

# CONTRACT: TOTAL FUNDING ALLOCATION OF \$135,880 FOR FY 2020 AND FY 2021 TO BAY AREA COMMUNITY RESOURCES FOR THE HEALTHY OPTIONS AT POINT OF SALE PROJECT

WHEREAS, the consumption of Sugar-Sweetened Beverages (SSBs) in Berkeley is impacting the health of the people in Berkeley; and

WHEREAS, the City Council is committed to decreasing the consumption of SSBs and mitigating the harmful impacts of SSBs on the population of Berkeley; and

WHEREAS, on January 22, 2019 (Resolution No. 68,746-N.S), the City Council allocated \$4.75 million for FY 2020 and FY 2021 toward funding two-year grants for the purpose of reducing consumption of SSBs and addressing the effects of SSB consumption on health; and

WHEREAS, a Request for Proposal (RFP) for CBOs was released on January 25, 2019, and the Bay Area Community Resources submitted a proposal in response to the RFP, which was evaluated by two separate review panels of SSBPPE Commissioners and the City of Berkeley Public Health Division staff members; determined to be responsive in meeting all aspects of the scope of the work and selection criteria; and stood out among the best selection for this contract; and

WHEREAS, funds in the amount of \$135,880 to Bay Area Community Resources for two years (July 1, 2019 – June 30, 2021) will cover the expenses to implement the Healthy Options at Point of Sale Project to be disbursed in two equal amounts of \$67,940 each in FY 2020 and FY 2021 that will: a. continue with recruitment and training of advocates to form a Berkeley Advocacy Team to increase knowledge of food justice and the role of retail food environment in contributing to diet-related disease and developing research, facilitation, and speaking skill; and b. continue and strengthen collaboration with Healthy Black Families, Alameda County Public Health Division, CSPI, Ecology Center, and other CBOs to gain support for the passage of a city-wide healthy check-out policy; and

WHEREAS, in addition to the Council's approval of the funding recommendation, the City Council action is required to authorize advances for select community agency receiving funds in FY 2020 and FY 2021. The advances are to be equivalent to 25% of the agency's allocation.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager, or her designee, is authorized to execute a contract and any amendments with Bay Area Community Resources in the amount not to exceed \$135,880 for the two-year period of July 1, 2019 to June 30, 2021.

# CONTRACT: TOTAL FUNDING ALLOCATION OF \$32,792 FOR FY 2020 AND FY2021 TO FRESH APPROACH TO IMPLEMENT VEGGIERX PROGRAM FOR HEALTHY FOOD AND BEVERAGES

WHEREAS, high intake of Sugar-Sweetened Beverages (SSBs) is associated with risk of Type 2 diabetes, obesity, hypertension, dental decay and coronary heart disease; and

WHEREAS, over half of California adults (55%) have either prediabetes or diabetes; and

WHEREAS, the City Council is committed to decreasing the consumption of SSBs and mitigating the harmful impacts of SSBs on the population of Berkeley; and

WHEREAS, on January 22, 2019 (Resolution No. 68,746-N.S), the City Council allocated \$4.75 million for FY 2020 and FY 2021 toward funding two-year grants for the purpose of reducing consumption of SSBs and addressing the effects of SSB consumption on health; and

WHEREAS, a Request for Proposal (RFP) for CBOs was released on January 25, 2019, and Fresh Approach submitted a proposal in response to the RFP, which was evaluated by two separate review panels of SSBPPE Commissioners and the City of Berkeley Public Health Division staff, and determined to be responsive in meeting all aspects of the scope of the work and selection criteria and among the best selection for this contract; and

WHEREAS, funds in the total amount of \$32,792 to Fresh Approach for two years (July 1, 2019 – June 30, 2021) will cover the expenses to implement VeggieRx Program for Healthy Food and Beverages to be disbursed in two equal amounts of \$16,396 each in FY 2020 and FY 2021 that will: a. utilize a train-the-trainer approach with AmeriCorps volunteers to maximize the resources; and b. develop and institutionalize successful nutrition education classes in group settings by creating a resource kit on SSBs that will standardize education on this topic for future years and will allow evaluation of the outcomes; and

WHEREAS, in addition to the Council's approval of the funding recommendation, the City Council action is required to authorize advances for select community agency receiving funds in FY 2020 and FY 2021. The advances are to be equivalent to 25% of the agency's allocation.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager, or her designee, is authorized to execute a contract and any amendments with Fresh Approach in the total amount not to exceed \$32,792 for the two-year period of July 1, 2019 to June 30, 2021.

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# CONTRACT: TOTAL FUNDING ALLOCATION OF \$97,000 FOR FY 2020 AND FY 2021 TO BERKELEY YOUTH ALTERNATIVES FOR THE URBAN AGRICULTURE AND TEEN NUTRITION PROGRAM

WHEREAS, the consumption of Sugar-Sweetened Beverages (SSBs) in Berkeley is impacting the health of the people in Berkeley; and

WHEREAS, the City Council is committed to decreasing the consumption of SSBs and mitigating the harmful impacts of SSBs on the population of Berkeley; and

WHEREAS, on January 22, 2019 (Resolution No. 68,746-N.S), the City Council allocated \$4.75 million for FY 2020 and FY 2021 toward funding two-year grants for the purpose of reducing consumption of SSBs and addressing the effects of SSB consumption on health; and

WHEREAS, a Request for Proposal (RFP) for CBOs was released on January 25, 2019, and Berkeley Youth Alternatives submitted a proposal in response to the RFP, which was evaluated by two separate review panels of SSBPPE Commissioners and the City of Berkeley Public Health Division staff members; determined to be responsive in meeting all aspects of the scope of the work and selection criteria; and stood out among the best selection for this contract; and

WHEREAS, funds in the amount of \$97,000 to Berkeley Youth Alternatives for two years (July 1, 2019 – June 30, 2021) will cover the expenses to implement the Urban Agriculture and Teen Nutrition Program to be disbursed in two equal amounts of \$48,500 each in FY 2020 and FY 2021 that will: a. recruit, hire, and train 4 garden and nutrition youth educators to promote healthy alternatives to SSBs and conduct interactive workshops to at least 1000 children and youth; b. engage Youth Educators will assist with re-launch of the BYA "no-cost" Community-Supported Agriculture (CSA) Program to provide monthly boxes of fresh fruits and vegetables; and c. advocate for environmental change to encompass the conversion of unused land adjacent to the COB Corporation Yard for community garden space; and

WHEREAS, in addition to the Council's approval of the funding recommendation, the City Council action is required to authorize advances for select community agency receiving funds in FY 2020 and FY 2021. The advances are to be equivalent to 25% of the agency's allocation.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager, or her designee, is authorized to execute a contract and any amendments Berkeley Youth Alternatives in the amount not to exceed \$97,000 for the two-year period of July 1, 2019 to June 30, 2021.

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# CONTRACT: TOTAL FUNDING ALLOCATION OF \$69,328 FOR FY 2020 AND FY 2021 TO COMMUNITY HEALTH EDUCATION INSTITUTE FOR THE ARTISTS AGAINST SODA PROJECT

WHEREAS, the consumption of Sugar-Sweetened Beverages (SSBs) in Berkeley is impacting the health of the people in Berkeley; and

WHEREAS, the City Council is committed to decreasing the consumption of SSBs and mitigating the harmful impacts of SSBs on the population of Berkeley; and

WHEREAS, on January 22, 2019 (Resolution No. 68,746-N.S), the City Council allocated \$4.75 million for FY 2020 and FY 2021 toward funding two-year grants for the purpose of reducing consumption of SSBs and addressing the effects of SSB consumption on health; and

WHEREAS, a Request for Proposal (RFP) for CBOs was released on January 25, 2019, and the Community Health Education Institute submitted a proposal in response to the RFP, which was evaluated by two separate review panels of SSBPPE Commissioners and the City of Berkeley Public Health Division staff members; determined to be responsive in meeting all aspects of the scope of the work and selection criteria; and stood out among the best selection for this contract; and

WHEREAS, funds in the amount of \$69,328 to the Community Health Education Institute for two years (July 1, 2019 – June 30, 2021) will cover the expenses to implement the Artists Against Soda Project to be disbursed in two equal amounts of \$34,664 each in FY 2020 and FY 2021 that will: a. advocate to the City Council on the need to adopt a city-wide policy on SSBs, meaning no procurement, no selling, no serving; b. advocate to prohibit supermarkets and grocery stores from displaying SSBs near the checkout counter and establish healthy checkout aisles in the downtown area; c. offer student created art with information on the health hazards of SSBs to replace advertising for SSBs; d. award merchants who display youth art, reduce soda space, and/or soda promotional signage with awards at City Council; e. form a Berkeley City College (BCC) Health Awareness Club to recruit student mentors to educate youth to promote the reduction of SSBs; and f. hold a downtown Berkeley art show/art awards/art contest with youth entries at BCC; and

WHEREAS, in addition to the Council's approval of the funding recommendation, the City Council action is required to authorize advances for select community agency receiving funds in FY 2020 and FY 2021. The advances are to be equivalent to 25% of the agency's allocation.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager, or her designee, is authorized to execute a contract and any amendments

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with Community Health Education Institute in the amount not to exceed \$69,328 for the two-year period of July 1, 2019 to June 30, 2021.

# TOTAL FUNDING ALLOCATION OF \$950,000 FOR FY 2020 AND FY 2021 TO THE CITY OF BERKELEY PUBLIC HEALTH DIVISION TO SUPPORT AND ENHANCE THE HEALTHY BERKELEY PROGRAM

WHEREAS, the consumption of Sugar-Sweetened Beverages (SSBs) in Berkeley is impacting the health of the people in Berkeley; and

WHEREAS, the City Council is committed to decreasing the consumption of SSBs and mitigating the harmful impacts of SSBs on the population of Berkeley; and

WHEREAS, on January 22, 2019 (Resolution No. 68,746-N.S), the City Council allocated \$4.75 million for FY 2020 and FY 2021 for the purpose of reducing consumption of SSBs and addressing the effects of SSB consumption on health with the following recommendation: direct the City Manager to utilize 20% of the allocated funds to support the City of Berkeley Public Health Division (BPHD) to coordinate and monitor the grant process; evaluate and enhance the Healthy Berkeley Program; produce an annual report that informs the public and disseminates outcome data; and manage a comprehensive and sustainable media campaign with 10% of the BPHD allocation; and

WHEREAS, the BPHD allocation of Healthy Berkeley Program funding shall not supplant any existing funding and shall be used solely in support of or to enhance the Healthy Berkeley Program; and

WHEREAS, the costs attributed to the Healthy Berkeley Program funding shall not exceed amounts allocated by City Council per fiscal year for this program; and

WHEREAS, the net increase of funding for BPHD is \$405,000 for FY 2020 and FY 2021, the BPHD shall use these additional funds on policy, system, and/or environmental (PSE) strategies, as suggested in Exhibit A of the corresponding Council Report, to support and enhance the Healthy Berkeley Program while collaborating with local CBOs and working in partnership with the SSBPPE Commission in a transparent and open manner; and

WHEREAS, funds in the amount of \$950,000 to BPHD for two years (July 1, 2019 – June 30, 2021) are to be disbursed in two equal amounts of \$475,000 each in FY 2020 and FY 2021; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager, or her designee, is authorized to disburse to the BPHD in the amount not to exceed \$950,000 for the two-year period of July 1, 2019 to June 30, 2021.

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### Exhibit:

A: Best Use Examples for Policy, Environmental and/or Systems Changes

#### **EXHIBIT A:**

## BEST USE EXAMPLES FOR POLICY, ENVIRONMENTAL AND/OR SYSTEMS CHANGES

Best use examples for policy, environmental and/or systems changes recommended by the SSBPPE Commission for the City of Berkeley Public Health Division include the following:

- Healthy retail strategies to support local retailers in efforts to sell healthier beverage options including but not limited to: changing marketing in windows and at checkout; offer only healthy drinks at checkout; increase the percentage of healthy beverages in the store.
- Establishing a stand to sell healthy beverages to Berkeley High School and B-tech students at lunch.
- Increasing free, clean drinking water access in parks, schools and shopping areas
  of Berkeley and adding drinking fountains or incentivizing businesses to offer free
  drinking water to customers and non-customers.
- Increase the budget for the media campaign above the 10% directed in the Council Action item #27A (1/22/19).

## ALLOCATION: \$4.75 MILLION TOTAL FOR REDUCTION OF SUGAR-SWEETENED BEVERAGE CONSUMPTION GRANT PROGRAM IN FY 2020 AND FY 2021

WHEREAS, the consumption of sugar-sweetened beverages ("SSB") in Berkeley is impacting the health of the people in Berkeley; and

WHEREAS, in FY 2018 and FY 2019, the City Council awarded a total of \$3 million upon the recommendation of the SSBPPE Commission to demonstrate the City's long-term commitment to decreasing the consumption of SSB and mitigate the harmful impacts of SSB on the population of Berkeley; and

WHEREAS, on January 22, 2019, the Berkeley City Council unanimously approved Action Items 27A and 27B (Resolution No. 68,746-N.S.), wherein Action Item 27A recommended an allocation of \$4.75 million over two years, FY 2020 and FY 2021, to fund the Healthy Berkeley Program; and

WHEREAS, Action Item 27B was a companion report which accepted the SSBPPE Commission's report in Action Item 27A and offered no other fiscal recommendation and clarified that Measure D revenues cannot be aligned dollar-for-dollar with the Healthy Berkeley Program; and

WHEREAS, many studies demonstrate that high intake of SSB is associated with risk of Type 2 Diabetes, obesity, tooth decay, and coronary heart disease; and

WHEREAS, hundreds of millions of dollars have been spent in an ongoing massive marketing campaign, which particularly targets children and people of color; and

WHEREAS, an African American resident of Berkeley is 14 times more likely than a White resident to be hospitalized for diabetes; and

WHEREAS, 40% of 9th graders in Berkeley High School are either overweight or obese; and

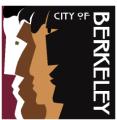
WHEREAS, tooth decay is the most common childhood disease, experienced by over 70% of California's 3rd graders; and

WHEREAS, in 2012, a U.S. national research team estimated levying a penny-per-ounce tax on sweetened beverages would prevent nearly 100,000 cases of heart disease, 8,000 strokes, and 26,000 deaths over the next decade and 240,000 cases of diabetes per year nationwide.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager, or her designee, is hereby authorized to allocate \$4.75 million from the

General Fund to be disbursed in two (2) installments of \$2.375 million in FY 2020 and \$2.375 million in FY 2021 and invested as follows:

- Allocate up to 40% of the allocated funds to Berkeley Unified School District (BUSD) through a grant proposal to reduce the consumption of sugar-sweetened beverages (SSBs) through the implementation and enhancement of the BUSD cooking and gardening programs for the period, July 1, 2019 to June 30, 2021; and
- Allocate at least 40% of the allocated funds through a RFP process managed by the City of Berkeley Public Health Division (BPHD) for grants to community-based organizations consistent with the SSPPE's goals to reduce the consumption of SSB and to address the effects of SSB consumption for the period July 1, 2019 to June 30, 2021; and
- 3. Allocate 20% of the allocated funds to support the BPHD to coordinate and monitor the grant process, coordinate the overall program evaluation, and produce an annual report that disseminates process and outcome data resulting from the SSBPPE funding program. A comprehensive and sustainable media campaign that coordinates with all regional soda tax efforts will be managed by BPHD with 10% of this portion of the allocation.



Sugar- Sweetened Beverage Product Panel of Experts

ACTION CALENDAR May 14, 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: Grant Allocation: Approve Funding Recommendation for

Programs to Reduce Consumption of Sugar-Sweetened Beverages

(SSBs)

### RECOMMENDATION

Adopt the Sugar Sweetened Beverage Product Panel of Experts' (SSBPPE) funding recommendations and twelve (12) resolutions authorizing the City Manager to enter in contracts with the Berkeley Unified School District and the Community Based Organizations for FY2020 and FY2021 with the following caveats: 1) remove the City of Berkeley as a grantee and remove the resolution that is included as Resolution #12 in the SSBPPE Commission's Council report relating to the Public Health division, 2) adopt Resolution #13 in the SSBPPE Commission's Council report and amend the amount to be distributed as \$4.474 million, as was passed by Council on January 22, 2019, and 3) reduce all grantees' and the Public Health division allocations equally to reach the adopted figure (about 5%).

### FISCAL IMPACTS OF RECOMMENDATION

Council allocated \$4.474 million on 1/22/19. If Council approves the amounts reflected in the SSBPPE report, it will increase the general fund allocation to this effort by \$276,000 from \$4.474 million to \$4.750 million.

### CURRENT SITUATION AND ITS EFFECTS

At the January 22, 2019 Council Meeting, the council approved a resolution to allocate \$4.474 million of the General Fund for FY 2020 and FY2021 with the following direction:

- 40% of the allocation to Berkeley Unified School District
- 40% of the allocation towards grants to community-based organizations to be managed by the Public Health Division
- 20% of the allocation to the Berkeley Public Health Division to support the coordination and monitoring of the grant process, coordination of the overall program evaluation, and produce and annual report with 10% of this portion of the allocation to fund and manage a media campaign.

The language from the annotated agenda of that meeting states:

Companion Report: Grant Allocation for SSB Reduction

**Action:** Items 27a and 27b moved to Consent Calendar. Adopted Resolution No. 68,746–N.S. from Item 27a revised to include the dollar amounts in 27b.

The dollar amounts referred to in the City Manager's report clarified that if Council wanted to augment the base funding level of \$3 million dollars to more closely correspond with the revenues generated from Measure B, the additional amount to be allocated was \$1.474 million (not \$1.75 million as stated in item 27a), resulting in a total allocation of \$4.474 million dollars. This amount was included in the final language of the resolution adopted, Resolution No. 68,746-N.S. As noted above, if Council agrees to the lower, approved amount, each funded agency and the public health division should have their award decreased by approximately 5%, as opposed to taking all of that money from the public health division, which would change the percentage of distributions approved in the January 22, 2019 meeting.

In its recommendations to fund community-based organizations, the SSBPPE is recommending that the City of Berkeley be included as a grantee with direction of the work staff must perform. The allocation of general fund to the Public Health division is done through the annual budget appropriation process and the division cannot be a grantee of the City for City general funds. Additionally, it is not within the purview of the SSBPPE to assign or direct staff work, this remains the responsibility and authority of the City Manager.

### **BACKGROUND**

In November 2014, the City of Berkeley passed a general tax ordinance on the distribution of sugar-sweetened beverage products in the City. This ordinance also provided for a Sugar Sweetened Beverage Product Panel of Experts to "make recommendations on how and to what extent the City should fund programs to further reduce the consumption of sugar-sweetened Beverages in Berkeley and address the consequences of such consumption."

The resolution approved by the Council allowed for administrative funding for the administration and monitoring of the grantee contracts, evaluation, and supporting the development of an annual report. This administrative funding allowed for the staffing (i.e. secretary for the commission, administrator for grant management, staff for evaluation, etc.) and operational costs associated with supporting this effort.

### **ENVIRONMENTAL SUSTAINABILITY**

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

Companion Report: Grant Allocation for SSB Reduction

### RATIONALE FOR RECOMMENDATION

The Council passed a resolution on January 22, 2019 for an allocation of \$4.474 million to support this important work. The City Manager supports the funding recommendations of the SSBPPE, and wants to match the funding amount previously approved by City Council. It is also inappropriate for the SBBPPE to direct staff work or include City of Berkeley programs as a grantee of City of Berkeley general funds.

### ALTERNATIVE ACTIONS CONSIDERED

The Council can adopt the SSBPPE recommendations of \$4.75 million and allocate an additional \$276,000 in general funds to cover the increased expenses; the Council can allocate the original figure passed by Council on 1/22/19 (\$4.474 million) and reduce recommended allocations equally by approximately 5%; or Council can recommend the \$4.363 amount reflected in the RFP which represents the actual dollar amount the City of Berkeley estimates is available to fund these programs, resulting in a decrease of approximately 8% to all funded entities.

### **CONTACT PERSON**

Kelly Wallace, Interim Director, HHCS, 981-5107

#### Attachments:

1: Resolution No. 68,746-N.S. Allocation: \$4.474 Million Total for Sugar-Sweetened Beverage Consumption and Reduction Grant Program in FY20/21

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### RESOLUTION NO. 68,746-N.S.

## ALLOCATION: \$4.474 MILLION TOTAL FOR SUGAR-SWEETENED BEVERAGE CONSUMPTION AND REDUCTION GRANT PROGRAM IN FY20 AND FY21

WHEREAS, the consumption of sugar-sweetened beverages ("SSB") in Berkeley is impacting the health of the people in Berkeley; and

WHEREAS, in FY18 and FY19, the City Council awarded a total of \$3 million upon the recommendation of the SSBPPE Commission to demonstrate the City's long-term commitment to decreasing the consumption of SSB and mitigate the harmful impacts of SSB on the population of Berkeley; and

WHEREAS, many studies demonstrate that high intake of SSB is associated with risk of Type 2 Diabetes, obesity, tooth decay, and coronary heart disease; and

WHEREAS, hundreds of millions of dollars have been spent in an ongoing massive marketing campaign, which particularly targets children and people of color; and

WHEREAS, an African American resident of Berkeley is 14 times more likely than a White resident to be hospitalized for diabetes; and

WHEREAS, 40% of 9<sup>th</sup> graders in Berkeley High School are either overweight or obese; and

WHEREAS, tooth decay is the most common childhood disease, experienced by over 70% of California's 3rd graders; and

WHEREAS, in 2012, a U.S. national research team estimated levying a penny-per-ounce tax on sweetened beverages would prevent nearly 100,000 cases of heart disease, 8,000 strokes, and 26,000 deaths over the next decade and 240,000 cases of diabetes per year nationwide.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to allocate \$4.474 million from the General Fund to be disbursed in two (2) installments of \$2.237 million in FY20 and \$2.237 million in FY21 and invested as follows:

- Allocate up to 40% of the allocated funds to Berkeley Unified School District (BUSD) through a grant proposal to reduce the consumption of sugar-sweetened beverages (SSBs) through the implementation and enhancement of the BUSD cooking and gardening programs for the period, July 1, 2019 to June 30, 2021; and
- 2. Allocate at least 40% of the allocated funds through a RFP process managed by the Public Health Division for grants to community-based organizations consistent

### Page 5 of 5

- with the SSBPPE's goals to reduce the consumption of SSB and to address the effects of SSB consumption for the period, July 1, 2019 to June 30, 2021; and
- 3. Allocate 20% of the allocated funds to support the Berkeley Public Health Division (BPHD) to coordinate and monitor the grant process, coordinate the overall program evaluation, and produce an annual report that disseminates process and outcome data resulting from the SSBPPE funding program. A comprehensive and sustainable media campaign that coordinates with all regional soda tax efforts will be managed by BPHD with 10% of this portion of the allocation.

A records signature copy of the said agreement and any amendments to be on file in the Office of the City Clerk.

The foregoing Resolution was adopted by the Berkeley City Council on January 22, 2019 by the following vote:

Ayes:

Bartlett, Davila, Droste, Hahn, Harrison, Kesarwani, Robinson, Wengraf,

and Arreguin.

Noes:

None.

Absent:

None.

Attest:

Mark Numainville, City Clerk



Cheryl Davila Councilmember District 2

ACTION CALENDAR May 14, 2019

TO: Members of City Council

FROM: Councilmembers Cheryl Davila, Kate Harrison, and Sophie Hahn

Subject: Authorizing Additional Inclement Weather Shelter at Old City Hall from April 15,

2019-June 30, 2019

### **RECOMMENDATION**

 Authorize the City Manager to maintain open an as-needed inclement weather shelter from April 15, 2019 - June 30, 2019, to provide safe, indoor locations for our unhoused community during inclement weather, including changing the cold temperature to below 45 degrees, rain, and add extreme heat and atmospheric pollution such as smoke.

- 2. Approving the allocation of \$60,000 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 June 30, 2019, and possible program expansion in order to increase number of unhoused people served.

### **FINANCIAL IMPLICATIONS**

The City Council on June 26, 2018, by adoption of the FY 2019 Mid-Biennial Budget Update approved \$400,000 General Funds for an expanded Emergency Shelter program. Funding for the additional inclement weather shelter will come from this budget allocation or from State Homeless Emergency Aid Program (HEAP) funding. The City of Berkeley is expected to receive over \$3 million in HEAP funding.

#### **BACKGROUND**

Dorothy Day House (DDH) has operated the Berkeley Emergency Storm Shelter (BESS) for fifteen years. Up until FY17, DDH operated BESS as an overnight shelter on a first-come, first-served basis for up to 45 nights for a maximum capacity of 65 people each night. The BESS would open if rain or temperatures at or below 40 degrees were expected overnight. For the past several years, DDH had operated the BESS at different faith based and City of Berkeley owned sites.

At its October 31, 2017, meeting the City Council extended resolutions passed on January 19, 2016

#### Page 2 of 3

and November 15, 2016, declaring a homeless shelter crisis in Berkeley through January 19, 2020. The extension authorizes the City Manager to allow homeless people to occupy designated City facilities as shelters during the period of the crisis.

In recognition of the homeless shelter crisis, and the growing number of unhoused persons in the City of Berkeley, the City Council in November 2018 directed the City Manager to utilize unused Old City Hall for uses that included emergency shelter. At its March 12, 2019, the City Council allocated funds totaling \$60,000 for BESS at 2134 MLK, Old City Hall under license with DDH.

While the City Manager currently is authorized to operate a nightly Emergency Shelter, through April 15, 2019, direction is needed from Council regarding to continuation of shelter services at Old City Hall through June 30, 2019.

### **ENVIRONMENTAL SUSTAINABILITY**

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

### **CONTACT PERSON**

Cheryl Davila Councilmember District 2 510.981.7120

#### Page 3 of 3

#### **RESOLUTION NO. XXXX**

FY19 EXPANDED EMERGENCY SHELTER: ADDITIONAL ALLOCATION OF FUNDING AND AUTHORIZATION OF CONTRACT AMENDMENT WITH DOROTHY DAY HOUSE FOR INCLEMENT WEATHER SHELTER OPERATIONS AT OLD CITY HALL

**WHEREAS**, the City of Berkeley is committed to providing a humane response to addressing homelessness; and

**WHEREAS,** on June 26, 2018, City Council allocated \$400,000 to Expanded Emergency Shelter Program efforts in FY19, which included funding for Dorothy Day House and for other costs incurred by City staff; and

**WHEREAS**, total spending on the Expanded Emergency Shelter Program so far exceeds the current \$60,000 allocation to Dorothy Day House to operate the Old City Hall (2134 MLK) shelter and for other costs incurred by the City and necessary to continue shelter operations; and

**WHEREAS,** the existing budget will fund shelter operations only through April 15, 2019, and \$60,000 is needed to extend the shelter through June 30, 2019; and

**WHEREAS**, \$60,000 in additional funds are needed to add to the original allocation of \$60,000 to provide expanded inclement weather shelter through June 30, 2019 and will be brought into the budget in the second Appropriations Ordinance; and

**WHEREAS**, Dorothy Day House has an existing contract (Contract No. 010577D) with the City of Berkeley totaling \$639,648 for both winter shelter and homeless breakfast services;

**NOW THEREFORE, BE IT RESOLVED** by the Council of the City of Berkeley that the City Council authorizes the City Manager or her designee to execute an amendment to Contract No. 10577E with Dorothy Day House to add \$60,000 to extend the operation of the Berkeley Emergency Storm Shelter (BESS) through June 30, 2019, for a total contract amount not to exceed \$60,000. A record copy of said agreement is on file with the City Clerk.



ACTION CALENDAR May 14, 2019

**To:** Honorable Mayor and Members of the City Council

From: Councilmember Cheryl Davila

**Subject:** Budget Referral: Remediation of Lawn Bowling, North Green and Santa

Fe Right-of-Way, FY2020-2021

## RECOMMENDATION

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.

Refer to the Homeless Services Panel of Experts to consider Measure P funds for remediation purposes for these properties.

## FISCAL IMPACTS OF RECOMMENDATION

Costs of remediation are estimated to range from \$150,000- \$TBD.

### BACKGROUND

The City Attorney advised that in order to put a RFP out for the Lawn Bowler's and the North Green properties that remediation must be completed by the City first. Funding the currently needed reclamation is critical to preservation of these valuable City of Berkeley land assets and preventing further deterioration which would result in greater future costs of remediation.

Phase 1 and Phase 2 analysis was completed approximately four years ago. This item is seeking to confirm provision of either the General Fund or Measure P funds required to restore these areas which could provide an opportunity to create affordable tiny homes communities with gardens for the entire community.

### RATIONALE FOR RECOMMENDATION

Remediation of these green spaces is in keeping with Berkeley's commitment of creating equitable housing opportunities for Berkeley residents. These properties would be ideal to create tiny home communities with food forests and gardens.

# **FINANCIAL IMPLICATIONS**

Depending on assessment of the level of remediation required, costs are estimated to range from \$150,000 - TBD.

# **ENVIRONMENTAL SUSTAINABILITY**

Preservation of green spaces through remediation adds significantly to the environmental quality of life in Berkeley and operates to offset impacts of greenhouse gases affecting the overall environment.

# **CONTACT PERSON**

Councilmember Cheryl Davila 510.981.7120



ACTION CALENDAR
May 14, 2019
(Continued from April 30, 2019)

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Scott Ferris, Director, Parks Recreation & Waterfront

Subject: Contract: Berkeley Marina Area Specific Plan (BMASP) – Hargreaves Associates

### RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to execute a contract and any amendments with Hargreaves Associates to produce the Berkeley Marina Area Specific Plan (BMASP) in an amount not to exceed \$1,101,000.

## FISCAL IMPACTS OF RECOMMENDATION

Funding for this work is available in the Capital Improvement Fund (Fund 501) and will be included in the second Annual Appropriations Ordinance of FY19.

## **CURRENT SITUATION AND ITS EFFECTS**

The City's "Marina Enterprise Fund" – the mechanism for managing all Waterfront revenues and expenditures – has annual revenues of approximately \$6.2 million and annual expenditures of approximately \$7.2 million, with an annual structural deficit in excess of \$1 million. The Fund is projected to exhaust all reserves within the next two years (by FY 2021). This fiscal crisis has accelerated due to long-deferred infrastructure needs and declining berth occupancy rates.

The goal of the Berkeley Marina Area Specific Plan (BMASP) is to provide a vision and plan for achieving a financially self-sustainable, publicly-owned marina area with infrastructure and amenities to support current and future community needs, while adapting to climate changes and promoting recreation and environmental stewardship. A Draft Environmental Impact report (DEIR) will be prepared to ensure the BMASP meets the requirements of the California Environmental Quality Act (CEQA).

The project will involve an extensive public process to ensure that the vision is a product of the community's needs for decades to come.

On October 10, 2018, the City issued a competitive Request for Proposals (RFP) to provide professional consultant services necessary to produce a specific plan and draft environmental document for the Berkeley Marina Area (Specification No. 18-11248-C).

Contract: Berkeley Marina Area Specific Plan – Hargreaves Associates ACTION CALENDAR

ACTION CALENDAR May 14, 2019

The City received two proposals. After conducting a selection process by a six-member review panel, Hargreaves Associates was identified as the consultant that received the best score according to the criteria contained in the RFP document. Hargreaves has extensive experience, leading projects ranging from Crissy Field in San Francisco to Queen Elizabeth Olympic Park in London. Staff recommends Council approval of a contract with Hargreaves Associates for professional consultant services for the project.

## **BACKGROUND**

For the last twenty years, there has been a structural deficit in the Marina Fund, which has been offset by staffing reductions and the delay of capital improvements. These options are no longer possible, however, and new approaches are needed.

Marina Area revenue comes primarily from berth rentals and commercial lease rents. Berth Rentals (defined as Occupancy Rates) declined from 88% in 2015 to 77% in 2018. Lease revenue from restaurants and the hotel, whose rent is generally based on a percentage of gross revenue, declined about 5% in 2018. Boaters and commercial tenants have cited the Marina's deteriorating infrastructure, as well as safety and security concerns, to explain these declines.

Much of the existing Marina Area infrastructure – docks, pilings, buildings, parking lots, and roads – were originally constructed in the 1960s and 1970s, and have reached the end of their useful life. The cost to address these existing capital needs is estimated to exceed \$100 million. Since the inception of the Marina Fund, a there has been no dedicated set-aside for a capital reserve account, which means that capital projects and large maintenance projects were only completed if absolutely necessary or if they were funded by outside grants.

The BMASP will include the following:

- Evaluation of existing infrastructure amenities, and operations
- Evaluation of potential new revenue generation opportunities and programs in the context of existing land-use, zoning, regulatory limitations.
- A financial analysis of the operations of the Berkeley Waterfront (revenues and expenses, programs and services)
- Recommendations for a range of optimal models of operation.

The end result will be a comprehensive specific plan for a vibrant, beautiful, ecologically and financially stable marina for the use and enjoyment of generations to come. It will include implementation tools and policies to address future demand for land use, access/circulation/parking, utilities, public services, recreational facilities/ programs/ special events, commercial facilities, and shoreline protection, as well as a 5-year Capital Improvement Program (CIP) plan.

## RATIONALE FOR RECOMMENDATION

The City does not have sufficient expertise to develop a comprehensive specific plan for the Berkeley Marina. After conducting a competitive RFP selection process by a six-member review panel, Hargreaves Associates was identified as the consultant that received the best score according to the criteria contained in the RFP document.

Contract: Berkeley Marina Area Specific Plan – Hargreaves Associates

ACTION CALENDAR May 14, 2019

## **ALTERNATIVE ACTIONS CONSIDERED**

At the current rate of expenditures and declining infrastructure, within two years, the Marina will deteriorate to the point where it is no longer useable for many people. At that time, without support from the General Fund or other sources, the City will need to close the Marina docks, close the recreational programs and special events, and drastically reduce maintenance services to the landscaping, parks, roads and pathways at the Waterfront. With a reduced presence of City staff and the general public, the entire area will decline in recreational value and safety.

## **CONTACT PERSON**

Scott Ferris, Director, Parks Recreation & Waterfront, 981-6700 Christina Erickson, Deputy Director, PRW, 981-6712 Nelson Lam, Associate Civil Engineer, PRW, 981-6395

## Attachments:

1: Resolution

#### Page 4 of 4

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

# CONTRACT: BERKELEY MARINA AREA SPECIFIC PLAN – HARGREAVES ASSOCIATES IN AN AMOUNT NOT-TO-EXCEED \$1,101,000

WHEREAS, the City's "Marina Enterprise Fund" – the mechanism for managing all Waterfront revenues and expenditures – has annual revenues of approximately \$6.2 million and annual expenditures of approximately \$7.2 million, with an annual structural deficit in excess of \$1 million. The Fund is projected to exhaust all reserves within the next two years (by FY 2021). This fiscal crisis has accelerated due to long-deferred infrastructure needs and declining berth occupancy rates; and

WHEREAS, the goal of the Berkeley Marina Area Specific Plan (BMASP) and Draft Environmental Document (DEIR) is to provide a vision and a plan for achieving a financially self-sustainable, publicly-owned marina area with infrastructure and amenities to support current and future community needs, while adapting to climate changes and promoting recreation and environmental stewardship; and

WHEREAS, on October 10, 2018, the City issued a competitive Request for Proposals (RFP) to provide professional consultant services necessary to produce a specific plan and draft environmental document for the Berkeley Marina Area (Specification No. 18-11248-C); and

WHEREAS, the City received two proposals. After conducting a selection process by a six-member review panel, Hargreaves Associates was identified as the consultant that received the best score according to the criteria contained in the RFP document; and

WHEREAS, funding for this work is available in the Capital Improvement Fund (Fund 501) and will be included in the second Annual Appropriations Ordinance of FY 2019.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is hereby authorized to execute a contract and any amendments with Hargreaves Associates in the amount of \$1,101,000 for professional consultant services for the Berkeley Marina Area Specific Plan. A record signature copy of said agreements and any amendments to be on file in the Office of the City Clerk.



ACTION CALENDAR
May 14, 2019
(Continued from April 30, 2019)

To: Honorable Mayor and Members of the City Council

From: Berkeley Peace and Justice Commission

Submitted by: Igor Tregub, Chairperson, Peace and Justice Commission

Subject: Resolution: No U.S. intervention in Venezuela

## RECOMMENDATION

Adopt a resolution that affirms the sovereign right of the Venezuelan people to negotiate their political differences free from foreign intervention, and urges that the U.S. government withdraw its illegal, unilateral financial sanctions and refrain from military, economic, or diplomatic intervention in the internal affairs of the sovereign state of Venezuela.

# FISCAL IMPACTS OF RECOMMENDATION None.

## **CURRENT SITUATION AND ITS EFFECTS**

Trump administration officials have openly declared their intention to overthrow the duly elected government of Venezuelan President Nicolás Maduro. Years of U.S. sanctions have contributed to a severe economic crisis, following a decades-old pattern of destabilization of U.S. adversaries.

Using the crisis it helped create as a pretext, the U.S. administration recognized opposition leader Juan Guaidó as interim president of Venezuela, launching a diplomatic front to the campaign to undermine the elected government. Administration leaders have called on Venezuelan armed forces to mutiny, and have threatened that all military options are on the table to achieve regime change.

At its regular meeting on March 4, 2019, the Peace and Justice Commission recommended the Council of the City of Berkeley affirm the right to self-determination of the Venezuelan people, and urge that the U.S. government refrain from intervention in the internal affairs of the sovereign state of Venezuela.

M/S/C: Bohn/Lippman

Ayes: al-Bazian, Bohn, Chen, Gussman, Lippman, Meola, Morizawa, Pierce,

Rodriguez, Tregub

Resolution: No U.S. intervention in Venezuela

ACTION CALENDAR
May 14, 2019

Noes: Maran

Abstain: None

Absent: Han, Pancoast

### **BACKGROUND**

At its regular meeting on March 4, 2019, the Peace and Justice Commission recommended the Council of the City of Berkeley affirm the right to self-determination of the Venezuelan people, and urge that the U.S. government refrain from intervention in the internal affairs of the sovereign state of Venezuela.

The City of Berkeley has long expressed its opposition to U.S. military intervention and economic destabilization of sovereign nations in Asia, Africa, and Latin America.

### **ENVIRONMENTAL SUSTAINABILITY**

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

### RATIONALE FOR RECOMMENDATION

The City of Berkeley has acknowledged that foreign interventions have a disastrous impact on life in cities such as Berkeley. The mandate of the Berkeley Peace and Justice Commission finds that: "The intentional destruction of cities in war is the rule and not the exception. The wealth to help the poor, heal the sick, house the homeless, educate the children, and care for the elderly is now spent on ever more costly weapons of mass destruction...Our best protection lies in initiating, devising, and promulgated peaceful and just policy alternatives." (Berkeley Municipal Code Chapter 3.68.010). As Rev. Martin Luther King Jr. put it in 1967, "The bombs we drop in North Vietnam are exploding in the ghettoes and barrios of the U.S."

## ALTERNATIVE ACTIONS CONSIDERED

None

### CITY MANAGER

The City Manager takes no position on the content and recommendations of the Commission's Report.

### CONTACT PERSON

Igor Tregub, Chairperson, Peace and Justice Commission

Breanne Slimick, Commission Secretary, City Manager's Office (510) 981-7018

Resolution: No U.S. intervention in Venezuela

ACTION CALENDAR May 14, 2019

Attachments: 1: Resolution

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

## NO U.S. INTERVENTION IN VENEZUELA

WHEREAS, the Peace and Justice Commission advises the City Council on all matters relating to the City of Berkeley's role in issues of peace and social justice (Berkeley Municipal Code Chapter 3.68.070); and

WHEREAS, Trump administration officials have openly declared their intention to overthrow the duly elected government of Venezuelan President Nicolás Maduro, have urged the Venezuelan military to overthrow the Maduro government, has recognized a self-appointed opposition politician as president and vetoed any possibility of dialogue despite the efforts of Maduro, the governments of Mexico and Uruguay, and Pope Francis; and

WHEREAS, the U.S. has tightened illegal unilateral economic sanctions,<sup>2</sup> including the seizure of Venezuela's oil properties and bank accounts in the United States and financial sanctions that prevent Venezuela from producing its oil or securing credit or refinancing debt, thereby increasing the hardship on the people of Venezuela by preventing them from accessing imported foods and medicines, while hypocritically seeking to promote a military confrontation by forcing truckloads of aid across the Brazilian and Colombian borders;<sup>3</sup> and

WHEREAS these unilateral sanctions are in violation of the UN and OAS4 Charters: and

WHEREAS, the U.S. has historically used its economic power to destabilize independent-minded countries, most famously Chile in the early 1970's, making the economy "scream," as well as Nicaragua in the 1980's, and then using the peoples' economic misery as a pretext for military intervention; and

WHEREAS, Venezuela has the largest oil reserves in the world, and leading administration foreign policy officials have made clear the Trump administration's intention to turn Venezuela's oil over to U.S oil companies for exploitation;<sup>7</sup> and

WHEREAS, Elliott Abrams has been named President Trump's Special Envoy to Venezuela, and is notorious for his central role in the 1980's as a top advisor to Presidents Reagan and Bush in the Iran-Contra scandal, which led to his conviction on criminal charges, and the arming of the Nicaraguan contras, the Salvadoran death squad government, and the genocidal regime in Guatemala responsible for the massacres of hundreds of thousands of indigenous people in that country;<sup>8</sup> and

Resolution: No U.S. intervention in Venezuela

ACTION CALENDAR May 14, 2019

WHEREAS, the U.S. campaign of regime change in Venezuela is in violation of international law,<sup>9</sup> against the interests of the people of Venezuela and the people of the United States;

NOW THEREFORE BE IT RESOLVED that the Council of the City of Berkeley affirms the sovereign right of the Venezuelan people to negotiate their political differences free from foreign intervention, and urges that the U.S. government withdraw its illegal, unilateral financial sanctions and refrain from military, or diplomatic intervention in the internal affairs of the sovereign state of Venezuela; and

BE IT FURTHER RESOLVED that the Council of the City of Berkeley requests the City Clerk to send a copy of this resolution to Congresswoman Barbara Lee, Congresswoman Nancy Pelosi, Senator Dianne Feinstein, Senator Kamala Harris, President Trump, and Secretary of State Mike Pompeo.



<sup>1</sup> "Trump's declaration on Venezuela sets stage for 'confrontational moment'," CNN, January 24, 2019,

https://www.cnn.com/2019/01/23/politics/venezuela-us-showdown/index.html

- <sup>2</sup> "Coercion, whether military or economic, must never be used to seek a change in government in a sovereign state,' <u>said</u> Idriss Jazairy, a UN special rapporteur concerned with the negative impact of sanctions." From article: "The US is orchestrating a coup in Venezuela," Marjorie Cohn, professor emerita at Thomas Jefferson School of Law, former president of the National Lawyers Guild, deputy secretary general of the International Association of Democratic Lawyers, February 2, 2019, <a href="https://truthout.org/articles/the-us-is-orchestrating-a-coup-in-venezuela/">https://truthout.org/articles/the-us-is-orchestrating-a-coup-in-venezuela/</a>
- <sup>3</sup> The United Nations and the Red Cross have refused to participate in Washington's controversial aid plan to Venezuela. "We will not be participating in what is, for us, not humanitarian aid." From article: "Red Cross, UN slam 'Politicised' USAID Humanitarian Assistance to Venezuela," February 11, 2019, https://venezuelanalysis.com/news/14316
- <sup>4</sup> OAS Charter--Article 15: "No State or group of States has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State. The foregoing principle prohibits not only armed force but also any other form of interference or attempted threat against the personality of the State or against its political, economic and cultural elements."
- ARTICLE 16: "No State may use or encourage the use of coercive measures of au economic or political character in order to force the sovereign will of another State and obtain from it advantages of any kind." <a href="https://treaties.un.org/doc/Publication/UNTS/Volume%20119/volume-119-I-1609-English.pdf">https://treaties.un.org/doc/Publication/UNTS/Volume%20119/volume-119-I-1609-English.pdf</a>
- <sup>5</sup> "Measures were undertaken in 1970 to try to prevent a free and democratic election. There was a huge amount of black propaganda about how if Allende won, mothers would be sending their children off to Russia to become slaves-stuff like that. The US also threatened to destroy the economy, which it could-and did-do.
- "Q: Nevertheless, Allende won. A few days after his victory, Nixon called in CIA Director Richard Helms, Kissinger and others for a meeting on Chile. Can you describe what happened?
- "A: As Helms reported in his notes, there were two points of view. The "soft line" was, in Nixon's words, to "make the economy scream." The "hard line" was simply to aim for a military coup.
- "Our ambassador to Chile, Edward Korry, who was a Kennedy liberal type, was given the job of implementing the 'soft line.' Here's how he described his task: 'to do all within our power to condemn Chile and the Chileans to utmost deprivation and poverty.' That was the soft line."
- Secrets, Lies, and Democracy, Noam Chomsky, 1994, https://chomsky.info/secrets04/
- <sup>6</sup> "These sanctions have cut off the means by which the Venezuelan government could escape from its economic recession, while causing a dramatic falloff in oil production and worsening the economic crisis, and causing many people to die because they can't get access to life-saving medicines. Meanwhile, the US and other governments continue to blame the Venezuelan government solely for the economic damage, even that caused by the US sanctions," Noam Chomsky, former UN Rapporteur Alfred de Zayas, Phyllis Bennis, Boots Riley, and some 65 other academics and experts, January 24, 2019, <a href="https://www.commondreams.org/news/2019/01/24/open-letter-over-70-scholars-and-experts-condemns-us-backed-coup-attempt-venezuela">https://www.commondreams.org/news/2019/01/24/open-letter-over-70-scholars-and-experts-condemns-us-backed-coup-attempt-venezuela</a>
- "The threats, the economic war, the financial blockade and the sanctions violate both the UN Charter and the OAS Charter." February 23, 2019, <a href="https://dezayasalfred.wordpress.com/2019/02/23/open-letter-to-the-united-nations-secretary-general-antonio-guterres-and-to-the-high-commissioner-for-human-rights-michelle-bachelet/">https://dezayasalfred.wordpress.com/2019/02/23/open-letter-to-the-united-nations-secretary-general-antonio-guterres-and-to-the-high-commissioner-for-human-rights-michelle-bachelet/</a>

Resolution: No U.S. intervention in Venezuela

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See also OAS Charter, above

<sup>&</sup>lt;sup>7</sup> Perhaps most brazenly, [National Security Adviser John] Bolton appeared in <u>an interview on Fox Business</u> and disclosed that the U.S. government was in talks with American corporations on how to capitalize on Venezuela's oil reserves, which are proven to be the <u>world's largest</u>. We're in conversation with major American companies now," he said. "I think we're trying to get to the same end result here. ... It will make a big difference to the United States economically if we could have American oil companies really invest in and produce the oil capabilities in Venezuela," Time Magazine, January 30, 2019, <a href="http://time.com/5516920/inside-john-boltons-month-long-p-r-campaign-against-venezuelas-government/">http://time.com/5516920/inside-john-boltons-month-long-p-r-campaign-against-venezuelas-government/</a>

<sup>&</sup>lt;sup>8</sup> "Why Ilhan Omar and Elliott Abrams Tangled Over U.S. Foreign Policy," https://www.nytimes.com/2019/02/14/us/politics/ilhan-omar-elliott-abrams.html

<sup>&</sup>quot;Guatemalan Army Waged 'Genocide,' New Report Finds," https://www.nytimes.com/1999/02/26/world/guatemalan-army-waged-genocide-new-report-finds.html

<sup>&</sup>lt;sup>9</sup> UN Charter—Article 2: "All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered." http://www.un.org/en/sections/un-charter/un-charter-full-text/



INFORMATION CALENDAR May 14, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Henry Oyekanmi, Director, Finance

Subject: Referral Response: Issue a Request for Information to Explore Grant

Writing Services from Specialized Municipal Grant-Writing Firms, and

Report Back to Council

### INTRODUCTION

This report responds to the referral sponsored by Councilmembers Hahn, Harrison, Davila and Bartlett to issue a Request for Information to explore grant writing services from specialized municipal grant-writing firms, and report back to Council that originally appeared on the agenda of the October 3, 2017 Council meeting.

### SUMMARY

Request for Information (RFI), Specification No. 18-11201, Grant Writing and Related Services (Attachment 1), was released to the public in the spring of 2018 with the intent to identify qualified firms or individuals with expertise researching, identifying, applying for and obtaining grants on behalf of municipal entities.

The key points of the RFI were to: 1) communicate to grant writing firms that the City is seeking to expand its ability to initiate and deliver innovative programs by seeking out public and private grant funding; 2) use contracted services to augment existing internal grant application activities; and 3) leverage the resources and successes of firms that have developed specific competencies in providing grant sourcing and proposal development services to municipal clients.

Respondents were asked to provide information to demonstrate their ability to provide the following services:

Funding Needs Analysis
Grant Funding Research
On-Call Grant Research
Grant Proposal Development

Legislative Advocacy
Presentations and Meeting Attendance
Monthly Reporting

The RFI requested each respondent to submit standard and preferred fee structures to provide the City with insight into compensation options available in the market.

## **CURRENT SITUATION AND ITS EFFECTS**

Currently, grant writing and application responsibilities are distributed across departments, which independently seek new grant opportunities and submit applications. While the City does receive awards, the application process can be time consuming for staff. For Berkeley to maximize its potential to gain resources from every possible source, it is imperative that the City apply for as many funding opportunities as possible. Increased revenue obtained through successful grant applications would allow the City to pilot new ideas, serve the community in a more robust fashion, and demonstrate to Berkeley residents the City's commitment to seeking public and private funding that may be available.

Planning for the release of the RFI began with City staff contacting 14 firms with presence in California and a focus on serving municipal clients, as indicated on websites, in other published materials, or by direct conversation. The 14 firms were made aware of the release of RFI #18-11201 and invited to participate. The RFI was posted on the City's website and at the kiosk in front of Old City Hall. Twelve of the 14 firms submitted responses to the RFI. The response pool represented a broad mix, from national corporations to niche players, for example having an environmental focus. Less than half of the responses provided all the information requested in the RFI.

Three of the 12 responses were comprehensive and provided information useful in assessing both the availability of grant-writing firms with a depth of experience and significant track-record (see Attachment 2 for a representative listing of grants secured by the 3 firms – California Consulting, Grant Management Associates and Glen Price Group) obtaining grant dollars in California for a wide variety of city, county and state projects, as well as service delivery methods and typical fee structures.

Fee Structures varied by respondent with 11 out of 12 falling into at least one of the following categories:

- Hourly rate per hour for all work performed by each resource
- Monthly, flat fee retainer with additional work at hourly rate per hour
- Fixed monthly fee when working on a particular grant proposal

Only one response included a Fee Structure that was based on a percentage of dollars awarded.

### **BACKGROUND**

Currently, grant writing and application responsibilities are distributed across departments, which independently seek new grant opportunities and submit applications. While the City does receive awards, the application process can be time

consuming for Staff. For Berkeley to maximize its potential to gain resources from every possible source, it is imperative that the City apply for as many funding opportunities as possible. Increasing revenues obtained through successful grant applications would allow the City to pilot new ideas, serve the community in a more robust fashion and demonstrate to Berkeley residents the City's commitment to seeking public and private funding that may be available.

### **ENVIRONMENTAL SUSTAINABILITY**

Not applicable.

## POSSIBLE FUTURE ACTION

Information contained in the responses to RFI #18-11201 may be used to inform the scope of work, evaluation criteria and pricing arrangement, as well as outreach efforts for a future request for proposals for comprehensive grant research services issued by the City.

## FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Increased revenue obtained through successful grant applications.

## **CONTACT PERSON**

Henry Oyekanmi, Director, Finance, 981-7326

## Attachments:

- 1: Request for Information #18-110201 Grant Writing and Related Services
- 2: Representative Listing of Grants Awarded
- 3: Original Referral Report from October 3, 2017

## Attachment 1

Request for Information #18-11201 Grant Writing and Related Services

(document to follow this page)



## **REQUEST FOR INFORMATION (RFI)**

Specification No. 18-11201
GRANT WRITING AND RELATED SERVICES
RESPONSES WILL NOT BE OPENED AND READ PUBLICLY

## Dear Interested Party:

The City of Berkeley is issuing this request for information (RFI) to qualified firms or individuals with expertise researching, identifying, applying for and obtaining grants on behalf of municipal entities. This is an RFI, <u>not</u> an invitation to bid. As such, there will be no public opening of information packages and no contract award made pursuant to this process. Potential respondents should review this RFI document in its entirety to gain an understanding of the City's intent, applicable processes and how submitted information will be used.

Information packages must be received no later than 2:00 pm, on Thursday, March 1, 2018. As part of the City's commitment to sustainable purchasing, information submission via email is preferred. Information packages submitted in hard copy format must be in a sealed envelope and have "GRANT WRITING AND RELATED SERVICES" and Specification No.18-11201 clearly marked on the outer most mailing envelope. Submit one (1) unbound original and five (5) unbound copies of the proposal as follows:

#### Mail or Hand Deliver To:

City of Berkeley Finance Department/General Services Division 2180 Milvia Street, 3rd Floor Berkeley, CA 94704

Issuance of this RFI does not obligate the City to award a contract, nor is the City liable for any costs incurred by respondents in the preparation and submittal of information packages. Through this RFI process the City desires to gain knowledge of the capability of firms interested in providing the desired services and to assess the feasibility and utility of contracting for such services. This is a REQUEST FOR INFORMATION only and should not be construed as intent, commitment or promise to acquire the goods or services presented by respondents. The City of Berkeley is not obligated to any respondent as a result of this RFI.

City of Berkeley Grant Writing and Related Services Specification No. 18-11201

Page 2 of 6 Release Date 02/05/2018

**For questions** concerning this RFI and its requirements, **contact Shari Hamilton**, **Project Manager**, via email at shamilton@cityofberkeley.info no later than 3PM on Friday, February 16, 2018. Answers to questions will **not** be provided by telephone or email. Rather, answers to all questions or any addenda to this RFI will be **posted** on the City of Berkeley's website at

http://www.cityofberkeley.info/ContentDisplay.aspx?id=7128. It is the respondent's responsibility to check this site for information updates, additions or changes. For general questions concerning the submittal process, contact Purchasing at 510-981-7320.

We look forward to receiving and reviewing your response.

Sincerely, Shari Hamilton General Services Manager Specification No. 18-11201

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## I. SUMMARY

Berkeley is an innovative city, pursuing ambitious programs and initiatives with the vigor and vision of a much larger city. Implementing innovative initiatives requires a significant investment of City resources and staff time. To support these efforts and increase revenue, the City currently applies for private, federal, state, and county grants.

Currently, grant writing and application responsibilities are distributed across departments, which independently seek new grant opportunities and submit applications. While the City does receive awards, the application process can be time consuming for staff. For Berkeley to maximize its potential to gain resources for every possible source, it is imperative that the City apply for as many funding opportunities as possible. Increased revenue obtained through successful grant applications would allow the City to pilot new ideas, serve the community in a more robust fashion, and demonstrate to Berkeley residents the City's commitment to seeking public and private funding that may be available.

This RFI is issued to explore opportunities to obtain grant writing services from one or more grant-writing firms specializing in service to municipal customers. The City expects to obtain an understanding of this segment of the grant-writing market including, but not limited to available expertise, services, and pricing models. The City may issue a request for proposals (RFP) for grant writing services if it is determined, as a result of this RFI process and other due diligence efforts, that the use of grant writing services will significantly increase its ability to secure grant based resources. All respondents to this RFI process may respond to the RFP, and responses to the RFP will not be limited to respondents to this RFI.

The City requests that all respondents to this RFI submit information packages that are short, concise and complete. It is not necessary to submit a marketing document. Information packages must be limited to a maximum of 15 pages. All information packages will become part of the public record and respondents shall not include confidential or proprietary information.

# II. OVERVIEW OF SERVICES REQUIRED

The City is requesting information from qualified individuals and firms capable of providing the following services:

 Funding Needs Analysis – Work with City staff to facilitate meetings with City departments to assess the validity of current funding priority areas, identify changes in funding priority areas, and identify new priority areas for possible funding; Specification No. 18-11201

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- 2. Grant Funding Research Conduct research to identify grant resources including, but not limited to, private, Federal, State, foundation, agencies and organizations that support the City's funding needs and priorities (emphasizing grants which require no "matching" funds), including, but not limited to:
  - a) Infrastructure development and maintenance
  - b) Affordable housing and housing support services
  - c) Public safety, including emergency preparedness
  - d) Community and economic development
  - e) Energy efficiency and environmental sustainability
  - f) Workforce development and retention
  - g) Technology, including digital inclusion
  - h) Social services, including services to the unhoused
- 3. On-Call Grant Research In addition to the areas defined above, other areas may also be identified through the funding needs analysis process and throughout the duration of the contract. The Scope of Work may also include researching grant opportunities identified by the City.
- 4. Grant Proposal Development Provide general grant proposal writing services associated with the completion of grant applications on behalf of the City, including the preparation of funding abstracts and production, and submittal of applications to funding sources. A copy of each grant application package submitted for funding, in its entirety, shall be provided to the City.
- 5. Legislative Advocacy Provide legislative advocacy services on behalf of City by contacting legislators and legislative staff to promote City message and needs.
- Presentations and Meeting Attendance The successful consultant may be required to make presentations to and attend meetings with City staff, the City Council, commissions and the public to explain grant opportunities, programs targeted for support by grant funds, the City's competitive position, and other related topics.
- 7. Monthly Reports The successful consultant shall submit monthly reports to the City summarizing the amount of time expended, describe activities undertaken during the previous month, and status of those activities.

## III. SUBMISSION REQUIREMENTS

All information packages shall include the following information, organized as separate sections of the response. The response should be short, concise and to the point.

## 1. Respondent Identification:

Provide the company name, principal place of business, tax identification number and website address (if applicable). Include the name, email address and telephone number of the company representative who will serve a contact for this RFI.

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## 2. Service Offerings:

Provide a short description of the types of services offered, including any areas of specialization. State the percentage of the entire book of business each service type represents.

## 3. <u>Previous Experience</u>:

Provide a short explanation of company's recent (past five (5) years) experience working with and securing grant funding for municipal clients. Include areas in which company has been particularly successful, as well as any competitive differentiators.

## 4. Staffing:

Submit résumés for the staff members company would propose and assign as the management and operational contacts for an engagement with the City. The commitment of key staff is critical to the City of Berkeley. It is expected that assigned staff will remain throughout the term of any awarded contract.

## 5. Sub-consultants/Partners:

List any sub-consultants or partner entities company would use to complete the work described herein. Provide at least two (2) recent examples of engagements where respondent has worked with sub-consultant/partner.

# 6. Fee Structure/Options:

Include a summary of company's standard and preferred fee structures. Any creative or alternative compensation structures should be supported with clear explanatory notes and potential benefits to the City.

### 7. Other Pertinent Information:

Submit any pertinent information the City should consider, including topics not identified or requested herein.

Information packages must be limited to a maximum of 15 pages. All information packages will become part of the public record and respondents shall not include confidential or proprietary information.

## IV. SCHEDULE (dates are subject to change)

Issue RFI to public:	02/05/2018
Respondent questions due to City by 3PM PT:	02/16/2018
Issue Addendum/Q&A via City website/posting:	02/21/2018
RFI due to City by 2PM PT:	03/01/2018

City of Berkeley Grant Writing and Related Services

Specification No. 18-11201

Page 6 of 6 Release Date 02/05/2018

Thank you for your interest in working with the City of Berkeley for this service. We look forward to receiving your information package.

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## Attachment 2

Representative Listing of Grants Awarded in California

FIRM	GRANT TITLE	CLIENT	AWARD
California Consulting	USDOJ COPS Hiring Recovery Program (CHRP)	City of Salinas	\$3,837,546
	FEMA Staffing for Adequate Fire & Emergency Response (SAFER)	Consumnes CSD Fire Department	\$1,947,191
	CalTran Active Transportation Program (ATP) Cycle 2	City of Rosemead	\$702,000
	HCD Housing Related Parks Program (HCD)	City of Lynwood	\$516,150
	DBW Non-Motorized Boat Launching Grant	City of Waterford	\$470,290
	OTS Pedestrian/Bicycle Safety Grant	City of Lompoc	\$25,000
Grant Management Associates	Beneficial Reuse of Carbon (Phase 2)	Department of Energy - Industrial Capture	\$25,000,000
	Affordable Housing and Sustainable Communities Program	City of Redding/Shasta Transportation Authority	\$20,000,000
	Alternative and Renewable Fuel Infrastructure	California Energy Commission	\$15,700,000
	Prop 84 Stormwater Grant Program (Round 2)	California EPA	\$648,284
	Bicycle and Pedestrian Project, Tribal Transportation Safety	Karuk Tribe - Bureau of Indian Affairs	\$872,000
	HRSA Mobile Dental Health Grant	El Dorado County	\$600,000
Glen Price Group	CalWorks Stage 1 Child Care Program	Child Care Links	\$36,460,960
	Whole Person Care Pilots	Sonoma County, Health Services Department, Behavioral Health Div.	\$16,704,136

Ba	ome and Community- ased Alternatives HCBA) Waiver	Sonoma County, Human Services Department	\$2,500,000 (estimated over 57 months)
A S	nproving Reentry for dults with Co-Occurring ubstance Abuse and lental Illness	Sonoma County Probation Department	\$750,000
Po	ommunity Oriented olicing Services (COPS) iring Program	City of Richmond	\$600,000
I I	hancellor's Community artnership Fund	Berkeley Unified School District	\$15,000

## **SOPHIE HAHN**

Berkeley City Council, District 5 2180 Milvia Street, 5th Floor Berkeley, CA 94704

Phone: (510) 981-7150

Email: shahn@cityofberkeley.info

CONSENT CALENDAR
October 3, 2017

To: Honorable Mayor and Members of the City Council

From: Councilmember Sophie Hahn, Kate Harrison, Cheryl Davila, and Ben

Bartlett

Subject: Request for Information Regarding Grant Writing Services from

Specialized Grant Writing Firms

### RECOMMENDATION

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.

## FINANCIAL IMPLICATIONS

Staff time to issue the request, review responses, and report to Council.

### **BACKGROUND**

Berkeley is an innovative City, pursuing ambitious programs and initiatives with the vigor and vision of a much larger City. Implementing innovative initiatives requires a significant investment of City resources and staff time. To support these efforts and increase revenues, the City currently applies for private, federal, state, and county grants.

Currently, grant writing and application responsibilities are distributed across departments, which independently seek new grant opportunities and submit applications. While the City does receive awards, the application process can be time consuming for Staff. For Berkeley to maximize its potential to gain resources from every possible source, it is imperative that the City apply for as many funding opportunities as possible. Increased revenue obtained through successful grant applications would to allow the City to pilot new ideas, serve the community in a more robust fashion, and demonstrate to Berkeley residents the City's commitment to seeking public and private funding that may be available.

To help accomplish this goal, this item recommends that the City Manager issue a Request for Information to explore opportunities to obtain grant writing services from a grant-writing firm specializing in municipal grants. A number of specialized firms exist that consolidate information about grant opportunities and can support the writing of grants. An example is included as Attachment 1. Engaging a firm focused on identifying and applying for grant opportunities may yield a higher success rate than the City currently obtains. The purpose of this request for information would be to explore many different firms and gain information about expertise, services, pricing, and other details,

#### **Pragge 124 off 3114**

allowing the City Manager and Council to assess the feasibility and utility of contracting for such services.

## **ENVIRONMENTAL SUSTAINABILITY**

This recommendation supports Berkeley's environmental sustainability goals.

# **CONTACT PERSON**

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

# **ATTACHMENTS**

1. Collection of Municipal Grant information, Winter 2017

## **MUNICIPAL GRANTS**

(Current as of January 27, 2017)

Please note that this document contains a selection of federal, state, and private grant and loan funding opportunities organized by funding topic. Funding topic sections are listed in the order as follows:

- Infrastructure Funding
- Water & Energy Funding
- Transportation Funding
- Parks & Recreation Funding
- Housing & Community Development Funding
- Law Enforcement Funding
- Fire Department Funding
- Health & Wellness Funding
- Miscellaneous Funding
- *Upcoming Funding (for all categories)*

Within each topic section, grants are listed in order by those with hard deadlines, quarterly deadlines, and those which are due continuously. If there are no current opportunities for a given category, it will be indicated. Some funding opportunities are only available in certain geographic regions and these are indicated in their respective sections.

## INFRASTRUCTURE FUNDING

# California Infrastructure and Economic Development Bank (IBank): Infrastructure State Revolving Fund (ISRF) Program

Deadline: Continuous

Amount: \$50,000 to \$25 million or more (with IBank Board approval)

Financing Terms:

The interest rate benchmark is Thompson's Municipal Market Data Index. Staff may adjust the interest rate based upon factors that include: Unemployment, Medium Household Income, Environmental, and Other special circumstances. The IBank Board has final approval of the interest rate. Maximum 30 year term Open application process

Eligibility: Any subdivision of a local or state government. Applicant may also be a company, corporation, association, partnership, firm, or other entity or group of entities organized as a public benefit not-for-profit entity engaged in business or operations within the state <a href="http://ibank.ca.gov/infrastructure\_loans.htm">http://ibank.ca.gov/infrastructure\_loans.htm</a>

The ISRF Program provides financing for public infrastructure projects such as: environmental mitigation; port facilities; power and communications transmission or distribution facilities; public transit; solid waste collection and disposal; defense conversion; as well as military infrastructure. A project must promote economic development and attracts, creates, and sustains long-term employment opportunities. Eligible uses include, but are not limited to, construction or modification of the following:

• educational, cultural, and social facilities;

#### **Pragge 16 off 3114**

- public infrastructure, purchase and install pollution control or noise abatement equipment;
- parks and recreation facilities;
- docks, harbors, piers, marinas;
- facilities for and/or transmission or distribution of electrical energy, natural gas, and telecommunication:
- air and rail transport of goods, including parking facilities;
- transfer stations, recycling centers, sanitary landfills, waste conversion and recycling facilities;
- facilities for successfully converting military bases;
- facilities on or near a military installation that enhance military operations acquire land in conjunction with such project

# California Statewide Communities Development Authority: Statewide Community Infrastructure Program (SCIP)

Deadline: Continuous

Amount: Varies. Financing is for low interest, tax-exempt bonds.

Eligibility: Public agencies

http://cscda.org/Apply-Online/Statewide-Community-Infrastructure-Program

In response to the increasing local agency staff time and budget pressures caused by new commercial, industrial or residential development, CSCDA offers the Statewide Community Infrastructure Program ("SCIP").

## **USDA Rural Development: Community Facilities Grants & Loans**

Deadline: Continuous

Amount: Varies by population & income (typically no larger than \$30,000)

Match: Varies by population & income (60% - 80%) http://www.rurdev.usda.gov/CA-CFPrograms.html

Community Facilities Programs provides grants to assist in the development of essential community facilities in rural areas and towns of up to 20,000 in population. Grants are authorized on a graduated scale. Applicants located in small communities with low populations and low incomes will receive a higher percentage of grants. Grants are available to public entities such as municipalities, counties, parishes, boroughs, and special-purpose districts, as well as non-profit corporations and tribal governments.

# **WATER & ENERGY FUNDING**

# DWR/CFDA: Agricultural Water Use Efficiency & State Efficiency and Enhancement Program

Deadline: April 21, 2017

Amount: \$200,000 maximum award Match: 50% match of the total project cost

Eligibility: Public agencies, public utilities, federally recognized or state Indian tribes, nonprofit organizations, mutual water companies, and investor-owned utilities regulated by the California PUC.

http://www.water.ca.gov/wuegrants/AgWUEPilot.cfm

Through this competitive grant program, DWR and CDFA intend to demonstrate the potential multiple benefits of conveyance enhancements combined with on-farm agricultural water use efficiency improvements and greenhouse gas reductions. The grant funding provided in this joint program is intended to address multiple goals including: 1) water use efficiency, conservation and reduction, 2) greenhouse gas emission reductions, 3) groundwater protection, and 4) sustainability of agricultural operations and food production. It is also anticipated that there will be benefits to water and air quality, groundwater security, surface water conservation, and improved nutrient management and crop health through this program. Excellent proposals will demonstrate the specific regional needs and benefits of their proposals.

# US Bureau of Reclamation: 2017 WaterSMART - Small Scale Water Efficiency Projects Grant

Deadline: April 27, 2017

Amount: Up to \$75,000. Applicants will be limited to a \$150,000 cap on project cost.

Match: 50% of the project costs up to \$75,000.

Eligibility: States, Indian tribes, irrigation districts, water districts, or other organizations with water or power delivery authority (may include municipalities)

http://www.usbr.gov/watersmart/weeg/index.html

The WaterSMART - Small Scale Water Efficiency Projects Grant is a new program intended to support specific small-scale water efficiency projects that have been prioritized through planning efforts led by the applicant. Larger projects or those with multiple project components, such as a renewable energy component, should be submitted under WaterSMART Water and Energy Efficiency Grants.

# California Department of Housing and Community Development (HCD): Community Development Block Grant (CDBG) 2016 Drought Lateral Grant

Deadline: May 31, 2017

Amount: \$150,000 - \$2 Million

Match: None.

Eligibility: Non-entitlement CDBG jurisdictions in California only. See Appendix A - Non-

Entitlement CDBG Juristictions List by following the link below.

http://www.hcd.ca.gov/financial-assistance/community-development-block-grant-program/currentnofas.html

The Department of Housing and Community Development (Department) is pleased to announce the availability of approximately \$5,000,000 in federal Community Development Block Grant

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(CDBG) funding for direct relief and mitigation of the effects of the 2014 California Drought Disaster, as declared by Governor Brown. This NOFA applies only to the installation of CDBG-eligible water lateral connections to new or existing public water systems for single- and multifamily residential structures that have no running water as a result of having a dry or contaminated well. Also included are water meters, system connection fees and the abatement of existing dry wells. The CDBG-eligible activity is Housing Rehabilitation.

## State Water Resources Control Board: Water Recycling Funding Program (WFRP)

Deadline: December 2030 (currently accepting applications via FAAST system)

Amount: \$75,000 (for Planning Grants); \$15-\$20 Million (for Construction Grants)

Match: 50% (for Planning Grants); 35% (for Construction Grants)

Financing: For Construction applications Interest at 1/2 General Obligation Bond Rate; 30 year

term; Allowance following the CWSRF Policy

Eligibility: local public agencies

http://www.waterboards.ca.gov/water\_issues/programs/grants\_loans/water\_recycling/proposition\_1 funding.shtml

The State Water Resources Control Board (State Water Board) provides funding for the planning, design, and construction of water recycling projects that offset or augment state fresh water supplies. There are two programs within this fund:

- **Planning Grants:** The purpose of the planning grant is to assist agencies or regions with completing feasibility studies for water recycling projects using treated municipal wastewater and/or treated groundwater from sources contaminated by human activities. Only local public agencies are eligible to apply for planning grants.
- Construction Grants: The Water Recycling Funding Program provides grants and financing to eligible applicants for the construction of water recycling facilities. Construction projects may be funded with grants and low interest financing from a state bond, a CWSRF financing agreement, or combinations of funding sources. Eligible applicants are local public agencies, nonprofit organizations, public utilities, state & federal recognized Indian tribes, and mutual water companies.

# California Energy Commission (CEC): Interest Rate 1% Loan Financing For Energy Efficiency & Energy Generation Projects

Deadline: Applications are funded on a first-come, first-served basis until funding is exhausted Amount: Maximum loan amount of \$3 million per applicant

Financing Terms: Loans must be repaid from energy cost savings or other legally available funds within a maximum term of 20 years (including principal and interest).

Eligibility: Cities, Counties, Specials Districts, Public Colleges or Universities <a href="http://www.energy.ca.gov/efficiency/financing/">http://www.energy.ca.gov/efficiency/financing/</a>

The CEC is offering loans financing for energy efficiency and energy generation projects for Public Agencies. Projects with proven energy and/or demand cost savings are eligible, provided they meet the ECAA eligibility requirements. Projects already funded with an existing loan or already installed are ineligible. Examples of Qualified Projects include the following:

- Lighting systems
- Heating, ventilation and air conditioning equipment
- Streetlights and LED traffic signals
- Energy management systems and equipment controls

#### **Pragge 179 off 3114**

- Pumps and motors
- Building envelope and insulation
- Energy generation including renewable energy and combined heat and power projects
- Water and waste water treatment equipment
- Load shifting projects, such as thermal energy storage

## California Energy Commission: The Energy Partnership Program

Deadline: Continuous

Amount: \$20,000 of a consultant's costs

Match: Any amount in excess of the \$20,000 provided by CEC <a href="http://www.energy.ca.gov/efficiency/partnership/index.html">http://www.energy.ca.gov/efficiency/partnership/index.html</a>

The Energy Partnership Program can conduct an energy audit of existing facilities identify energy saving projects, including: Conduct energy audits and prepare feasibility studies; Review existing proposals and designs; Develop equipment performance specifications; Review equipment bid specifications; Assist with contractor selection; and Review commissioning plans. The Energy partnership also provides technical assistance early in the design phase of new facility construction, including: Provide design review consultation; Identify cost-effective, energy-saving measures; Compare different technologies; Review schematics and construction plans; Provide equipment specification consultation; Develop computer simulation models of your planned project; Help select experienced professionals with energy efficiency expertise; and Assist with system commissioning.

# State Water Resources Control Board: Clean Water State Revolving Fund (CWSRF) Program

Deadline: Continuous

Amount/Financing: No maximum funding or disbursement limits. Financing Term up to 30 years or the useful life of the project. Interest Rate is ½ the most recent General Obligation (GO) Bond Rate at time of funding approval.

Eligibility: Any city, town, district, or other public body created under state law, including state agencies

http://www.waterboards.ca.gov/water\_issues/programs/grants\_loans/srf/

The Clean Water State Revolving Fund (CWSRF) program offers low cost financing for a wide variety of water quality projects. The program has significant financial assets, and is capable of financing projects from <\$1 million to >\$100 million. Eligible projects include, but are not limited to:

- 1. Construction of publicly-owned treatment facilities: Wastewater treatment; Local sewers; Sewer interceptors; Water reclamation and distribution; Stormwater treatment; Combined sewers; Landfill leachate treatment
- 2. Implementation of nonpoint source (NPS) projects to address pollution associated with: Agriculture; Forestry; Urban Areas; Marinas; Hydromodification; Wetlands
- 3. Development and implementation of estuary comprehensive conservation and management plans for: San Francisco Bay; Morro Bay; Santa Monica Bay

# State Water Resources Control Board: Clean Water State Revolving Fund (CWSRF) Green Project Reserve Program

Deadline: Applications accepted on a continuous basis

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Amount: \$2.5 Million maximum; \$30 million allocated to entire program

Match: None

Eligibility: Municipalities

http://www.waterboards.ca.gov/water\_issues/programs/grants\_loans/srf/

Effective with the Clean Water State Revolving Fund's (CWSRF) 2015 Capitalization Grant from U.S. EPA, the State Water Resources Control Board has \$30 million available to provide CWSRF loan (principal) forgiveness to projects that address water or energy efficiency, mitigate storm water runoff, or encourage sustainable project planning, design, and construction. There are four categories of green projects: green infrastructure, water efficiency, energy efficiency, and environmentally innovative activities.

# State Water Resources Control Board: Drinking Water State Revolving Fund (DWSRF) Program

Deadline: Continuous

Amount/Financing: No maximum disbursement limit. Interest rates average 2-3% and 20 year loan. Public water systems that serve small, disadvantaged communities may be eligible for 0% and 30 year loan.

Eligibility: Community water systems and non-profit, non-community water systems. <a href="http://www.waterboards.ca.gov/drinking\_water/services/funding/SRF.shtml">http://www.waterboards.ca.gov/drinking\_water/services/funding/SRF.shtml</a>

On October 21, 2014, the State Water Resources Control Board (State Water Board) adopted the *Policy for Implementing the Drinking Water State Revolving Fund* (<u>DWSRF Policy</u>) effective January 1, 2015. The purpose of the DWSRF is to provide financial assistance for the planning/design and construction of drinking water infrastructure projects that are needed to achieve or maintain compliance with federal and state drinking water statutes and regulations. Funding for the DWSRF comes from federal grants, state sources, and loan repayment. Applications are offered for the following two categories:

- 1. Construction Financing These funds are for applicants with complete final plans, specifications, and environmental documentation.
- 2. Planning/Design Financing These funds are for applicants who do not have final plans, specifications, and environmental documentation.

# **State Water Resources Control Board: Proposition 1 Small Community Wastewater Program**

Deadline: Continuous

Amount/Financing: \$260 Million allocated to program. Like CWSRF (see above) there is no maximum funding or disbursement limits. Financing Term up to 30 years or the useful life of the project. Interest Rate is ½ the most recent General Obligation (GO) Bond Rate at time of funding approval.

Eligibility: Most cities, towns, districts, or other public bodies created under state law, including state agencies

http://www.waterboards.ca.gov/water\_issues/programs/grants\_loans/small\_community\_wastewater\_grant/projects.shtml

Section 79723 of Prop 1 allocates \$260 million to the Clean Water State Revolving Fund (CWSRF) Small Community Grant (SCG) Fund. The State Water Board has an annual SCG appropriation of \$8 million dollars, which is administered consistent with the CWSRF Intended Use Plan (IUP), and the CWSRF Policy. The Prop 1 funds will supplement existing SCG

#### **Pragge 291 off 3114**

authority. Eligible projects are similar to the CWSRF program and include, but are not limited to:

- 1. Construction of publicly-owned treatment facilities: Wastewater treatment; Local sewers; Sewer interceptors; Water reclamation and distribution; Stormwater treatment; Combined sewers; Landfill leachate treatment
- 2. Implementation of nonpoint source (NPS) projects to address pollution associated with: Agriculture; Forestry; Urban Areas; Marinas; Hydromodification; Wetlands

# **State Water Resources Control Board: Safe Drinking Water State Revolving Fund (SDWSRF)**

Deadline: Pre-application, requires annual invitation

Amount: \$ 500,000-\$5,000,000 Match: 20% of eligible project costs

http://www.waterboards.ca.gov/drinking\_water/services/funding/SRF.shtml

This program provides support to engage in the demonstration of innovative technologies, methods, practices, and techniques in three areas: operational safety, infrastructure or equipment resiliency, and all-hazards emergency response and recovery methods.

## State Water Resources Control Board: Water and/or Energy Audits Program

Deadline: Continuous Amount: Up to \$35,000

Match: None

Eligibility: Any municipality, inter-municipal, interstate or state agency with facilities or activities eligible for Clean Water State Revolving Fund (CWSRF) financing may apply. http://www.waterboards.ca.gov/water\_issues/programs/grants\_loans/srf/

This program is for CWSRF-eligible agencies that need financial assistance to find out if they can improve water and energy efficiency. The State Water Resource Control Board will provide funding to conduct a Water and/or Energy Audit to assess an agency's current practices and identify potentially inefficient water and/or energy use. The State Water Resources Control Board can fund 100% of audit costs, up to a maximum of \$35,000. Applications are submitted online by submitting a Water or Energy Audit Financial Assistance Application with attachments through FAAST (Financial Assistance Application Submittal Tool).

## USDA Rural Development: Water & Waste Disposal Grant/Loan Program

Deadline: Continuous

Amount/Financing: Grant amount varies. Loan has up to 40-year payback period, on a fixed interest rate of 3.125% or lower.

Eligibility: state and local government entities, private nonprofits, federally-recognized tribes in rural areas with fewer than 10,000 people.

http://www.rd.usda.gov/programs-services/water-waste-disposal-loan-grant-program/ca

This program provides long-term low interest loans for clean and reliable drinking water systems, sanitary sewage disposal, sanitary solid waste disposal, and storm water drainage to households and businesses in eligible rural areas. Funds may be used to finance the acquisition,

construction or improvement of: Drinking water sourcing, treatment, storage and distribution; Sewer collection, transmission, treatment and disposal; Solid waste collection, disposal and closure; and Storm water collection, transmission and disposal. In some cases, funding may also be available for related activities such as: Legal and engineering fees; Land acquisition, water and land rights, permits and equipment; Start-up operations and maintenance; Interest incurred during construction; Purchase of existing facilities to improve service or prevent loss of service; and Other costs determined to be necessary for completion of the project.

## **ENVIRONMENT & CONSERVATION FUNDING**

## California Farmland Conservancy Program

Deadline: Continuous Amount: Varies

Match: 5% of grant total

http://www.consrv.ca.gov/dlrp/cfcp/funding/Pages/request\_grant\_app.aspx

The Department of Conservation's California Farmland Conservancy Program provides grants to local governments and qualified nonprofit organizations for:

- voluntary acquisition of conservation easements on agricultural lands that are under pressure of being converted to non-agricultural uses;
- temporary purchase of agricultural lands that are under pressure of being converted to non-agricultural uses, as a phase in the process of placing an agricultural conservation easement;
- agricultural land conservation planning and policy projects; and,
- restoration of and improvements to agricultural land already under easement

# TRANSPORTATION FUNDING

# California Statewide Communities Development Authority: Total Road Improvement Program (TRIP)

Deadline: Continuous

Amount: Varies. Local governments leverage their State Motor Vehicle Fuel Tax to finance

road improvement projects.

Eligibility: Local public agencies (cities and counties)

http://cscda.org/Public-Agency-Programs/Total-Road-Improvement-Programs-(TRIP)

CSCDA offers a pooled securitization program to assist local agencies in bonding against future payments to obtain funding for more projects today. As a pooled public offering, program participants will benefit from reduced issuance costs and better interest rates as compared to stand alone issues. The program does not require a pledge of the local agency's General Fund. The Gas Tax Accelerated Street Improvement Program will allow local governments to leverage their State Motor Vehicle Fuel Tax (the "Gas Excise Tax") to finance road improvement projects. The use of proceeds from the Gas Excise Tax, an 18-cent State excise tax collected on fuel sales, is restricted to the maintenance and construction of public streets and highways. The

obligations will be secured solely by a pledge of Gas Excise Tax revenues of the participating agencies.

## **PARKS & RECREATION FUNDING**

US Soccer Foundation: 2017 Innovative & Non-Traditional Soccer Program Grants

(formerly Program Grants)
Deadline: February 10, 2016

Amount: \$30,000 - \$90,000 (dispersed over three years)

Match: None

Eligibility: Organizations with IRS approved tax-exempt status at the time of application that

offer soccer-specific programming.

https://ussoccerfoundation.org/grants/innovative-and-non-traditional-soccer-program-grants

The U.S. Soccer Foundation recently announced changes to Program Grants. Moving forward, the Foundation will focus on one specific category or theme each year. In 2017, the Foundation, will begin accepting applications from organizations that are implementing innovative and/or non-traditional soccer programs in their communities. Awardees will receive up to a three year-grant of \$10,000-\$30,000 a year. These grants can be used to purchase soccer equipment and/or cover operating expenses. Awardees will be required to send one person to the U.S. Soccer Foundation's Urban Soccer Symposium, held in Washington D.C. The Foundation will cover expenses associated with attending the event.

## **US Soccer Foundation: 2017 Safe Places to Play Grants**

Deadlines:

- Spring Grants Cycle: LOIs due February 3, 2017; Application due February 10, 2017
- Summer Grants Cycle: LOIs due May 26, 2017; Application due June 2, 2017
- Fall Grants Cycle: LOIs due September 29, 2017; Application due October 6, 2017

Amount: \$4,000 - \$50,000 or a percentage of total project amount in form of vendor credit (see details below)

Match: None required officially; applicants must contribute additional funds not covered by the grant award

Eligibility: Tax-exempt organizations including: 501(c)(3) nonprofits, churches, individual schools or school districts, cities or municipalities.

https://ussoccerfoundation.org/grants/application-process/

Safe Places to Play grants are available in four categories: Synthetic Turf, Lighting, Irrigation, and Sport Court. Multi-sport field projects are eligible for funding, but such fields must be used most the time for soccer. Multi-field projects are also eligible. All Safe Places to Play grants (except for Irrigation) can be awarded for either indoor or outdoor field projects. Grants are disbursed as in-kind credit with their respective vendor:

- Synthetic Turf Grant Amount: up to 10% of the Hellas project quote.
- Lighting Grant Amount: Typically in the range of 15%-30% of project total, with a maximum of \$25,000 per grant for single fields and \$50,000 for multi-field projects.

- Irrigation Grant Amount: Typically in the range of \$4,000 \$15,000, with a maximum of \$15,000 per grant.
- Sport Court Grant Amount: Typically in the range of 15% 50% of project total, with a maximum of \$30,000 per grant.

No cash is disbursed as part of this grant. Grantees must use the specific vendor as the supplier for their field project. Applicants are required to submit an LOI describing basics of the project prior to being approved to submit a full application for funding.

# California Department of Housing & Community Development (HCD): Housing-Related Parks Program

Deadline: February 23, 2017

Amount: Minimum grant amount: \$75,000; no set maximum award

Match: None

Eligibility: Cities and counties that, by the date set forth in the applicable NOFA, have adopted

housing elements

http://www.hcd.ca.gov/housing-policy-development/housing-related-parks-program/

The HRP Program is designed to encourage cities and counties to develop new residential housing by rewarding those jurisdictions that approve housing affordable to lower-income households with grant funds for the costs of Park and Recreation Facility creation, development, or rehabilitation, including, but not limited to, the acquisition of land for the purposes of those activities as well as major maintenance, reconstruction, or demolition for purposes of reconstruction of facilities, and retrofitting work. The grant provides funding on a per-bedroom basis for each residential unit affordable to very low- and low-income households permitted during the Designated Program Year (DPY). Awards will be distributed on the following basis:

- \$500 per bedroom for each unit affordable to Low-Income Households
- \$750 per bedroom for each unit affordable to Very Low-Income Households
- The minimum grant amount based on funding for these units must be \$75,000

## Major League Baseball Foundation: Baseball Tomorrow Fund

Deadline: Quarterly (January 1, April 1, July 1, & October 1)

Amount: \$40,000 average award size Match: 50% or more of total project cost

Eligibility: Tax exempt organizations including municipalities, school districts, and 501(c)(3)

nonprofits

http://web.mlbcommunity.org/index.jsp?content=programs&program=baseball\_tomorrow\_fund

The Baseball Tomorrow Fund is a joint initiative between Major League Baseball and the Major League Baseball Players Association designed to promote and enhance the growth of youth participation in baseball and softball around the world by funding programs, fields, coaches' training, uniforms, and equipment. Grants are intended to finance a new program, expand or improve an existing program, undertake a new collaborative effort, or obtain facilities or equipment necessary for youth baseball or softball programs. The Baseball Tomorrow Fund supports projects that meet the following evaluation criteria: increase the number of youth participating in baseball and softball programs; improve the quality of youth baseball and softball programs.

### HOUSING & COMMUNITY DEVELOPMENT FUNDING

### **ArtPlace America: National Creative Placemaking Fund**

Deadline: February 14, 2017 (registration deadline); February 22, 2017 (application deadline)

Amount: Varies. \$9.5 million available for entire program

Match: None

Eligibility: Nonprofit organizations, local governing bodies, individual artists/designers, and for-profit organizations

http://www.artplaceamerica.org/our-work/national-creative-placemaking-fund/introduction

ArtPlace America is a collaboration of leading national and regional foundations that is working to position art and culture as a core sector of community planning and development. ArtPlace's National Creative Placemaking Fund has \$9.5 million available for projects that work with artists and arts organizations to build stronger, healthier communities anywhere in the United States. The Fund gives some emphasis to applications from selected localities; however, applications are welcome from all rural and urban regions all across the country, including the U.S. Territories. Visit the ArtPlace website to learn more about the Fund.

### **Kessler Foundation: Signature Employment Grants**

Deadline: Online grant concepts are due March 17, 2017; invited proposals must be submitted by

July 10, 2017

Amount: \$100,000 to \$250,000

Match: None

Eligibility: Nonprofit organizations, public or private schools, and public institutions, such as universities and government agencies based in the United States or any of its territories are eligible to apply.

http://kesslerfoundation.org/grantprograms/signatureemploymentgrants.php

The Kessler Foundation's Signature Employment Grants provide support for non-traditional solutions that increase employment outcomes for individuals with disabilities. Grants ranging from \$100,000 to \$250,000 per year for up to two years are awarded nationally to fund pilot initiatives, demonstration projects, or social ventures that lead to the generation of new ideas to solve the high unemployment and underemployment of individuals with disabilities. Preference is given to interventions that overcome specific employment barriers related to long-term dependence on public assistance or advance competitive employment in a cost-effective manner. Although proposals can be submitted from any state, this year the Foundation has prioritized serving Americans with disabilities that live in rural states and other areas with more limited service delivery. Visit the Kessler Foundation's website to review the Signature Employment Grants guidelines.

# California Department of Housing & Community Development (HCD): 2017 Veterans Housing and Homelessness Prevention (VHHP) Program

Deadline: February 21, 2017

Amount: The maximum loan per project is \$10 million.

Financing Terms:

Eligibility: The Eligible Project Sponsor is the borrowing entity that HCD relies upon for

experience and capacity, and which

controls the project during development and occupancy.

http://www.hcd.ca.gov/financial-assistance/veterans-housing-and-homelessness-prevention-program/

The purpose of the VHHP program is to provide funding for acquisition, construction, rehabilitation and preservation of affordable multifamily housing for veterans and their families to allow veterans to access and maintain housing stability. Funds must be used to serve veterans and their families. VHHP funds will be provided as post-construction permanent loans. All Program funds shall be used for the development costs in CCR Section 7304 (a) and (b) and to refinance loans used to cover such costs. Program assistance shall have an initial term of fifty-five years or longer to match the period of affordability restrictions under the Low Income Housing Tax Credit Program. "Veteran" means any person who served in the active military, naval or air service of the United States or as a member of the National guard who was called to and released from active duty or active services for a period of not less than 90 consecutive days or was discharged from service due to a service related disability. This includes veterans with other-than-honorable discharges. At least 50 percent of the funds awarded shall serve veteran households with extremely low-incomes. Of those units targeted to extremely low-income veteran housing, 60 percent shall be supportive housing units.

### **Burlington Northern Santa Fe Railway Foundation**

Deadline: Continuous Amount: \$100 - \$500,000

Match: None

Eligibility: Nonprofit organizations, local government agencies, and educational institutions in communities served by the Burlington Northern Santa Fe Railway <a href="http://www.bnsffoundation.org/">http://www.bnsffoundation.org/</a>

The Burlington Northern Santa Fe Railway Foundation provides support in communities in the company's area of operations. The Foundation considers requests falling in the following categories:

- Civic Services: This area includes organizations which are concerned with the environment and local community issues, such as crime prevention, parks and recreation, diversity and community development.
- Cultural Organizations: This area includes performing arts, visual arts, fine arts, and museums and other related activities that offer opportunities for underserved children to experience cultural learning events.
- Educational Institutions: This area includes both public and private education, primarily at the college level. (Grants of an exceptional nature may be made to vocational and non-college schools. Preferably, contributions will be directed toward the improvement of the quality of education.)
- Health and Human Service Organizations: This area includes hospitals, medical programs, and programs that address chemical dependency treatment and prevention, spouse and child abuse, women's and children's aid, and transitional shelters.
- Youth Organizations: This area includes Boys & Girls Clubs, Camp Fire, Scouts, Junior Achievement, and similar groups.

Federated organizations such as United Way and American Red Cross are also supported. To be considered for a grant, requests should meet at least two of the following criteria: The organization or project has significant Burlington Northern Santa Fe (BNSF) employee participation; the organization or the services provided are in close proximity to a BNSF main

line or BNSF is the only railroad or major corporation in the applicant's area of the state; the request is related to the railroad industry; or, the request is for direct programming or project support.

### California Statewide Communities Development Authority: Taxable Bonds Program

Deadline: Continuous

Amount: Varies. Financing is for low interest, tax-exempt bonds.

Eligibility: Public and private entities

http://cscda.org/Apply-Online/Taxable-Bonds

This program offers public and private entities taxable bonds for projects that provide public benefit and economic development. Longer term taxable bonds can often provide cost savings and other efficiencies.

Note: This funding opportunity is being listed on the Municipal Grant List so that cities can offer it to eligible organizations within their community.

# **Economic Development Administration (EDA): FY2016 Public Works and Economic Adjustment Assistance Grant Programs**

Deadline: Continuous until new solicitation published

Amount: \$100,000 - \$3,000,000 Match: 50% of project cost

Eligibility: Cities; Counties; 501(c)(3) nonprofits; Public and State controlled institutions of higher education; Native American tribal governments; Private institutions of higher education; Special district governments

http://www.eda.gov/funding-opportunities/

Under this FFO, EDA solicits applications from applicants in rural and urban areas to provide investments that support construction, non-construction, technical assistance, and revolving loan fund projects under EDA's Public Works and EAA programs. Grants and cooperative agreements made under these programs are designed to leverage existing regional assets and support the implementation of economic development strategies that advance new ideas and creative approaches to advance economic prosperity in distressed communities. EDA provides strategic investments on a competitive- merit-basis to support economic development, foster job creation, and attract private investment in economically distressed areas of the United States.

### **Union Pacific Foundation Community-Based Grant Program**

Deadline: Preliminary applications: August 14, annually; Final applications: August 15,

annually

Amount: \$10,000 Match: None

Eligibility: Nonprofit organizations and local municipalities in communities served by the Union

Pacific Railroad

http://www.up.com/found/index.shtml

The Union Pacific Foundation's mission is to improve the quality of life in the communities served by Union Pacific, primarily in the Midwestern and western United States. (A map of Union Pacific's service area is available on the <a href="UP website">UP website</a>.) The Foundation's Community-Based Grant Program provides support in the following areas:

- Community and Civic: The goal is to assist community-based organizations and related activities that improve and enrich the general quality of life. This category includes organizations such as aquariums, botanical gardens, children's museums, history/science museums, public libraries, public television and radio, and zoos.
- Health and Human Services: The goal is to assist organizations dedicated to improving
  the level of healthcare and providing human services in the community. Local affiliates
  of national health organizations may apply for local programs only, but not for general
  operating support.

The Foundation has a strong interest in promoting organizational effectiveness among nonprofits. To that end, the Foundation will dedicate the majority of these grants to help nonprofit organizations build their capacity, increase their impact, and operate more efficiently and effectively.

### **Wells Fargo Charitable Contributions Program**

Deadline: January 3 - September 30, annually Amount: Varies; typically around \$50,000

Match: None

Eligibility: Nonprofit organizations

http://www.wellsfargo.com/about/charitable/index.jhtml

The Wells Fargo Charitable Contributions Program supports nonprofit organizations that address vital community needs and issues in the communities served by the bank.

Guidelines for charitable contributions vary from state to state. However, Wells Fargo generally supports the following areas of interest:

- community development, including affordable housing and homebuyer education, workforce development, financial literacy, and economic development;
- education, including higher education and K-12 education;
- human services, including childcare, healthcare, and basic needs;
- the environment, including green economy and clean technologies, natural resources, and endangered species; and,
- arts and culture, including performing arts and museums; and,
- civic engagement.

Wells Fargo prefers to fund outcome-driven programs versus unrestricted sponsorships and events for nonprofits.

### LAW ENFORCEMENT FUNDING

US Department of Justice: Body-Worn Camera Policy and Implementation Program FY 2017 Competitive Grants

Deadline: February 16, 2016

Amount: Varies by grant type (see description below)

Match: 50% or more of the total project costs

Eligibility: public agencies of state government, units of local government, and federally

recognized Indian tribal governments that perform law enforcement functions

https://www.bja.gov/funding/BWCPIP17.pdf

The FY 2017 BWC PIP will support the implementation of body-worn camera programs in law enforcement agencies across the country. The intent of the program is to help agencies develop, implement, and evaluate a BWC program as one tool in a law enforcement agency's comprehensive problem-solving approach to enhance officer interactions with the public and build community trust. Successful applicants will develop and implement policies and practices required for effective program adoption, and will address program factors including the purchase, deployment, and maintenance of camera systems and equipment; data storage and access; and privacy considerations. BJA expects the BWC programs to make a positive impact on the quality of policing in these jurisdictions and to inform national efforts to improve the use of BWCs more broadly. While BWC equipment may be purchased under this program, successful applicants must demonstrate a commitment and adherence to a strong BWC policy framework, including comprehensive policy adoption and requisite training. There are 4 applicant categories with specific award amounts as shown below:

- 1) CATEGORY 1: Implementation or Expansion of BWC Programs for SMALL AGENCIES (25 or fewer sworn officers) Award Amount: Minimum request of \$10,000; up to 40 awards nationwide
- 2) CATEGORY 2: Implementation or Expansion of BWC Programs for MID-SIZED AGENCIES (26-250 sworn officers) Award Amount: Maximum of \$400,000; up to 10 awards nationwide
- 3) CATEGORY 3: Implementation or Expansion of BWC Programs for LARGE AGENCIES (251-1000 sworn officers) Award Amount: Maximum of \$750,000; up to 8 awards nationwide
- 4) CATEGORY 4: Implementation or Expansion of BWC Programs for EXTRA-LARGE AGENCIES (More than 1000 sworn officers) Award Amount: Maximum of \$1 Million; up to 5 awards nationwide

# California Board of State & Community Corrections (BSCC): Proposition 47 Grant Program

Deadline: February 21, 2017 Amount: \$1 Million to \$6 Million

Match: No match required, however, public agency applicants must demonstrate how they will

leverage other federal, state, and local funds or other social investments. Eligibility: Public Agencies (incl. counties, cities, tribes, school districts)

http://www.bscc.ca.gov/s\_bsccprop47.php

Proposition 47, which reduced to misdemeanors penalties for some low-level crimes, requires the Board of State and Community Corrections (BSCC) to administer grant programs for mental

health and substance abuse treatment using a portion of the annual state savings. Proposition 47 grant funds must be used for mental health services, substance use disorder treatment, diversion programs, or some combination thereof. In addition to these required services and programs, applicants are encouraged to provide supplemental housing-related services and other community-based supportive services, such as job skills training, case management, and civil legal services.

### **Open Society Foundations: Police Associations Leading 21st Century Policing**

Deadline: February 24, 2017 Amount: \$25,000 to \$200,000

Match: None

Eligibility: Local fraternal and sororal police associations in the United States <a href="https://www.opensocietyfoundations.org/grants/police-associations-leading-21st-century-policing-20170112?utm\_source=Open+Society+Foundations&utm\_campaign=5174b68b7f-Grants\_RSS\_email&utm\_medium=email&utm\_term=0\_d16374add2-5174b68b7f-49765169</a>

The Open Society Foundations recognize that recent events have generated new urgency to seek new solutions and create lasting collaborative relationships between local police and the public. Through the Police Associations Leading 21st Century Policing initiative, the Foundations invite local fraternal and sororal police associations in the United States to submit proposals for projects they wish to work on to increase trust between law enforcement officers and the communities they serve. The aim is to make grants to local police associations to help them to implement projects that relate to the recommendations of the President's Taskforce on 21st Century Policing. Visit the Foundations' website to download the request for proposals.

# **US Department of Justice: Adult Drug Court Discretionary Grant Program FY 2017 Competitive Grant**

Deadline: February 28, 2017

Amounts: Grant Amounts vary by program as follows

- CATEGORY 1: Implementation Grant maximum: \$400,000
- CATEGORY 2: Enhancement Grant maximum: \$400,000

Match: Minimum of 25% matching funds from non-federal sources for each category Eligibility: states, state and local courts, counties, units of local government, and federally recognized Indian tribal governments for Categories 1 & 2; State agencies only for Category 3 grants

### https://www.bja.gov/funding/DrugCourts17.pdf

The purpose of the Adult Drug Court Discretionary Grant Program is to provide financial and technical assistance to eligible entities to develop and implement drug courts that effectively integrate evidence-based substance use disorder treatment, mandatory drug testing, sanctions and incentives, and transitional services in a judicially supervised court setting with jurisdiction over substance-misusers. BJA is accepting applications for FY 2017 grants to either establish new drug courts or enhance existing drug court programs using evidence-based principles and practices. Local governments are eligible to apply for two funding categories under this solicitation, including:

1. **CATEGORY 1: IMPLEMENTATION --** Implementation grants are available to eligible jurisdictions that have completed a substantial amount of planning and are ready

- to implement an evidence-based adult drug court. Applicants may propose to use funding for court operations and services; participant supervision, management, and services; provision and coordination of recovery support services including education, civil legal assistance, job training and placement, housing placement assistance, primary and behavioral health care, and childcare and other supportive services.
- 2. **CATEGORY 2: ENHANCEMENT --** Enhancement grants are available to eligible jurisdictions with a fully operational adult drug court (to be eligible, the court must have been operating for at least 1 year as of September 30, 2017). Applicants are encouraged to include in their proposals funding to incorporate the evidence-based program principles included in the NADCP Adult Drug Court Best Practice Standards, and to specify which Standard(s) is/are addressed in the application and include in the program design details on how the Standard(s) will be implemented.

### US Department of Justice: National Sexual Assault Kit Initiative (SAKI) FY 2017 Competitive Grant

Deadline: March 2, 2017

Amounts: Grant Amounts vary by program as follows

- Purpose Area 1 -- 10 awards of up to \$3 million each
- Purpose Area 2 -- 10 awards of up to \$500,000 each
- Purpose Area 3 -- 5 awards of up to \$1 million each

Match: None required, but voluntary contributions are encouraged

Eligibility: law enforcement agencies of states, units of local government, federally recognized Indian tribal governments. Specific grants have different eligibility requirements (see Purpose Area descriptions below).

### https://www.bja.gov/funding/SAKI17.pdf

The National Sexual Assault Kit Initiative (SAKI), administered by the Bureau of Justice Assistance (BJA), provides funding through a competitive grant program to support multidisciplinary community response teams engaged in the comprehensive reform of jurisdictions' approaches to sexual assault cases resulting from evidence found in previously unsubmitted sexual assault kits (SAKs). The focus of this solicitation is on those "un-submitted kits" which are defined as SAKs that have not been submitted to a forensic laboratory for testing with CODIS-eligible DNA methodologies. There are three different solicitations available under the SAKI grant program:

- 1. PURPOSE AREA 1: Comprehensive Approach to Un-submitted Sexual Assault Kits -- Applications are solicited from eligible agencies who can demonstrate their ability and commitment to implementing the comprehensive BJA model to address the issues that underlie the problem of un-submitted SAKs
- 2. **PURPOSE AREA 2: SAKI for Small Agencies --** Applications are solicited from eligible entities to support targeted activities associated with un-submitted SAKs. Sites may apply for funding of up to \$500,000 to address any SAKI-related activity listed under Purpose Area 1 (see pages 10-13). These must be consistent with the BJA Model with modifications based on need, existing capacity and resources and local challenges. Eligible applicants under Purpose Area 2 are Small Law Enforcement Agencies that have less than 250 sworn officers OR Consortia of Small Agencies.
- 3. PURPOSE AREA 3: Collection of Lawfully Owed DNA from Convicted Offenders to Assist with Sexual Assault Investigations and Prosecutions -- This funding is

intended as enhancement funds for applicants who can clearly demonstrate that their jurisdiction has previously addressed, or is currently effectively addressing, the major issues associated with un-submitted SAKs. The goal of this purpose area is to enable the appropriate law enforcement and correctional authorities to plan and implement coordinated DNA collections of lawfully owed samples, testing, and CODIS uploads in accordance with applicable state law and for resolving sexual assault cases associated with previously un-submitted SAKs.

### US Department of Justice: Second Chance Act Reentry Program for Adults with Co-Occurring Substance Use and Mental Disorders FY 2017 Competitive Grant

Deadline: March 14, 2017

Amount: Eight awards of up to \$650,000

Match: This solicitation does not require a match.

Eligibility: states, units of local government, and federally recognized Indian tribal governments <a href="https://www.bja.gov/Funding/SCACOD.pdf">https://www.bja.gov/Funding/SCACOD.pdf</a>

Under this solicitation, BJA is seeking applications to implement or expand treatment programs for adults with co-occurring substance use and mental disorders who are returning to their communities following incarceration. Programs should expand and improve the screening and assessment for co-occurring disorders that takes place in jails and prisons, in-reach by community-based providers, and the reentry and community reintegration process. Proposed programs should improve the provision of treatment for adults (18 years and over) being treated for co-occurring substance use and mental disorders, focusing on pre- and post-release programming for every program participant.

# US Department of Justice: Smart Reentry - Focus on Evidence-based Strategies for Successful Reentry from Incarceration to Community FY 2017 Competitive Grant

Deadline: March 14, 2017

Amount: Up to five awards of up to \$1,000,000 each

Match: 50% of the total project cost and may be in the form of cash or in-kind services. Eligibility: State and local government agencies and federally recognized Indian tribal governments

https://www.bja.gov/funding/SmartReentry.pdf

The Second Chance Act of 2007 helps to address the significant challenges of reentry of incarcerated individuals into society by providing comprehensive responses to incarcerated adults who are returning to communities from prison, jail, and juvenile residential facilities. Programs funded under the Second Chance Act help to promote public safety by ensuring that the transition individuals make from prison and jail to the community is successful. The goal of the Smart Reentry Program is to support jurisdictions to develop and implement comprehensive and collaborative strategies that address the challenges posed by reentry to increase public safety and reduce recidivism for individuals reentering communities from incarceration who are at medium to high risk for recidivating. This process should provide the individual with appropriate evidence-based services—including reentry planning that addresses individual criminogenic needs identified through information obtained from an empirically validated risk/needs assessment that also reflects the risk of recidivism for each individual. The reentry plan should reflect both specific and ongoing pre-release and post-release needs, and a strategy for ensuring that these needs are met throughout the duration of the reentry process.

# US Department of Justice: Violent Gang and Gun Crime Reduction Program (Project Safe Neighborhoods) FY 2017 Competitive Grant

Deadline: March 28, 2017

Amount: 12 awards of up to \$200,000-\$500,000 each Match: This solicitation does not require a match.

Eligibility: PSN team fiscal agents for the United States Attorney Office districts and federally recognized Indian tribal governments. All fiscal agents must be certified by the relevant U.S. Attorney's Office (USAO). Eligible USAO-certified fiscal agents include states, units of local government, educational institutions, faith-based and other community organizations, private nonprofit organizations, and federally recognized Indian tribal governments.

https://www.bja.gov/funding/PSN17.pdf

BJA's "Smart Suite" of programs invests in the development of practitioner-researcher partnerships that use data, evidence, and innovation to create strategies and interventions that are effective and economical. This data-driven approach enables jurisdictions to understand the full nature and extent of the crime challenges they are facing and to direct resources to the highest priorities. The Smart Suite of programs, which includes Project Safe Neighborhoods (PSN), represents a strategic approach that brings more "science" into criminal justice operations by leveraging innovative applications of analysis, technology, and evidence-based practices with the goal of improving performance and effectiveness while containing costs. PSN is designed to create safer neighborhoods through a sustained reduction in gang violence and gun crime. The program's effectiveness is based on the cooperation and partnerships of local, state, and federal agencies engaged in a unified approach led by the U.S. Attorney (USA) in each district. The USA is responsible for establishing a collaborative PSN team of federal, state, and local law enforcement and other community members to implement gang violence and gun crime enforcement, intervention, outreach, and prevention initiatives within the district. Through the PSN team, the USA will implement the five design features of PSN—partnerships, strategic planning, training, outreach, and accountability—to address specific gun crime and gang violence, in the most violent neighborhoods. Details on the five design features (also referred to as core elements) can be found on pages 5-7.

# US Department of Justice: FY 2017 National Initiatives: Preventing Violence Against Law Enforcement Officers and Ensuring Officer Resilience and Survivability (VALOR) Initiative

Deadline: March 7, 2017

Amount: One award of \$500,000 for Category 1 grants; One award of \$2,500,000 for Category 2

grants; One award of \$2,500,000 for Category 3 grants

Match: None required

Eligibility: Not-for-profit and for-profit organizations; state and local governments; federally recognized Indian tribal governments; and institutions of higher education

https://www.bja.gov/funding/VALOR17.pdf

The Preventing Violence Against Law Enforcement Officers and Ensuring Officer Resilience and Survivability (VALOR) Initiative is an overarching program that addresses officer safety, wellness, resilience, and survival through multifaceted training, technical assistance, and specialized programs. USDOJ/BJA is seeking applications under three distinct categories for the FY 2017 Initiative:

- 1. Law Enforcement and Community: Crisis Intervention Training Model A national training and technical assistance (TTA) provider to further develop and enrich BJA's justice and mental health portfolio specific to law enforcement's response and interaction with individuals with mental illness.
- 2. Law Enforcement Agency and Officer Resilience Training Program A national TTA organization to identify, develop, implement, and analyze the effectiveness of resiliency concepts and skills within a law enforcement agency; serving as the foundation of a nationally delivered resiliency training.
- 3. Specialized Officer Safety and Wellness Topics Training and Technical Assistance National Provider A national TTA provider to develop and deliver specialized one-day and half-day state, local, and tribal law enforcement trainings across the nation specifically related to officer safety, wellness, and preparedness.

VALOR is critical to educating and providing resources to law enforcement professionals on officer safety- and wellness-related issues, techniques, and considerations so that they can be better prepared to serve the communities that rely on them.

### US Department of Justice: Law Enforcement National Initiatives: Improving Responses to

Criminal Justice Issues FY 2017 Competitive Grant

Deadline: March 7, 2017

Amount: One award of \$600,000 for Category 1 grants; One award of \$800,000 for Category 2

grants; One award of \$1,300,000 for Category 3 grants

Match: None required

Eligibility: for-profit (commercial) organizations, nonprofit organizations, and institutions of

higher education

https://www.bja.gov/funding/NationalInitiativesLE17.pdf

The FY 2017 Law Enforcement National Initiatives: Improving Responses to Criminal Justice Issues Competitive Grant Announcement focuses on national initiatives to improve the functioning of the criminal justice system, specifically by (1) providing training to selected law enforcement to develop effective communication strategies; (2) continuing the National Center for Campus Public Safety, which was established in FY 2013; and (3) providing training and technical assistance (TTA) to law enforcement on performance management to improve trust and accountability with communities through the CompStat process.

# US Department of Justice: Swift, Certain, and Fair (SCF) Supervision Program – Including Project HOPE FY 2017 Competitive Grant

Deadline: March 20, 2017

Amount: Five awards of up to \$600,000 each

Match: None required

Eligibility: States, units of local government, territories, and federally recognized Indian tribal

governments

https://www.bja.gov/funding/SCF17.pdf

The Swift, Certain, and Fair (SCF) Supervision Program, is a strategic approach that brings more "science" into criminal justice operations by leveraging innovative applications of analysis, technology, and evidence-based practices with the goal of improving performance and effectiveness while containing costs. The SCF principles are intended to: (a) improve supervision strategies that reduce recidivism; (b) promote and increase collaboration among

agencies and officials who work in community corrections and related fields to enhance swift and certain supervision; (c) enhance the supervised persons' perception that the supervision decisions are fair, consistently applied, and consequences are transparent; and (d) improve the outcomes of individuals participating in these initiatives. Through this FY 2017 grant announcement, BJA will select multiple applicants to develop, implement, or enhance an SCF model. Applicants selected under this announcement will work with BJA and its SCF training and technical assistance (TTA) partner to implement the model with fidelity. BJA is supporting this effort to enhance public safety, foster collaboration, and improve the outcomes of individuals under the supervision of community corrections.

# US Department of Justice: Justice and Mental Health Collaboration Program FY 2017 Competitive Grant

Deadline: April 4, 2017

Amount: 78 awards ranging from \$75,000 - \$300,000 Match: 20% of the project costs from non-federal funds

Eligibility: States, units of local government, territories, and federally recognized Indian tribal

governments

https://www.bja.gov/funding/JMHCP17.pdf

The Justice and Mental Health Collaboration Program (JMHCP) supports innovative cross-system collaboration to improve responses and outcomes for individuals with mental illnesses or co-occurring mental health and substance abuse disorders who come into contact with the justice system. BJA is seeking applications that demonstrate a collaborative project between criminal justice and mental health partners from eligible applicants to plan and implement justice and mental health strategies collectively designed between justice and mental health. This solicitation specifically seeks to increase early identification and front-end diversion of people with mental health and co-occurring substance use disorders identified at early intercept points within the justice system. This program seeks to increase the number of justice, mental health, and community partnerships; increase evidence-based practices and treatment responses to people with behavioral health disorders in the justice system; and increase the collection of health and justice data to accurately respond to the prevalence of justice-involved people with mental health and co-occurring substance use disorders.

### FIRE DEPARTMENT FUNDING

FEMA: FY 2016 Staffing for Adequate Fire & Emergency Response (SAFER) Grant

Deadline: February 10, 2017

Amount: Varies; \$340,000,000 allocated to entire program

Match: None

Eligibility: Eligibility: Volunteer Fire Departments; Career Fire Departments; Combination Fire

Departments; Municipalities, Tribal Organizations

https://www.fema.gov/staffing-adequate-fire-emergency-response-grants

The Staffing for Adequate Fire and Emergency Response Grants (SAFER) was created to provide funding directly to fire departments and volunteer firefighter interest organizations to

help them increase or maintain the number of trained, "front line" firefighters available in their communities. The goal of SAFER is to enhance the local fire departments' abilities to comply with staffing, response and operational standards established by the NFPA (NFPA 1710 and/or NFPA 1720). The SAFER grant program is composed of two activities:

- *Hiring of Firefighters*: Career, combination, and volunteer fire departments are eligible to apply to hire firefighters for a 36-month period.
- Recruitment and Retention of Volunteer Firefighters: Combination fire departments; volunteer fire departments; and national, state, local, or tribal organizations that represent the interests of volunteer firefighters are eligible to apply for a 12 to 48-month period.

### **FM Global Fire Prevention Grant Program**

Deadline: April 1; August 1; and December 1 annually

Award amount: \$2500-\$5000

Match: None

Eligibility: Fire departments and brigades, as well as national, state, regional, local, and

community organizations

http://www.fmglobal.com/page.aspx?id=01060200

The FM Global Fire Prevention Grant Program supports a wide array of fire prevention, preparedness, and control efforts throughout the U.S. and internationally. Funded projects include pre-fire planning for commercial, industrial, and institutional facilities; fire and arson prevention and investigation; and fire prevention education and training programs.

### **Firefighters Charitable Foundation**

Deadline: Continuous Amount: Varies Match: None

http://www.ffcf.org/

Assists fire and disaster victims; and supports Volunteer Fire Departments. Grants offered for the following needs/programs: AED (Automatic External Defibrillator); Fire Department Equipment Program; Community Smoke Detector Program; and the Juvenile Fire-setter Prevention and Intervention Program.

### Fire Fighters Support Foundation, Inc.

Deadline: Quarterly Amount: \$5-10,000

Match: None

http://www.ffsupport.org/assistance.html

The Firefighters Support Foundation pro-actively makes contributions to funds established for the children of fallen firefighters. This financial support may be applied for by downloading, completing, and mailing an application on the foundation's website.

### Fireman's Fund Heritage Program

Deadline: Continuous Amount: Varies Match: None

https://www.firemansfund.com/home/policyholders/about\_us/supporting\_firefighters/index.html

Fireman's Fund awards grants to fire departments and fire & burn prevention organizations to support firefighters for safer communities. These grants can be used to purchase needed equipment, firefighter training, and community education programs.

### MISCELLANEOUS FUNDING

USCM and USA Funds: National Education Pathways with a Purpose Initiative

Deadline: March 31, lib2017 Amount: \$25,000 - \$100,000

Match: None

Eligibility: United States Conference of Mayors (USCM) Member Cities

http://www.usmayors.org/pathwayswithapurpose/

The National Education Pathways with a Purpose Initiative, a collaboration between the United States Conference of Mayors (USCM) and USA Funds, awards competitive grants to expand creative initiatives that mayors have developed in their cities to advance both college and career readiness and college completion. Cities are recognized for developing strong collaborations between K-12 and higher education systems and employers to address college preparation and long-term career success. Eligible programs must apply innovative approaches to achieve the following two goals: enhance student persistence in and completion of post-secondary education or training programs, and enhance employment of graduates of post-secondary education or training programs in high-value occupations. USCM Member Cities are eligible to apply for a total of \$200,000 in grants: \$100,000 to one large city with a population greater than 500,000; \$75,000 to a medium-sized city with a population between 200,000 and 500,000; and \$25,000 to a small city of under 200,000. The application deadline is March 31, 2017. Visit the USCM website to access the application guidelines booklet.

### **International Paper Foundation: Environmental Education & Literacy Grants**

Deadline: Quarterly (February 1, April 1, August 1, and October 1, annually)

Amount: \$100 - \$100,000

Match: None

Eligibility: Nonprofit organizations, government entities, and school districts

http://www.internationalpaper.com/company/regions/north-america/ip-foundation-usa/apply-for-a-grant

The foundation's primary focus areas include the following:

- 1. Environmental Education: The Foundation supports programs that help both younger and older generations understand a sustainable approach balancing environmental, social, and economic needs. Examples of supported programs include:
  - science-based programs targeting children;
  - outdoor classrooms at schools or in communities;
  - outdoor science programs tied to forestry, air, or water; and,
  - education-based programs that promote recycling, tree planting, and composting initiatives
- 2. Literacy: The Foundation addresses literacy through support of programs that:
  - enhance availability of reading materials at school and community libraries;
  - enhance reading skills of children and adults; and,

• teach English as a Second Language (ESL).

The Foundation provides limited consideration for funding to new critical needs in company communities. Consideration is given to one-time, non-recurring needs which benefit the community at large. The Foundation considers providing "seed" money on a one-time basis for requests that identify a community-wide need and provide details of sustaining the initiative within the community beyond International Paper funding. The Foundation generally does not fund capital, economic development, or multi-year projects. Average grant awards are around \$100.

### **Sierra Pacific Foundation Grant**

Deadline: Annually on February 28

Amount: \$100 - \$50,000

Match: None

Eligibility: Nonprofit organizations

http://www.spi-ind.com/spf\_contributions.aspx

The Sierra Pacific Foundation supports a wide range of organizations that serve communities where Sierra Pacific Industries operates facilities, primarily in Northern California and Washington. Funding is provided for academic and community programs, particularly those that benefit children. Specific areas of interest include:

- K-12 and higher education;
- libraries;
- museums;
- civic affairs:
- arts and culture;
- parks and recreation;
- youth sports;
- health and social services; and,
- public safety, including drug and alcohol prevention.

Types of support include general operating and project support. Educational scholarships are also given to dependent children of company employees. Contribution request forms may be obtained from the nearest Sierra Pacific Industries office or by contacting the Foundation.

### **Stuart Foundation Grant Funding**

Deadline: Continuous (LOIs may be submitted at any time)

Amount: Varies. The amount requested from the Foundation should be proportionate to your organizational budget, project budget, and expected income from other sources

Match: None

Eligibility: school districts, universities, and government entities such as city or county agencies in California

http://www.stuartfoundation.org/BecomeOurPartner

The Stuart Foundation is dedicated to transforming the public education and child welfare systems in California and Washington so that all youth can learn and achieve in school and life. The Foundation supports nonprofit organizations that address the following priorities: The Education Systems category invests in coordinated programs, partnerships, and research and

policy analysis that help students to learn and achieve in school by developing effective education systems. The Vulnerable Youth in Child Welfare category partners with child welfare agencies to help children and youth in foster care to realize positive outcomes in the following focus areas: safety, permanency, well-being, education opportunities, and youth, family, and community engagement. Letters of inquiry may be submitted at any time; the Foundation will take up to 60 days to respond to an LOI.

### The Kresge Foundation: Human Services Program

Deadline: Continuous Amount: Varies. Match: None

Eligibility: government agencies and 501(c)(3) nonprofit organizations

http://kresge.org/programs/human-services/advancing-effectiveness-human-serving-organizations

The Kresge Foundation works to improve the life circumstances of poor and low-income children and adults and those living in underserved communities. Through the Human Services Program, the Foundation seeks to expand access and opportunity for individuals and families who are vulnerable and low-income by strengthening human services organizations and promoting new responses to challenges in the sector. One of the program's focus areas, "Advancing the effectiveness of human-serving organizations," provides grants to enhance the ability of high-performing organizations to innovate and effectively support individuals and families on the path to self-sufficient, self-determined lives. Preference is given to nonprofit organizations and government entities that employ integrated, innovative, culturally responsive approaches to change the circumstances of people outside the economic mainstream. Preliminary inquiries may be submitted throughout the year. Visit the Foundation's website for more information.

### **Whole Foods Market Community Giving Program**

Deadline: Continuous Amount: Varies. Match: None

Eligibility: Nonprofits and educational organizations in communities with company stores. <a href="http://www.wholefoodsmarket.com/mission-values/caring-communities/community-giving">http://www.wholefoodsmarket.com/mission-values/caring-communities/community-giving</a>
The Whole Foods Market Community Giving Program supports local nonprofit and educational organizations that are important to each community in the U.S. where stores are located. Several times each year, Whole Foods Market stores hold community giving days (otherwise known as "5% Days") where five percent of that day's net sales are donated to a local nonprofit or educational organization. The groups that benefit from these 5% Days are as varied as the communities themselves. Each year Whole Foods Market gives a minimum of 5% of its net profits to nonprofit and educational organizations in the locations where the company has stores. Examples of the types of organizations supported include:

- Education: school support organizations, after-school organizations, etc.;
- Community and culture: arts organizations, museums, parks, etc.;
- Human interest: elder care, children and youth, homeless assistance, etc.; and,
- Environmental issues: organic food and farming, natural wildlife protection, green living, etc.

Along with cash donations, Whole Foods Market donates food and other products to area food banks and shelters. Organizations interested in applying for support should contact the Marketing Director at their local store or complete the donation request form available on the company's website.

### **UPCOMING FUNDING (ALL CATEGORIES)**

### California Natural Resources Agency: Urban Greening Grant Program

Release: TBD (Likely late 2016. Draft Guidance currently available for review)

Deadline: TBD (Likely early 2017)

Amount: TBD Match: None

Eligibility: Cities, counties, special districts, nonprofit organizations or joint powers authorities. http://resources.ca.gov/grants/urban-greening/

The Urban Greening Program, funded by the Greenhouse Gas Reduction Fund, will fund projects that transform the built environment into places that are more sustainable, enjoyable, and effective in creating healthy and vibrant communities by establishing and enhancing parks and open space, using natural solutions to improving air and water quality and reducing energy consumption, and creating more walkable and bike-able trails. Grants will be awarded on a competitive basis. This program emphasizes, and gives priority to, projects that are proposed by and benefit the State's disadvantaged communities.

### California Natural Resources Agency: 2017 Museum Grant Program

Release: TBD (Spring 2017) Deadline: TBD (September 2017)

Amount: Up to \$50,000 Match: Dollar for dollar

Eligibility: Public agency (federal, state, city, county, district, association of governments, joint powers or Federally Recognized Indian Tribe); Nonprofit organizations

http://resources.ca.gov/grants/california-museum/

The program is a competitive grant program to support small capital asset projects in museums. For purposes of this program "capital asset" means tangible physical property with an expected useful life of 15 years or more. A capital asset project may be either of the following:

- 1. Acquisition of real property, that is, tangible physical property, including easements; or
- 2. Development of real (tangible physical) property. "Development" includes but is not limited to, improvement, rehabilitation, restoration, enhancement, preservation and protection.

For purposes of this program, "museum" means a public or private nonprofit institution that is organized on a permanent basis for essentially educational or aesthetic purposes and that owns or uses tangible objects, cares for those objects, and exhibits them to the public on a regular basis. A public agency, nonprofit entity or Federally Recognized Tribe responsible for the operation of a museum may apply on behalf of the museum; or, a museum located within a parent organization (i.e., a municipality, university, historical society or cultural center) may apply on its own if it independently fulfills all the eligibility requirements.

# Proposition 1 Funding Schedule

ecosystem and watershed protection and restoration, and drinking water protection. The State Water Resources Control Board (State Proposition 1 authorized \$7.545 billion in general obligation bonds for water projects including surface and groundwater storage, Water Board), Department of Water Resources, and other state agencies will administer Proposition I funds. Below is a listing of Proposition I funding opportunities that are currently available and upcoming.

Agency / Funding Program	Description	Funding Amount	Match	Eligibility	Deadline	Link
Prop 1 Drinking Water State Revolving Fund	Chapter 5, Section 79724(a) of Proposition 1 allocates \$260 million for drinking water grants and loans for public water system infrastructure improvements and related actions to meet safe drinking water standards ensure affordable drinking water, or both. These funds will be administered consistent with the DWSRF Intended Use Plan (DWSRF IUP) and the DWSRF Policy.  The purpose of the DWSRF is to provide financial assistance for the planning/design and construction of drinking water infrastructure projects that are needed to achieve or maintain compliance with federal and state drinking water statutes and regulations. Funding for the DWSRF comes from federal grants, state sources, and loan repayment. Applications are offered for the following two categories:  Construction Financing - These funds are for applicants with complete final plans, specifications, and environmental documentation.  Planning/Design Financing - These funds are for applicants who do not have final plans, specifications, and environmental documentation.	\$260 Million in program No maximum disbursement limit.	Interest rates average 2-3% and 20 year loan. Public water systems that serve small, disadvantage d communities may be eligible for 0% and 30 year loan.	Community water systems and non-profit, non-community water systems	Continuous	http://www.waterboar ds.ca.gov/water issue s/programs/grants loa ns/dwsrf/scoping_wor kshops.shtml

Most cities, towns, districts, or other public bodies created under state law, including state agencies	local public Continuous http://www.waterboar agencies to ds.ca.gov/water_issue December s/programs/grants_loa 2030 ns/water_recycling/in dex.shtml
Financing Term up to 30 years or the useful life of the project. Interest Rate is ½ the most recent General Obligation (GO) Bond Rate.	50% (Planning Grants) 35% (Construction Grants)
\$260 million in program  No maximum funding or disbursement limits.	\$75,000 (Planning Grants) \$15-\$20 Million (Construction Grants)
Section 79723 of Prop 1 allocates \$260 million to the Clean Water State Revolving Fund (CWSRF) Small Community Grant (SCG) Fund. The State Water Board has an annual SCG appropriation of \$8 million dollars, which is administered consistent with the CWSRF Intended Use Plan (IUP), and the CWSRF Policy. The Prop 1 funds will supplement existing SCG authority. Administering these funds as a part of the CWSRF Program allows grant funds to be easily leveraged with lowinterest financing available through the CWSRF Program. Eligible projects include, but are not limited to: Construction of publicly-owned treatment facilities: Wastewater treatment; Local sewers; Sewer interceptors; Water reclamation and distribution; Stormwater treatment; Combined sewers; Landfill leachate treatment	The purpose of the WRFP is to promote water recycling by providing technical and financial assistance to local agencies and other stakeholders in support of water recycling projects and research. Grant programs include:  Planning Grants: The purpose of the planning grant is to assist agencies or regions with completing feasibility studies for water recycling projects using treated municipal wastewater and/or treated groundwater from sources contaminated by human activities. Only local public
SWRCB: Small Community Wastewater Program	SWRCB: Water Recycling Fund



### INFORMATION CALENDAR May 14, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Henry Oyekanmi, Director, Finance

Subject: Results of RFP for Availability Study for Affirmative Action in City Contracting

(Berkeley Inclusion in Opportunity Index)

### INTRODUCTION

In response to the January 24, 2017 Council Referral to 2016-2017 budget and the subsequent June 24, 2017 revision to the 2018 and 2019 budget report wherein \$100,000 was allocated to fund an Availability Study for Affirmative Action in City Contracting (Berkeley Inclusion in Opportunity Index) this report provides the results of the request for proposals (RFP) #18-11193-C issued for the services.

### **CURRENT SITUATION AND ITS EFFECTS**

The City of Berkeley and its residents have a longstanding commitment to diversity and to advancing the development of local businesses. Part of this commitment is to ensure that the City's procurement activities allow for contracting opportunities to be accessible to the entire local business community. To the extent disparities in the awarding of contracts exist, the City of Berkeley is barred by Proposition 209 from undertaking race-conscious, gender-conscious and other affirmative action-related remedies without first conducting a study to identify discrimination. Such remedies may not be undertaken based on broad notions of equity or general allegations of discrimination, however, they are permitted if the City identifies specific disparities in the awarding of contracts. The purpose of the Availability Study is to: 1) examine the City's procurement activities and identify disparities in the awarding of contracts affecting local, small, emerging, minority, and women business enterprises; 2) identify causes and impacts; and 3) provide data to support and inform strategies to remedy the effects of any historical or current discriminatory practices.

### **BACKGROUND**

On January 24, 2017 Council members Bartlett, Worthington and Davila referred to the 2016-2017 budget an allocation to perform an Availability Study to analyze the City's use of local, small, emerging enterprises and other enterprises with barriers to access in City construction, architecture, engineering, professional services, goods and other services contracts. On June 24, 2017 a FY 2018 & FY 2019 revised budget report was submitted to the City Council as agenda Item #47 by the Budget Manager. The report was revised to reflect the Mayor's Supplemental Budget

INFORMATION CALENDAR May 14, 2019

Recommendations presented on June 13, 2017 that included \$100,000 in FY 2018 for the Berkeley Inclusion in Opportunity Index, also referred to as the Availability Study.

Staff prepared Request for Proposal (RFP), Specification No. 18-11193-C, Availability Study for Affirmative Action in City Contracting which was released to the public in the spring of 2018. The RFP's intent was to identify and contract with a firm to conduct disparity and utilization analyses to assess the City's use of local, small, emerging, minority and women business enterprises in City construction, architecture, engineering, professional services, goods and other services contracts. Additionally, remediation recommendations to address any identified utilization gaps were requested as part of the scope of services.

Specific outreach was made to 7 firms that participated in a similar request for proposal process with the City of Oakland. The RFP was posted on the City's website and at the kiosk in front of Old City Hall. Six (6) firms submitted proposals in response to the RFP.

Respondents were required to submit the following information:

- A narrative demonstrating respondent's understanding of the City's needs as described in the Scope of Services and elaborate on the recommended approach to the work (weighted 40%)
- A statement of qualifications and previous experience of both the firm and key staff that would perform under the contract (weighted 40%)
- Client References (weighted 10%)
- Price Proposal (weighted 10%)

A panel comprised of City staff was convened to evaluate each proposal, conduct a rating and ranking process and identify the top ranked proposal (see Attachment 1). At the conclusion of the rating and ranking process the proposal submitted by Mason Tillman Associates Ltd (MTA) was deemed to provide the best overall value to the City, price and other factors considered. Particular strengths of the MTA proposal included:

- Extensive experience performing this type of work for states, cities and special districts and authorities, including the Cities of Oakland, Richmond and San Jose, San Francisco Bay Area Rapid Transit District, California High Speed Rail Authority, and Alameda County,
- Clearly defined approach and proposed project plan with an estimated duration of 8 months from start to finish,
- A detailing of data analysis tools and processes to be used, and
- Analysis of subcontractor awards.

### **ENVIRONMENTAL SUSTAINABILITY**

While there are no direct environmental sustainability effects associated with the content of this report, if results of the study shows that local businesses are underrepresented in City contracting, and the City takes steps to increase its outreach

Results of RFP for Availability Study for Affirmative Action in City Contracting (Berkeley Inclusion in Opportunity Index)

INFORMATION CALENDAR May 14, 2019

to and support for local business the number of contract awards to local business may increase. Local businesses would require fewer vehicle travel miles to meet with City staff in the delivery of services, potentially reducing greenhouse gas (GHG) emissions.

### POSSIBLE FUTURE ACTION

The City Council may wish to provide direction on the next steps for achieving an Availability Study for Affirmative Action in City Contracting (Berkeley Inclusion Opportunity Index).

### FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

The amount of additional resources required to complete this work is \$199,620, for a total amount of \$299,620.

### **CONTACT PERSON**

Shari Hamilton, General Services Manager, Finance, 510.981.7329

### Attachments:

1: RFP 18-11193-C Availability Study for Affirmative Action in City Contracting Proposal Rating and Ranking Table

Results of RFP for Availability Study for Affirmative Action in City Contracting (Berkeley Inclusion in Opportunity Index)

INFORMATION CALENDAR May 14, 2019

### Attachment 1

# RFP #18-11193-C AVAILABILITY STUDY FOR AFFIRMATIVE ACTION IN CITY CONTRACTING

### RATING AND RANKING OF PROPOSALS

				MASON		
	MGT		MILLER <sup>3</sup>	TILLMAN	KEEN	BBC
SELECTION CRITERIA	CONSULTING	GRIFFIN &	CONSULTING	ASSOCIATES	INDEPENDENT	RESEARCH &
(PTS)	GROUP	STRONG	INC.	LTD	RESEARCH	CONSULTING
Understanding &						
Approach (40)	35	32	31	35	35	34
Qualifications &						
Experience (40)	36	30	35	38	25	36
References (10)	9	8	8	9	7	8
Price (10)	8.89	9.17	10.00	8.89	11.43	10.00
Total Points Earned	88.89	79.17	84.00	90.89	78.43	88.00
Proposal Amounts	\$ 301,620	\$ 267,710	\$ 245,575	\$ 299,620	\$ 299,872	\$ 439,760



### INFORMATION CALENDAR May 14, 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: Public Works Department Reaccreditation by the American Public Works

Association

### INTRODUCTION

The Public Works Department (Department) successfully completed its department self-assessment process and was reaccredited by the American Public Works Association (APWA) in March 2019. The APWA Accreditation Program<sup>1</sup>, established in 1996, formally verifies and recognizes public works organizations throughout the United States and Canada for compliance with recommended practices established within the public works industry. Accreditation serves as a catalyst for the Department to focus attention on its procedures, which are at the center of the self-assessment process. The self-assessment process engages all levels of the Department, which results in improvements to operations and more effective and efficient services to our community.

### **CURRENT SITUATION AND ITS EFFECTS**

To maintain APWA Accreditation, the self-assessment process must be completed every four years. In addition to the Department's routine, seasonal, and special project activities, Public Works spent substantial time over many months to complete the self-assessment, which entails the review of and demonstration of compliance with the over 300 separate operating management practices. A site visit by a team of outside professional Public Works evaluators on March 4 and 5, 2019, completed the reaccreditation process. The evaluators were impressed with the Department's level of engagement and professionalism throughout the process.

Maintaining APWA Accreditation advances the City's Strategic Plan goals to

- provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.
- provide an efficient and financially-health City government.
- create a resilient, safe, connected, and prepared city.
- be a customer-focused organization that provides excellent, timely, easily-accessible service and information to the community.
- attract and retain a talented and diverse City government workforce.

https://www.apwa.net/MYAPWA/Events/Accreditation/MyApwa/Apwa\_Public/Education\_and\_Events/Agency\_Accreditation.aspx

### **BACKGROUND**

The Public Works Department initially achieved full accreditation from APWA in 2000, the fourth agency in the Nation to do so, and has been re-accredited three subsequent times (in 2004, 2009, and 2014). Maintaining this accreditation is critical in supporting the Department's mission of providing quality services to the Berkeley community with pride, courtesy, and excellence.

### **ENVIRONMENTAL SUSTAINABILITY**

Thorough review of the Department's policies and procedures ensures staff are trained in best practices which supports waste reduction, stormwater protection and compliance with regulations that protect the environment.

### POSSIBLE FUTURE ACTION

The updated policies and procedures obtained through the self-assessment process will help staff follow best management practices. In addition, the data compiled will be used to build the foundation for the Department's portion of the City's new intranet. Each division of Public Works will receive a compilation of the relevant policies and practices to facilitate onboarding of new employees and continuous training of existing employees.

### FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

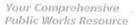
Reaccreditation will take place in the fall of 2022 and will incur a cost of about \$10,000 to APWA. Staff time will also be utilized for the reaccreditation process.

### **CONTACT PERSON**

Joy Brown, Senior Management Analyst, Public Works, 510-981-6629 Phil Harrington, Director, Public Works, 510-981-6300

### Attachment:

1: APWA Letter of Reaccreditation





### AMERICAN PUBLIC WORKS ASSOCIATION

March 13, 2019

Mr. Phillip Harrington Director of Public Works 2180 Milvia Street Berkeley, CA 64704

Dear Mr. Harrington,

It is with great pleasure we inform your agency of the action of the APWA Accreditation Council to award full Accredited to your agency for the ensuing four-year period effective September 29, 2018. Berkeley was the fourth agency to achieve Accreditation in December 2000. You have led the way and helped establish the standard by which more than 150 agencies are now measured. Your continued commitment to, and more importantly, achievement of excellence cannot be overstated.

Congratulations to you, accreditation manager Joy Brown, and City Manager Dee Williams-Ridley, as well as each member of your agency. We trust you have found great benefits in working through the Accreditation process and in maintaining Berkeley Public Works as a premier agency in North America.

Your final site visit results as well as an electronic file of the accreditation logo is being forwarded to Ms. Brown. You may use this logo for your use in publicizing your accreditation (common practices are to include it on websites, letterhead company shirts, etc.). Additionally, APWA is providing you with two complimentary Accredited Agency decals in hopes you will proudly display them in prominent places. Additional decals are available through the APWA Store at www.apwa.net/store (search Accreditation Decal Sticker).

Once again, congratulations on a job well done.

Sincerely,

Becky Stein

Director of Education & Credentialing

Encl. Accreditation Agency decals CC: Joy Brown, Accreditation Manager www.apwa.net

1200 Main Street, Suite 1400 Kansas City, MO 64105-2100 816-472-6100 800-848-APWA fax 816-472-1610

1275 K Street NW, Suite 750 Washington, DC 20005-4083 202-408-9541 fax 202-408-9542

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### INFORMATION CALENDAR May 14, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Phillip Harrington, Director, Public Works

Subject: Residential Preferential Parking Program: Spring 2019 Update

### INTRODUCTION

This report provides an update on the effects of the 2018 "short-term" adjustments to the Residential Preferential Parking Program (RPP). An accompanying Public Hearing Report, also on the May 14, 2019 agenda, provides a road map for continued strategic reform and expansion of the Program in the "mid-term" timeframe (Fiscal Years 2020-2021).

### **CURRENT SITUATION AND ITS EFFECTS**

On February 13, 2018, Council approved staff recommendations to expand eligibility for Residential Preferential Parking to two new areas in West Berkeley (Area O and Area P, in the area zoned Mixed-Use Residential); authorize new meters in West Berkeley to manage commercial parking adjacent to residences in mixed-use areas; add a limit of three (3) annual permits available for purchase at most residential addresses; and increase permit fees to eliminate the Program's operating deficit. Since these recommendations were approved, the following has occurred:

- Increased RPP Program fiscal solvency. Effective July 1, 2018, RPP permit fees increased and the annual permit cap (3 permits per address) was implemented. As of March 2019, revenues from RPP permit sales were 12% lower than the previous year, with 9% fewer permits sold.¹ Due in part to these lower than expected revenues, the Program continues to operate at a deficit of approximately \$124,675. Nevertheless, this represents a reduction of \$71,125 in the Program deficit since FY 2017, when the structural deficit totaled \$195,800.
- Implementation of annual permit maximum. As part of the February 2018 action, Council approved a new maximum of three (3) annual permits in most areas. Customers needing more than the maximum are able to apply for a waiver to the limit. As of March 1, 2019, a total of 105 waiver forms were received, with 93 approved for a permit. Per the BMC, these "additional permits" incur a \$100 surcharge on the base permit fee. Initially created to facilitate the waiver process,

<sup>&</sup>lt;sup>1</sup> Analysis for Fiscal Year 2019 included the most recent twelve months of available data at the time of writing: April 2018 through March 2019.

- a new email address, <u>RPP@cityofberkeley.info</u>, has provided the public a new way to submit questions about the RPP Program.
- Despite the introduction of two new RPP areas, few residents in these areas have taken advantage of access to RPP Program protections. After Council approved the expansion of RPP opt-in eligibility in February 2018, staff sent a letter to each residential address in the new West Berkeley Areas O and P (and the expansion of existing Area L) announcing the decision and explaining how to opt-in to the RPP Program. As of March 1, 2019, only four (4) out of a total of 537 newly-eligible residential parcels successfully submitted an opt-in request, which was approved by Council on January 29, 2019.<sup>2</sup>
- <u>Enforcement of street sweeping restrictions has not changed.</u> See "Update: Parking Enforcement Operations" section below.

### **Update: Permit Saturation Analysis**

To better understand the Program's role in mitigating parking demand between residents and visitors, staff performed an analysis of "permit saturation," i.e., the ratio of permits issued per permitted parking space. This type of analysis, which was also conducted by the San Francisco Municipal Transportation Agency (SFMTA) in its recent San Francisco Residential Permit Parking Evaluation and Reform Project,<sup>3</sup> sheds light on demand for parking in different RPP Program areas.

This analysis included annual permits issued for FY 2019 in the Southside and Elmwood neighborhoods (Areas A, B, D, I, and L).<sup>4</sup> As summarized in the table below and depicted in Attachment 1, annual permits issued in each area account for 72% to more than 100% of permitted parking spaces in these neighborhoods. In Area B, more annual permits are issued than permitted parking spaces are available, and in Area I, the saturation rate is nearly 100%.

RPP Area	On-Street Permit Parking Supply, 2017	Annual RPP Permits Issued for FY 2019	Permit Saturation %
В	1009	1142	113%
ı	990	973	98%
Α	497	425	86%
D	1318	1067	81%
L	923	667	72%

<sup>&</sup>lt;sup>2</sup> January 29, 2019 City Council Agenda: Implement Residential Preferential Parking (RPP) Program on Sections of Fifth Street and Martin Luther King Jr. Way: https://bit.ly/2SXCEiW

<sup>&</sup>lt;sup>3</sup> San Francisco Residential Permit Parking Evaluation and Reform Project, https://bit.ly/2tXwxfJ

<sup>&</sup>lt;sup>4</sup> Note: This analysis does not account for any visitor, community facility, and/or Gig car-share permits issued for FY 2019, which further contribute to variable parking demand in these neighborhoods. Likewise, it does not account for actual usage of the parking permits, e.g., the variability in parking demand on a block-to-block level, or parking occupancy of permit holders over the course of a day.

While this analysis is only a snapshot of parking conditions in some RPP areas, it indicates that there is significant competing parking demand among permitted residents, let alone from non-permitted visitors who are subject to the two-hour time limit, which the Program was originally designed to mitigate.

Additional data collection and analysis on the RPP Program in the Southside and Elmwood neighborhoods will be conducted as part of the grant-funded Residential Shared Parking Pilot (RSPP) project, which will begin later this year.<sup>5</sup> This pilot project will also examine alternatives to permit-based management of non-resident parking demand.

### **Update: Parking Enforcement Operations**

Since staff provided Council with the "Phase I" RPP Reform and Expansion update in early 2018, there have been no substantive changes to parking enforcement operations. Eighteen (18) Parking Enforcement Officers (PEOs) patrol geographic "beats" that include a mix of parking meters and RPP time-limited parking areas. Within these beats, PEOs enforce parking restrictions on over 1,000 blockfaces<sup>6</sup> with RPP two-hour time limit restrictions, 460 blockfaces with parking meters of varying time limits, and all other time-limited parking areas.

Three (3) more PEOs are solely assigned to enforce street sweeping restrictions. In areas with street sweeping, posted signs prohibit parking during three-hour windows, e.g., 9:00 a.m. to 12:00 p.m., or 12:30 p.m. to 3:30 p.m. These three-hour windows are designed to maximize flexibility for street sweeping activities, which may be delayed due to localized issues such as heavy leaf falls in areas with thick tree canopies.

Enforcement of street sweeping parking restrictions consists of driving street sweeping routes immediately in front of the sweeper and issuing citations to vehicles in violation of parking restrictions. When the sweeper's hopper is full, the PEO must wait for the sweeper to empty its load at the City's Solid Waste Management and Transfer station, then return to the route before continuing enforcement activities. If the sweeper and its accompanying PEO have completed a blockface prior to the end of the three-hour window, vehicles are *de facto* allowed to park on the street in violation of posted restrictions. While providing a convenience to adjacent residents, the current street sweeping enforcement practice reduces the capacity of PEOs to conduct other duties.

In all, approximately half of parking enforcement time is spent conducting RPP time limit patrols. The remaining half includes enforcing parking meters, time limited areas, school zones, travel time, and being pulled away for emergencies (e.g., traffic collisions). As demands on parking enforcement increased over the past several years while staffing

<sup>&</sup>lt;sup>5</sup> July 24, 2018 City Council Agenda: Contract: Nelson\Wygaard for Parking Data Collection and Analysis Services for the goBerkeley Residential Shared Parking Pilot https://bit.ly/2nFcgQ2

<sup>&</sup>lt;sup>6</sup> A blockface is defined as one side of one street, e.g., the west side of Milvia Street between Allston Way and Center Street.

levels remained constant, PEOs no longer conduct both morning and afternoon patrols of time limits in RPP areas—depending on daily duties, a blockface may be patrolled either in the morning or in the afternoon. Similarly, each new resident "opt-in" petition approved by Council further reduces the frequency and availability of enforcement for existing parking areas.

### **BACKGROUND**

The RPP Program began in 1980 (1) to protect Berkeley residential neighborhoods from an influx of non-resident vehicles and related traffic; (2) to assure continued quality of life for residents; and (3) to provide neighborhood parking for residents. The Program limits parking for vehicles not displaying an RPP permit in most RPP areas to two hours, and reserves available daytime parking for residents, between 9:00 a.m. and 7:00 p.m. Monday through Friday, and on some blocks Saturday.

In March 2014,<sup>7</sup> Council directed staff to evaluate expanding the RPP Program beyond its then-current geographic boundaries. At a September 2017 Council Worksession, staff discussed several challenges with the RPP Program, and proposed incremental solutions to be implemented over the next three years.<sup>8</sup> In February 2018, staff returned to Council with a first set of "short-term" policy reforms, including increased permit fees for Program cost neutrality, a limit of three (3) annual permits per address, and an expansion of RPP eligibility to two new zones in West Berkeley.<sup>9</sup> Improving the effectiveness of the RPP Program is a Strategic Plan Priority Project, advancing the City's goals to:

- Provide an efficient and financially-health City government; and
- Be a customer-focused organization that provides excellent, timely, easily-accessible service and information to the community.

### **ENVIRONMENTAL SUSTAINABILITY**

The presence of two-hour time limits for non-residents as part of the RPP Program may encourage some commuters to use other modes of travel, potentially reducing parking demand and congestion. However, other commuters may continue to drive despite the restrictions, and move their cars every two hours to avoid being ticketed. This behavior has an adverse impact on traffic congestion, air quality, and excess fuel consumption.

### POSSIBLE FUTURE ACTION

This report is accompanied by a RPP Public Hearing Report, also on the May 14, 2019 agenda, which provides recommendations for enhancing and expanding the RPP Program over the next several years.

<sup>&</sup>lt;sup>7</sup> March 11, 2014 *City Council Agenda: Expansion of Permit Parking to Impacted Areas:* http://bit.ly/2vTqnqD

<sup>8</sup> September 19, 2017 City Council Agenda: Residential Preferential Parking (RPP) Program Recommendations: https://bit.ly/2iWaPDa

<sup>&</sup>lt;sup>9</sup> February 27, 2018 City Council Agenda: Residential Preferential Parking (RPP) Program Reform and Expansion: https://bit.ly/2Yq6tYB.

### FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Please refer to the Fiscal Impacts section of the accompanying report for more information.

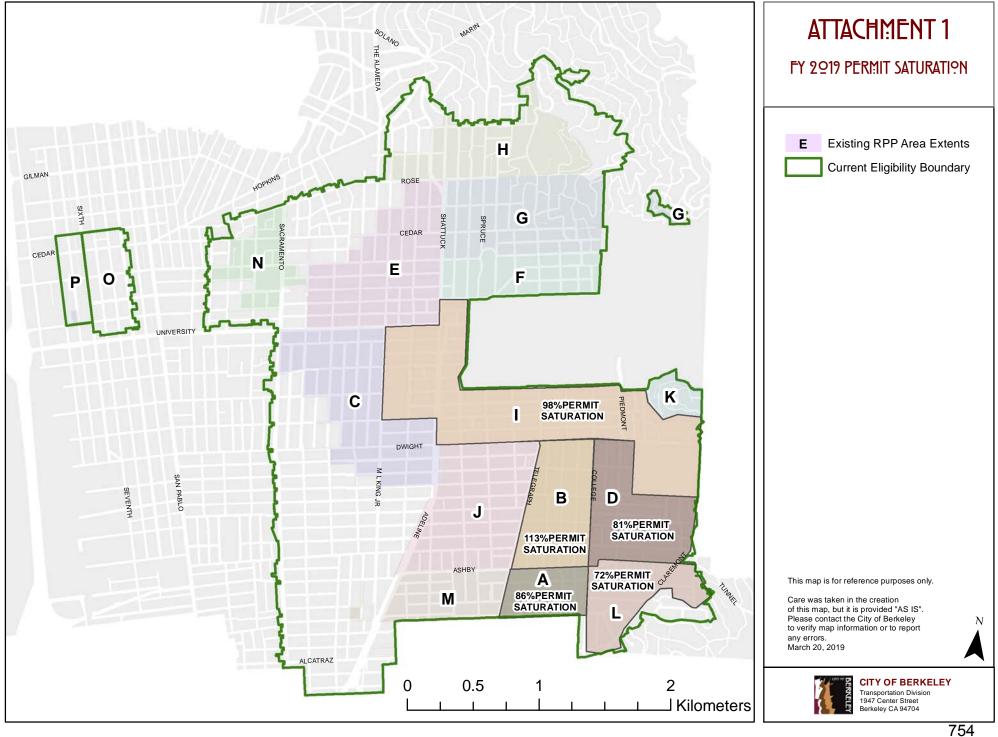
### **CONTACT PERSON**

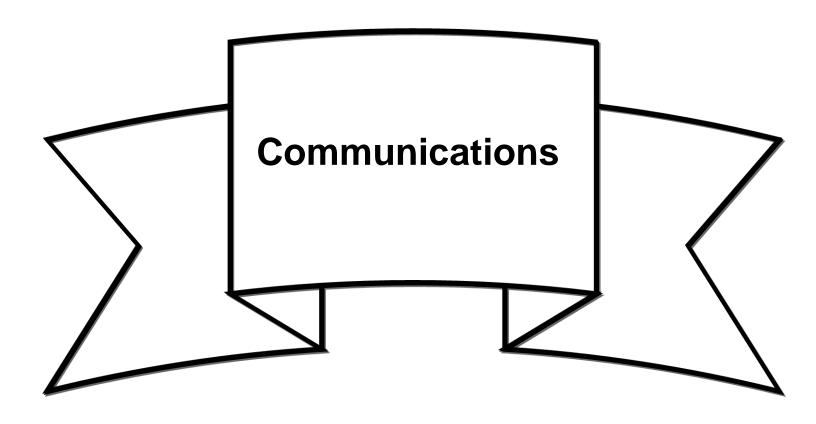
Farid Javandel, Transportation Manager, Public Works (510) 981-7061 Danette Perry, Parking Services Manager, Public Works (510) 981-7057 Gordon Hansen, Senior Planner, Public Works (510) 981-7064

### Attachments:

1: FY 2019 Permit Saturation

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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

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- 1. Select Search Type = "Public Communication Query (Keywords)"
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- 4. Click the "Search" button
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- 6. Click the desired file in the Results column to view the document as a PDF