

PROCLAMATION CALLING A SPECIAL MEETING OF THE BERKELEY CITY COUNCIL

In accordance with the authority in me vested, I do hereby call the Berkeley City Council in special session as follows:

MONDAY, JULY 22, 2024

3:00 P.M.

REDWOOD ROOM – 2180 MILVIA STREET, BERKELEY, CA 94704

TELECONFERENCE LOCATION – 1404 LE ROY AVENUE, BERKELEY, CA 94708

TELECONFERENCE LOCATION - 1619 EDITH STREET, BERKELEY, CA 94703

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI
DISTRICT 2 – TERRY TAPLIN
DISTRICT 3 – BEN BARTLETT
DISTRICT 4 – IGOR TREGUB

DISTRICT 5 – SOPHIE HAHN
DISTRICT 6 – SUSAN WENGRAF
DISTRICT 7 – CECILIA LUNAPARRA
DISTRICT 8 – MARK HUMBERT

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

*Remote participation by the public is available through Zoom. To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL: <https://cityofberkeley-info.zoomgov.com/j/1608742239>. To request to speak, use the “raise hand” icon by rolling over the bottom of the screen. To join by phone: Dial **1-669-254-5252** or **1-833-568-8864 (Toll Free)** and enter Meeting ID: **160 874 2239**. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair. Please be mindful that the meeting will be recorded.*

To submit a written communication for the City Council’s consideration and inclusion in the public record, email council@berkeleyca.gov.

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

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

Preliminary Matters

Roll Call

Public Comment - Limited to items on this agenda only

CLOSED SESSION:

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

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

a. *Workers' Compensation matter WCAB Case Number: ADJ10187918*

b. *Workers' Compensation matter WCAB Case Number: ADJ18579793*

2. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION PURSUANT TO GOVERNMENT CODE SECTIONS 54956.9(d)(2):

a. Claim of Paul Wescott

3. PUBLIC EMPLOYEE APPOINTMENTS PURSUANT TO GOVERNMENT CODE SECTION 54957(b):

Title of position to be filled: Director of Health, Housing and Community Services

4. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION PURSUANT TO GOVERNMENT CODE SECTIONS 54956.9(d)(2):

a. *City of Grants Pass, Oregon v. Johnson (2024) 144 S.Ct. 2202*

5. CONFERENCE WITH REAL PROPERTY NEGOTIATORS PURSUANT TO GOVERNMENT CODE SECTIONS 54956.8

Property Address: 1001 University Avenue, Berkeley CA
Agency Negotiators: LaTanya Bellow, City Manager's Office; Dionne Early, Public Works
Negotiating Parties: City of Berkeley and Berkeley Food Network
Property Owner: City of Berkeley
Under Negotiation: Lease Price and Terms

6. CONFERENCE WITH REAL PROPERTY NEGOTIATORS AND LEGAL COUNSEL; CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION PURSUANT TO GOVERNMENT CODE SECTIONS 54956.8, 54956.9(d)(1) and (2):

Property Address: 3201 Adeline Street, Berkeley CA
Agency Negotiators: LaTanya Bellow, City Manager's Office; Dionne Early, Public Works
Negotiating Parties: City of Berkeley and the Black Repertory Group
Property Owner: City of Berkeley
Under Negotiation: Lease Price and Terms

7. CONFERENCE WITH LABOR NEGOTIATORS; GOVERNMENT CODE SECTION 54957.6

Negotiators: LaTanya Bellow, Interim City Manager, Anne Cardwell, Deputy City Manager, Aram Kouyoumdjian, Human Resources Director, Jonathan Holtzman, Labor Negotiator, Dania Torres-Wong, Labor Negotiator, Burke Dunphy, Labor Negotiator

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

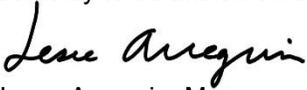
OPEN SESSION:

Public Reports of actions taken pursuant to Government Code section 54957.1.

Adjournment

I hereby request that the City Clerk of the City of Berkeley cause personal notice to be given to each member of the Berkeley City Council on the time and place of said meeting, forthwith.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the official seal of the City of Berkeley to be affixed on this 18th day of July, 2024.


Jesse Arreguin, Mayor

Public Notice – this Proclamation serves as the official agenda for this meeting.

ATTEST:



Mark Numainville, City Clerk

NOTICE CONCERNING YOUR LEGAL RIGHTS: *If you object to a decision by the City Council to approve or deny an appeal, the following requirements and restrictions apply: 1) Pursuant to Code of Civil Procedure Section 1094.6 and Government Code Section 65009(c)(1)(E), no lawsuit challenging a City decision to deny or approve a Zoning Adjustments Board decision may be filed and served on the City 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.*

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.



COMMUNICATION ACCESS INFORMATION:

This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at (510) 981-6418 (V) or (510) 981-6347 (TDD) at least three business days before the meeting date. Attendees at public meetings are reminded that other attendees may be sensitive to various scents, whether natural or manufactured, in products and materials. Please help the City respect these needs.



East Bay Community Law Center
2001 Center Street, 4th Floor
Berkeley, CA 94703

June 18, 2024

Via Email and USPS Mail

Latonya Bellow
Interim Berkeley City Manager
City of Berkeley
2180 Milvia Street
Berkeley, CA 94704

Re: Black Repertory Group Request to Purchase 3201 Adeline St, Berkeley

Dear Ms. Bellow,

I am following up on requests made from several representatives of my client, the Black Repertory Group (BRG) to meet with your office to discuss BRG's request to extend its lease at the Birel L. Vaughn Theater and Cultural Arts Center at 3201 Adeline Street. BRG's request of the City is to animate the original vision for this space and follow-through on its intention to "provide a structure whereby the BRG will eventually own the theater facility, as it builds the capacity to so purchase." Daniel Boggan, Jr., Memorandum to City Council RE: Black Repertory Group Theater Project, at 2 (January 22, 1985) (on-file with author). Specifically, BRG requests an immediate extension of the lease to April 7, 2035, with an option to purchase throughout the lease extension.¹ Exhibit A, attached, specifies the terms of this proposed lease extension in more detail.

An essential component of the original vision for 3201 Adeline St and the City of Berkeley's promise to supporting Black arts in South Berkeley was to provide ongoing "operating subsidy" of \$25,000. *See id.* Unfortunately, the City failed to provide this operating support for several years, leaving BRG with insufficient resources to build capacity as planned. Nevertheless, BRG continued to operate a thriving cultural arts and theatre program at 3201 Adeline Street, and as it enters its 60th "Diamond" season, BRG calls on the City to make good on its intentions by providing an immediate payment of \$600,000 to account for missed operating subsidy payments from 2000—2024.

¹ This reflects the date that an initial 55-year lease between the City of Berkeley and the BRG for the site prior to construction of the theater (*see* Berkeley Ordinance No. 5188, Ordinance No. 5234) would have expired.

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Going forward, BRG requests that this operating subsidy be adjusted for inflation and be rolled into an annual contract for services, the proposed deliverables for which are attached here as “Exhibit B,” in an amount of \$157,000. The scope of services proposed is based on BRG’s past contracts with the City.

Generations of Berkeley youth have found their voice through the performing arts at the Black Repertory Theatre. It is also an essential gathering place for community events and a home for services such as free lunch programs for youth in the summer and adult vocational training programs put on through regional collaborations. As one of the few remaining Black repertory theatres in the country, its presence in South Berkeley is a testament to the cultural diversity and inclusivity of the city.

Over the past year, BRG has invested significant resources to re-open the theater after the COVID-19 pandemic forced it to close its doors to comply with public health directives for nearly three years. We appreciate the City’s partnership in ensuring the space meets all relevant health and safety requirements and are proud to be operating once again in a refurbished space. BRG is ready to continue building on this momentum to build capacity and forge partnerships at the local, state and federal level to bring in sufficient resources to make permanent BRG’s home at 3201 Adeline St, just as BRG Executive Director Dr. Mona Vaughn Scott won funding from the Department of Housing and Urban Development to develop the current building.

As the City of Berkeley plans for significant changes to the Adeline corridor community that will include substantial investment of public resources into new housing and commercial projects, it should also preserve the cultural institutions like BRG that have shaped the neighborhood. In this respect, the Birel L. Vaughn Theater and Cultural Arts Center is a cornerstone that not only deserves preservation, but also embodies a longstanding public investment in cultural representation and belonging.

BRG has stewarded this investment, as well as the tradition of Black history and culture through its performances, events, and programming over the entire duration of its long history. This legacy has put South Berkeley on the map in the performing arts world, having produced renowned talent such as world-famous actors Whoopi Goldberg and Danny Glover, comics such as Paul Mooney and Dick Gregory, and playwrights including Maya Angelou and BRG Board Member Ishmael Reed.

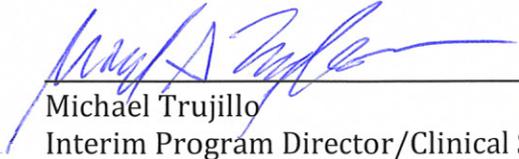
Though it is hard to fully quantify its impact, BRG has undoubtedly anchored the cultural identity of the Adeline corridor, attracting commercial patrons and bringing a sense of vitality to a community with a tumultuous history of disinvestment and redevelopment. The City of Berkeley should respect the myriad contributions BRG has made from its home at 3201 Adeline St by following through on its initial intentions for the space. Furthermore, BRG understands that the City of Berkeley transferred the Berkeley Repertory Theater’s building to it for \$1, and believes it should have the same opportunity.

Please respond to this request at your earliest availability to share a time and date when BRG can meet with your office to discuss this matter. In any event, please respond no

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later than Friday, June 21, 2024 via email to mtrujillo@ebclc.org or telephone at 510-269-6611. Thank you for your prompt attention to this matter.

Sincerely,



Michael Trujillo
Interim Program Director/Clinical Supervisor
Community Economic Justice Program
East Bay Community Law Center

Exhibit A

AMENDMENT TO SUBLEASE

THIS AMENDMENT TO SUBLEASE is made and entered into this __ day of _____, 2024, by and between the CITY OF BERKELEY (“the CITY”), a municipal corporation, as Sublessor and BLACK REPERTORY GROUP (“BRG”), a California nonprofit corporation, as Sublessee:

WHEREAS, the City and BRG, heretofore entered into a sublease, dated May 31, 1988, authorized by Ordinance No. 5833-N.S., of certain property located at 3201 Adeline Street, Berkeley, California, for the purpose of operating a community cultural arts center thereon;

WHEREAS, the City and BRG mutually agreed to amend said sublease to extend the term of the sublease to May 30, 2023 on the same terms and conditions;

WHEREAS, the City and BRG now mutually desire to extend the sublease to April 7, 2035 on the same terms and conditions;

WHEREAS, the original sublease dated May 31, 1988 contained an “Option to Purchase Improvements” whereby BRG paid a fee of \$5,000.00 for an option to purchase the building located 3201 Adeline Street, Berkeley, California, subject to certain terms and conditions (the “Original Purchase Option”); and

WHEREAS, the Original Purchase Option was never exercised and the City and BRG mutually desire to adjust the terms and conditions of the sublease to allow BRG to exercise this option during the extended term of the sublease.

NOW THEREFORE, in consideration of and pursuant to the mutual terms and conditions herein contained, the parties hereto agree that said sublease dated May 31, 1988, a copy of which is attached hereto and incorporated herein by reference as Exhibit A, shall be extended on the same terms and conditions, except as follows:

1. Section 302.2 is hereby added to read as follows:

Section 302.2. Additional Extended Term

The term of this Sublease shall be extended for the period commencing on May 31, 2023 and terminating on April 7, 2035 (unless sooner terminated pursuant to the provisions of this Sublease).

2. Section 405 is hereby added to read as follows:

Section 405. Option to Purchase Improvements During Additional Extended Term

Notwithstanding any provisions to the contrary, beginning in 2025 BRG shall have the right to exercise its option to purchase the Improvements on the terms and conditions set out in this Part 400, provided that BRG may exercise this option at any time by providing written notice to the City no later than 180 days prior to the expiration of the Term of this Sublease, including any extensions thereof.

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the parties hereto have executed this Amendment to Sublease.

CITY OF BERKELEY
as Sublessor

By: _____
City Manager

Attest:

City Clerk

BLACK REPERTORY GROUP, INC.
as Sublessee

By: _____
President

Attest:

Secretary

Exhibit B

PROPOSED SCOPE OF SERVICES

Programs

1. Summer Kids Camp (June – August)
2. BRG Arts classes: Drama and Dance for kids and adults (most Saturday mornings)
3. TACE Tutorial and Cultural Enrichment Classes including BRG Charm and Self-Improvement Classes
4. Health Education Theatre: HIV Drama Prevention Project (funded by Alameda County)
5. Building rentals for community members and events
6. Performances (detailed below):
 - a. 5 Mainstage Plays
 - b. 25 New Arts Plays

Performances

1. Five (5) Mainstage Productions at BRG's Birel Vaughn Theater, each of which will play for 3 – 6 weeks
2. Twenty-five (25) New Arts Plays to be arranged for performance at BRG, five of each will be performed during one of a total of five Saturday events

