



Office of the City Manager

CONSENT CALENDAR
March 9, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

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

Subject: Referral Response: Deferral of Remaining Permit, Inspection, Connection, and Impact Fees for 2009 Addison Street and Referral to the City Manager to Develop a Limited-Term Citywide Fee Deferral Program

RECOMMENDATION

Consider Adopting a Resolution authorizing the City Manager to defer remaining building permit, inspection, connection, and impact fees estimated at \$676,464.16 for the Berkeley Repertory Theater's project at 2009 Addison Street for a period of ten years. In addition, city staff is asking City Council to refer to the City Manager the development of a limited-term citywide fee deferral program.

SUMMARY

The Berkeley Repertory Theatre, a California nonprofit corporation, also known as Berkeley Repertory Theatre, hereinafter referred to as the "**BRT**" or "**Berkeley Rep**", or "**the Rep**" has requested that the City defer remaining building permit, inspection, connection, and impacts fees estimated at \$676,464.16 for ten years for their unique arts workforce housing and workshop space project to be constructed at 2009 Addison Street. This report describes staff's analysis of this request, and offers an option for council to consider approving this fee deferral via resolution (Attachment 1).

FISCAL IMPACTS OF RECOMMENDATION

According to information provided by the Planning and Development Department, Berkeley Rep has paid \$362,520.48 in building permit and fees to date and has outstanding amounts owed to the City that total \$676,464.16. In 2018, the Streets and Open Space Impact (SOSIP) Fee and Parking In Lieu Fee impact fees were waived by the City Council.¹

¹ Berkeley City Council, Item 28, *Fee Waivers for Berkeley Repertory Theatre Live/Work Artist Housing*, June 26, 2018.

Based on the referral adopted by City Council on December 15, 2020 (Attachment 2) and discussions with Berkeley Rep, the following points are offered to Council for consideration as components of a fee deferral agreement:

- All building, permit, impact and connection fees shall be due and payable to the city in ten (10) years from the date that the fee deferral agreement is executed by the City and Berkeley Rep.
- Simple interest of 2% per year shall be due and payable to the City on an annual basis.
- In the event Berkeley Rep does not pay its annual interest payment, it shall accrue to the balance and will be owed at the end of the fee deferral agreement. Interest payments should be based on the financial condition of Berkeley Rep.
- On an annual basis, Berkeley Rep should be required to submit its annual audited financial statements to the City and provide an update to the City on its fundraising activities.

Should the City Council approve the proposed fee deferral, the City will not recognize revenue from permit, inspection, connection, and impact fees for a period of ten (10) years. The total amount due to the City at the end of ten (10) years is estimated at \$811,756.99 (\$676,464.16 in deferred building permit, inspection, connection and impact fees plus interest estimated at \$135,292.83).

Table 1: Berkeley Rep Fee Repayment Schedule

	Fees	Interest @2% per year
Year 1	\$ 676,464.16	\$ 13,529.28
Year 2		\$ 13,529.28
Year 3		\$ 13,529.28
Year 4		\$ 13,529.28
Year 5		\$ 13,529.28
Year 6		\$ 13,529.28
Year 7		\$ 13,529.28
Year 8		\$ 13,529.28
Year 9		\$ 13,529.28
Year 10		\$ 13,529.28
Sub-Totals	\$ 676,464.16	\$ 135,292.83
Total Due to City Year 10	\$ 811,756.99	

In evaluating the fee deferral request, city staff updated its short and long-term projections for the Permit Service Center Fund. While the Permit Service Center Fund is adequately capitalized at the moment (fund balance as of June 30, 2020, approximately \$14.8 million), city staff do anticipate that there is the potential for the Permit Service Center Fund to generate deficits due to an anticipated slowdown in development activity attributed to the COVID-19 pandemic. At the Budget and Finance Policy Committee on February 25, 2021, city staff will provide an update on the financial condition of the Permit Service Center Fund, along with an initial outline of potential revenue-generating and cost containment measures should the City experience a slowdown in construction activity. Examples of measures that will be discussed at the Budget and Finance Policy Committee include, but are not limited to:

- Delaying implementation of a new permit system;
- Evaluating the need to fill vacancies on a case by case basis; and
- Performing a fee nexus study and updating the City's fee schedule.

Materials provided to the Budget and Finance Policy Committee by the Planning and Development department will be submitted to City Council in a Supplemental Report.

CURRENT SITUATION AND ITS EFFECTS

This report responds to a short term referral from the City Council that appeared on the agenda of the December 15, 2020 Council meeting. The item adopted by City Council, "referred to the City Manager to conduct a feasibility analysis and develop an MOU with the Berkeley Repertory Theater to defer \$720,000 in remaining permit and inspection fees for Berkeley Repertory Theater's housing project at 2009 Addison Street (leaving flexibility for timing, setting of interest, schedule of payments, and fund sources). (Attachment 2).

Feasibility Analysis

In order to get a sense of Berkeley Rep's true financial position, and complete adequate due diligence, staff conducted a number of meetings with Berkeley Rep's leadership, including the Managing Director and Finance Director. In performing this due diligence, city staff reviewed Berkeley Rep's most recent audited financial statements, project costs, and long-term financial plan. Through this work, city staff learned the following:

- Due to the loss of significant revenue as a result of the COVID-19 pandemic, Berkeley Rep has had to reduce its workforce to control costs and has relied on its line of credit to support operations.

- Berkeley Rep has experienced increases in construction costs since it received its project financing and has had to value engineer the project to reduce construction costs.
- Berkeley Rep's long-term financial plan assumes that it will take up to five (5) years for the organization to recover from COVID's impacts and its recovery relies on significant fundraising.
- Without the proposed fee deferral, Berkeley Rep would not move ahead with the project at 2009 Addison Street.

Project Budget and Financing

Staff reviewed Berkeley Rep's current project budget. The total project is approximately \$29.7M. According to Berkeley Rep, due to project delays they have had to cut \$1.0M from the project budget. In addition to asking for the fee deferral to achieve immediate savings, Berkeley Rep has value engineered and reduced the scope of the project (i.e., cutting back on furniture, fixtures, and equipment (FF&E) purchases and scaling back other project elements) to save costs.

Berkeley Rep has already secured 100% of the financing needed for the project at 2009 Addison Street upfront in what has been conveyed to the City as a combination of tax-exempt and taxable financing. This is a unique opportunity for Berkeley Rep but has the added pressure, due to the structure of their project financing to expend certain amounts of loaned funds by a date certain in order to not jeopardize its tax-exempt project financing. According to Berkeley Rep, they have a deadline of March 2022 to spend the funds on project construction. Because of this timeline, Berkeley Rep is under tremendous amounts of stress to work out a fee deferral with the City and begin construction on the project.

Berkeley Rep Financial Plan

Staff also reviewed Berkeley Rep's long-term financial plan. Berkeley Rep assumes that it will be five (5) years for theater operations to fully recover from the COVID-19 pandemic. In order to sustain operations, Berkeley Rep is not only relying on traditional fundraising activities, but an extraordinary fund raising campaign – Resilience Campaign – that aspires to raise approximately \$17.4M from fiscal year (FY) FY 2021 - FY 2025. Berkeley Rep has completely utilized their line of credit and has budgeted repaying the line of credit from FY 2027 - FY 2031 and paying the City its deferred permit fees in full in 2031 after repaying its line of credit. In addition to fully exercising its line of credit, Berkeley Rep has significantly reduced its staffing to control costs.

It is not yet fully understood to what extent Berkeley Rep may benefit from the most recent federal stimulus plan that was adopted by the Congress in which approximately \$15 billion was set aside to support live entertainment venues.² The rules for these resources are in the process of being finalized and it is not yet known by Berkeley Rep as to what they could qualify for, how much they would be awarded, or what the funding could be used for should they be awarded a 'shuttered venue operator' grant.

Next Steps and Possible Future Action of the City Council

Since City Council adopted the Referral, city staff have met with Berkeley Rep on several occasions, performed due diligence summarized in this staff report, and updated projections for the Permit Service Center Fund. Should City Council adopt the proposed Resolution, city staff would work with the City Attorney's to develop and enter into an agreement that defers the building permit, inspection, connection, and impact fees attributable to the project at 2009 Addison Street with Berkeley Rep.

As stated above, due to an anticipated slowdown in development activity, staff are closely monitoring the financial condition of the Permit Service Center Fund. As a result, it is anticipated that the Permit Service Center Fund will experience deficits over the coming years. Due to these concerns, city staff are also asking the City Council to refer to the City Manager the development of a limited-term citywide fee deferral program that would be subject to City Council approval. During the Great Recession, the City Council adopted a limited-term citywide fee deferral program³ and the purpose of this request is to provide direction to city staff to develop a standardized program rather than having to consider requests on an ad hoc basis. In light of the yet-to-be-fully-uncovered impacts of the COVID-19 pandemic on a number of key Berkeley sectors, such a program will also be important to ensure that local organizations that need the most relief will have an opportunity to be considered. Lastly, establishment of a standardized program will enable city staff to recommend a program that balances the financial condition of the Permit Service Center Fund with an economic development incentive that can support recovery of the local economy.

² Small Business Administration, *Shuttered Venues Operators Grant*, December 2020, Online: <https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/shuttered-venue-operators-grant>.

³ Berkeley City Council, Action Calendar, Item 29, *City Manager Authority to Defer Development Fees for Priority Economic Development Projects*, March 24, 2009.

BACKGROUND

In 2018, Berkeley Repertory Theater (BRT) received Use Permit #ZP2017-0004 for work to be completed at 2009 Addison Street.⁴ As approved, the project is proposed to construct a new, seven-story mixed-use building featuring performing arts rehearsal space and stage production facilities with an interior loading dock on the ground floor; classrooms and storage space on the second floor; and five floors containing a total of 45, rent-free dwelling units to be occupied by Berkeley Repertory Theatre artists, fellows, and theater professionals. The artistic space that is part of the project along with the planned housing is critical to Berkeley Rep's long-term financial sustainability. According to Berkeley Rep's statement submitted to the Zoning Adjustments Board (ZAB) in 2018, "With the rise in market-rate rent over the past ten years, BRT has seen its housing expenses grow from \$400,000 a year to \$1.3 million in the current season. The building at 2009 Addison Street will allow BRT to do two things: 1. Control its housing costs. [Which are currently] untenable. Building our own work-force housing will provide us with stability, even if it won't decrease our housing costs in the short-term. 2. Meet our housing need so that we can house all of our visiting artists and theater professionals-in-training in one building." In early 2019, Berkeley Rep added a proposed modification to the project that would allow Berkeley Rep to rent vacant units to other nonprofits organizations for their own program participants, such as visiting scholars, faculty and others associated with their organizations. Examples of nonprofit organizations who may benefit from renting units at Berkeley Rep includes but is not limited to Freight and Salvage, Cal Performances, the Mathematical Sciences Research Institute, and other members of the Berkeley Cultural Trust. As described in the attachments of the January 24, 2019 ZAB report, "...while it is anticipated that the residential units will be occupied at minimum 80% of the time by Berkeley Rep workforce, on occasion, there will be vacant residential units. Berkeley Rep is requesting this modification in light of the large amount of debt that they are about to take on in the financing of this building, and knowing the great need for workforce housing from fellow nonprofits in the community."⁵

After the 2019 Use Permit Modification approval by the ZAB, Berkeley Rep secured financing for the project and some initial construction was completed prior to the COVID-19 shelter in place orders issued in March of 2020. Berkeley Rep is now in a position where they would like to move forward with construction of the project at 2009 Addison Street, provided a fee deferral is granted.

⁴ 2009 Addison project overview and application materials, staff reports, and project design drawings: https://www.cityofberkeley.info/Planning_and_Development/Zoning_Adjustment_Board/2009_Addison.aspx

⁵ Berkeley Rep ZAB application modification, [2009 Addison Street](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_ZAB/2019-01-24_ZAB_Staff%20Report_2009%20Addison.pdf), Jan 24, 2019. Online: https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_ZAB/2019-01-24_ZAB_Staff%20Report_2009%20Addison.pdf

ENVIRONMENTAL SUSTAINABILITY

Due to a lack of sufficient supply of workforce housing for artists in Berkeley, visiting artists and others associated with productions at Berkeley Rep (located in Downtown Berkeley) are often forced to seek accommodations outside of the immediate area. By increasing the supply of residence rooms in our highly walkable, transit-accessible downtown, the City could experience a reduction in the amount of greenhouse gases generated by trips from visiting artists associated with the Berkeley Rep and other local artistic and cultural productions.

RATIONALE FOR RECOMMENDATION

The recommendation drafted in the attached resolution (Attachment 1) is informed by the following:

A shared understanding that **Berkeley Rep is an anchor tenant in the Downtown Berkeley Arts District**. Their robust programming, dynamic dramatic works, and roster of performances are an economic engine in the downtown leading to a healthy restaurant sector that also produces direct benefit to the City due to the use of the City's nearby parking facilities at the Center Street garage. Moreover, Berkeley Rep has a positive impact on the culture and arts in Berkeley and the spillover from their presence and national success is a cornerstone to our City's robust arts and culture sector which is currently experiencing terrible impacts from the COVID-19 pandemic.

The project proposed by Berkeley Rep is a foundation to building a sustainable organization, that will continued to be rooted in Berkeley for generations to come. Berkeley Rep, like so many others, has been negatively impacted by rising rents and the limited supply of housing in the region for their visiting artists, actors, playwrights, producers, set designers, and directors. While this project will not produce immediate operational savings to the organization, over time, **the proposed project will enable Berkeley Rep to control its costs by not having to navigate a rental housing market** that has become increasingly expensive. **In essence, this project can be viewed as a unique path breaking "workforce housing" endeavor that ensures that careers in the arts can continue to be made accessible to working professionals.**

While **Berkeley Rep has developed a plan forward and they are led by a strong and capable management team, there is inherent risk in the plan and there is no roadmap for what the future will look like** as Berkeley Rep (and the rest of our City) emerges from the COVID-19 pandemic. It is not yet known how quickly the community and traditional theater-goers will return to enjoy live theater and Berkeley Rep's reliance on an aggressive fundraising campaign is aspirational. To date, Berkeley Rep has not been able to raise donations for their proposed workforce housing project, and it is this fact that drove them to pursue the favorable financing for 100% of the project costs from a local bank. Time is now of the essence, as the funds are time-limited and Berkeley

Rep is paying interest on their construction financing with an unclear path forward. Securing the fee deferral from the City will allow Berkeley Rep to move forward with construction and complete the project successfully.

ALTERNATIVE ACTIONS CONSIDERED

The City Council could deny Berkeley Rep's request and not approve the proposed fee deferral. Given the uncertain result of this course of action, and the opportunity to support the Berkeley Rep and by extension the Berkeley Arts District and Berkeley's arts and cultural sector to recover from the COVID-19 pandemic by helping to enable the project, staff decided against this.

City Council could also choose to require Berkeley Rep to repay the deferred fees over a shorter period of time (e.g., for five years rather than ten years). However, in exploring this option with Berkeley Rep, city staff learned that this would negatively impact their operations as they have incurred debt under their line of credit in order to sustain the organization during the pandemic that must be repaid prior to repaying the fee deferral. As a result, Berkeley Rep indicated that they would likely not proceed with the project under this scenario.

Lastly, City Council could decide not to refer to the City Manager the development of a limited-term citywide fee deferral program. This alternative is not recommended as city staff strives for a standardized program that provides clear guidance and evaluation criteria to the community.

CONTACT PERSON

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David White, Deputy City Manager, City Manager's Office, (510) 981-7012

Attachments:

- 1: Resolution
- 2: Berkeley City Council Item #32, *Deferral of Remaining Permit Fees for 2009 Addison Street (and Supplemental Material)*, December 15, 2020.

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

DEFERRAL OF BUILDING PERMIT, INSPECTION, CONNECTION, AND IMPACT FEES FOR THE BERKELEY REPERTORY THEATER (BRT) PROJECT AT 2009 ADDISON STREET AND REFERRAL TO THE CITY MANAGER TO DEVELOP A LIMITED-TERM CITYWIDE FEE DEFERRAL PROGRAM

WHEREAS, BRT is the current owner of real property located in the County of Alameda, State of California, commonly known as 2009 Addison Street, Berkeley, Alameda County;

WHEREAS, BRT received approval in 2018 for a seven-story, mixed-use project (“Project”) at 2009 Addison Street in Downtown Berkeley;

WHEREAS, in 2018, the City Council of the City of Berkeley waived impact fees estimated at \$218,966 associated with the project at 2009 Addison Street for Streets and Open Space and Parking;

WHEREAS, the City Council of the City of Berkeley has asked staff to explore the feasibility of deferring approximately \$676,500 in remaining permit, inspection, connection, and impact fees for BRT’s housing project at 2009 Addison Street for ten (10) years, after which point the fees will be immediately due and payable to the City of Berkeley;

WHEREAS, BRT has already paid \$362,520.48 in permit fees, with a remaining amount estimated at \$676,464.16 in fees due to the City;

WHEREAS, during this raging global pandemic, BRT has had to closed its doors on March 16, 2020 in response to orders issued by the City of Berkeley Health Officer, and laid off most of its employees and has lost approximately \$6,000,000 in ticket and related income;

WHEREAS, the financing for the 2009 Addison Street project was secured pre-pandemic in a way that allows construction to proceed; however, with the onset of Covid-19, base construction costs have increased;

WHEREAS, despite all these challenges, BRT wishes to proceed with the project at 2009 Addison Street despite the recognition that it will be a very difficult path, and with full knowledge that BRT, its leadership, its staff, and its board bear a responsibility to this community to forge ahead with this unique project at this very uncertain time;

WHEREAS, the City is an essential partner in this endeavor and recognizes that deferring certain fees would facilitate BRT to move forward with the groundbreaking project at 2009 Addison Street;

WHEREAS, the project at 2009 Addison Street will provide housing for BRT's visiting artists in residence as well as the 15 young professionals who are awarded fellowships every year;

WHEREAS, in addition to 45 apartment units, the building will include two classroom spaces for the Berkeley Rep School of Theatre, an outdoor terrace, and an 88-foot video display marquee on the mezzanine level; and

WHEREAS, BRT's project at 2009 Addison Street will bring more residents and add to artistic, cultural, and economic vitality to our Downtown area, further bolstering the City's tax base and supporting local business.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to defer remaining building permit, inspection, connection, and impact fees of approximately \$676,464.16 for Berkeley Repertory Theater's project that shall be repaid to the City in no more than ten (10) years' from the date that the City and BRT enter in an agreement that is acceptable to the City Attorney.

BE IT FURTHER RESOLVED that outstanding deferred fee amounts that are owed to the City by Berkeley Rep shall accrue simple interest at a rate of 2% per year until full repayment is achieved.

BE IT FURTHER RESOLVED that the City Council of the City of Berkeley hereby refers to the City Manager to develop a limited term citywide fee deferral program, subject to City Council adoption, that consists of program guidelines and criteria to evaluate future requests submitted to the City.



Office of the Mayor

CONSENT CALENDAR
December 15, 2020

To: Members of the City Council
 From: Mayor Jesse Arreguin and Councilmember Susan Wengraf
 Subject: Deferral of Remaining Permit Fees for 2009 Addison Street

RECOMMENDATION

Approve the deferral of \$720,000 in remaining permit and inspection fees for Berkeley Repertory Theater's housing project at 2009 Addison Street for a period of ten years, after which point the fees will be repaid to the City of Berkeley. Authorize the City Manager to execute a written agreement to memorialize this deferral and repayment requirements.

FINANCIAL IMPLICATIONS

According to the Berkeley Rep roughly \$385,000 in permit fees have already been paid to the Permit Service Center Enterprise Fund, with a remaining \$720,000 in fees due in order to receive building permits to complete construction. Through adoption of this item, the remaining permit and inspection fees would be deferred for a period of ten years, after which time they would need to be repaid in full. This would enable the project to proceed and allow Berkeley Rep time to recover from the COVID-19 pandemic and recover economically. The funding to cover the remaining \$720,000 would be borne from the balance of the Permit Service Center Enterprise Fund.

BACKGROUND

The Berkeley Repertory Theater has received approval in 2018 for a seven-story, mixed use project at 2009 Addison Street in Downtown Berkeley. The project will provide housing for Berkeley Rep's visiting artists as well as the 15 young professionals who are awarded fellowships every year. In addition to 45 apartment units, the building will include two spaces for the Berkeley Rep School of Theatre, an outdoor terrace, and an 88-foot video display marquee on the mezzanine level. This groundbreaking project provides artist housing in collaboration with a regional theater company. 2009 Addison will bring more residents and economic vitality to our Downtown area, further bolstering our tax base.

Due to the COVID-19 pandemic and increasing costs, the project budget has increased significantly making it financially prohibitive to proceed with construction. Berkeley Rep has requested that the City consider deferring remaining permit fees in order to help make the project economically feasible and to allow construction to proceed. Berkeley Rep has agreed to repay remaining permit fees 10 years from the date of deferral. While this will result in a short-term impact on the Permit Service Center (PSC) Fund, the PSC Fund has a sufficient balance to be able to cover this amount, and fees will be repaid over time. City Council action is required to defer any permit fees over \$50,000.

CONTACT PERSON

Mayor Jesse Arreguin 510-981-7100

Deferral of Remaining Permit Fees for 2009 Addison St.

CONSENT CALENDAR
December 15, 2020

Attachments:

- 1: Letter from Berkeley Rep requesting fee deferral for 2009 Addison Street

To: Mayor Jesse Arreguin and the Berkeley City Council
From: Berkeley Repertory Theater
Re: 2009 Addison Street - Artists' Housing

Permit and inspection fees for 2001 Addison Street are expected to be approximately \$1,100,000, of which BRT has already paid \$385,000. Given extenuating circumstances, BRT requests a deferral of the remaining fees until September 1, 2030 - a period of 10 years - a period during which the Theater will need to rebuild its producing capacity, which has been devastated by this crisis. It also recognizes that, regardless of the availability of a vaccine, we expect it to take years to rebuild audience trust and reestablish norms of cultural attendance.

As a reminder:

Project Description:

- 45 units of artist housing
- 3 classrooms for Berkeley Rep School of Theater
- Exterior deck with 200 person capacity
- Enclosed backstage and loading dock for the Roda Theater
- LEED Gold ??? certification
- Union construction

Project Vision:

For over 30 years, Berkeley Rep has struggled to find adequate housing for its guest artists and for its fellowship program. Our collective bargaining agreements require that artists be housed within half a mile of the theater, with stipulations about furnishings and safety. As a result of increased employment and the tight housing market, our housing costs have increased from \$300,000 to almost \$2,000,000 in just twelve years. And the experts on our facilities committee have advised us that after the pandemic, which has slowed and even lowered rents, the rental market will continue to be heated with limited availability and continued increases in rental rates. Over a year ago, with rental costs now absorbing almost 12% of the theater's budget, Berkeley Rep's board committed to construction of a building to address our long term housing needs. While those needs will drop for a few years as Berkeley Rep stabilizes after this pandemic, we anticipate that eventually, we will again need this housing.

State of Affairs of the Theater:

Berkeley Rep closed our doors on March 16, 2020. In a matter of weeks, we deconstructed what it had taken us 50 years to build. Over a matter of weeks, we were forced to lay off most of our employees. Our staff went from 180 employees to 30. Many of those were people who had worked with us for 35, 25, and 15 years. Those who we lost have been devastated. They are seeking new professions, they have moved to new cities. Some await our reopening and are living off their savings. We don't know who will be able to return when we finally reopen our doors. Since March 16, we have lost approximately \$6,000,000 in ticket and related income. We cancelled or postponed four productions. We laid off most of our staff and we shut down our buildings. As a result,

we reduced our year-end deficit to \$1.5,000,000. Our budget for the current fiscal year reflects a total of \$150,000 in production income and a reduction in contributed income. To balance that budget we will require, and our Board is committed to finding, an additional \$2,500,000 in extraordinary funding. As we look to the 2022 fiscal year, in which we fully expect to start producing again, we are projecting more need for extraordinary funding to replace what we anticipate will be an extremely cautious return to the theater by our patrons.

Project Status 2009:

Financing -

It is fortuitous that lending for 2009 Addison was secured pre-pandemic in a way that allows the theater the choice of whether to build even now, despite its lack of revenue. In a more typical finance package, BRT might have tripped covenants that would have stopped the project. Covenants that would have scrutinized its lack of revenue due to Covid. It so happens that conditions of the loan required the theater borrow all of its \$29,000,000 up front (and begin paying interest on that loan immediately). While this has cost us a great deal in interest payments as the permit process has been a slow one, the benefit is that the theater has the money to build. The theater has been paying on that debt despite not being able to build, adding tremendous stress to an already difficult situation. The construction is now scheduled to begin construction in January, a 15 months later than first planned. And this has added \$1,000,000 to the project budget.

Construction Budget -

Prior to Covid, the project faced rising costs from a building boom and as increase in the cost of labor and materials. In the face of these increases, we trimmed \$1,000,000 from the budget. With the onset of Covid, counter-intuitively, base costs have only increased. Covid-related expenses and slow-downs have further increased the budget (as an example, our construction insurance increased from \$20,000 to almost \$300,000) while materials and labor have only continued to rise. As a result, we are facing yet another \$1,000,000 in increased costs - that is another \$1,000,000 over-budget. We have proposed another round of cost-engineering that will bring us back towards budget, but it is the last set of compromises we can make without threatening the vision of the project. Since they were a cornerstone of the project and the vision of the theater, we have preserved the housing through this round of cost-cutting. Any further reduction will cut into vital components of the building and specifically, the housing.

Berkeley Repertory Leadership -

We are blessed with an extraordinary team at this time - from the core 30 staff-members to a committed board of 34, who bring expertise from varying sectors of the economy and professional backgrounds. We have built this team of staff and Board members upon a shared vision of theater within the cultural life of our greater society and more specifically upon a vision of the Berkeley Repertory as a partner in the cultural and economic life of the City of Berkeley. At a recent Board meeting, at which staff presented the budget shortfalls and projected various options for paths forward, the Board was asked the fundamental question of whether or not to proceed with this project. They voted unanimously to proceed with the project in spite of the recognition that it will be a very difficult path, and with full knowledge that the Berkeley Repertory Theater, its leadership, its staff and its board, bore a responsibility to this community to forge ahead and to lead at this time.

The Path Forward:

The operational budget of the theater will operate at a deficit of for the next five years. While we expect to start rehiring staff beginning in summer of 2021, we do not expect to achieve previous levels of employment until 2025. An emergency Resilience campaign will be needed to close our operating gap in each of those years. Our Board has committed to raising as much as \$20,000,000 to help us through this time. What we already have tested is that funds raised must be committed to employment of artists and staff and to the making of Theater. Our donors have prioritized that. This has made us very aware that we will have real difficulty raising additional funds for the housing project. The Board has committed to raising this money, have yet to actually raise those dollars. There will be extraordinary need throughout the Country in the next few years. We do not know whether this campaign will be successful. We hope that by 2026 we can wean ourselves from the funds raised through this Resilience campaign, at which point we will need to stabilize based on whatever the new normal has become. Without the funds from the Resilience campaign we will have to test our capacity to raise additional annual funds and hope that attendance will stabilize at pre-pandemic levels. This is all new territory and we do not have any roadmap to help us know what the future holds. It is our expectation that once stabilized, we can begin to plan to pay off the fees for which we now ask a deferment.

Our request:

Defer up to \$720,000 in City of Berkeley fees for ten years.

Summary:

Total Fees:	\$1,100,000
Already paid:	<u>\$380,000</u>
Deferred:	<i>\$720,000 (Until September 1, 2030)</i>

Why deferral matters to the City of Berkeley?

- **Employment:** Berkeley Rep, prior to the pandemic, employed over 100 people full-time per season and another 350 artists, artisans, technicians and administrators throughout the course of each season;
- **Economic Multiplier:** Our operating budget of \$18-\$20 million resulted in total economic impact to the city of over \$60 million (using a 3:1 multiplier that is generally considered a conservative estimate);
- **Benefit to Local Vendors:**
 - The Berkeley Rep budget prioritizes local vendors. A new company policy also prioritizes BIPOC owned companies. Our vendors include Truitt and White, ACE Hardware, Minuteman Press, ACT Catering, just to reference a few who are vital to the City;

- Berkeley Rep patrons provide much needed business for one of the most threatened and also our most special sectors - local restaurants. Our patrons visit restaurants running the gamut from Pollo and Jupiter to Revival and Chez Panisse;
- **Regional Draw:** Berkeley Rep draws patrons to our downtown from nine counties, and even has regular attendees from Fresno, Stockton and even Austin, Texas.
- **BRT as Gateway:** Because of our role as a 'gateway to the arts for many arts lovers, Berkeley Rep's patrons have become fans of Aurora Theater the Freight and other local arts venues.
- **Local Leadership:** Berkeley Rep not only takes its leadership role seriously as an entity, but also our staff are expected and do serve on civic boards and volunteer in civic activities;
- **As a Resource for other Nonprofits:** Throughout this pandemic, Berkeley Rep has shared resources and opportunities for training and learning with other local arts organizations (i.e., Berkeley Rep is storing all of California Shakespeare Company's props and shop goods since that company has lost their scene shop).

Why 2009 Addison is Important to Berkeley Rep:

- **Cost-Control:** Berkeley Rep will be able to control its cost of housing in a market that has risen even in the face of Covid, and which will continue to rise after the pandemic.
- **Local Work/The Ground Floor:** BRT will attract new work for its nationally recognized Ground Floor new play development program, which supports and features young artists from the most varied social, economic and political backgrounds. This program is rare in the country and one of the most responsive to the stresses of our time;
- **Berkeley Rep School of Theater:** the classrooms will facilitate the expansion of our school, preserving our capacity to offer programs to children and adults within easy access to public transit;
- **Fellowship Program:** Will provide housing for Berkeley Rep's nationally respected Fellowship program, which each year trains 15 early career aspiring theater professionals. For over 15 years, Berkeley Rep has been at the forefront, with this program, of training BIPOC professionals;
- **Reduction of Carbon Footprint:** BRT will reduce its carbon footprint by creating living spaces immediately adjacent to the two theaters and school;
- **National and International Standing:** Improved housing for artists will attract more world-renowned artists and projects to Berkeley - in the spirit of projects like PARADISE SQUARE, AMERICAN IDIOT, and NO MAN'S LAND featuring Ian McKellen and Patrick Stewart;

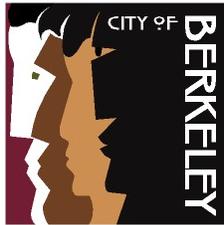
In Summary:

We are not asking for permit fees to be waived. We understand that the City, itself, anticipates its own adverse impacts from the pandemic. The City of Berkeley has been steadfast in its commitment to preserving the life and well-being of all its residents and we are so grateful for that. We have only the greatest respect for and appreciation for all that you, our leaders and our City staff, have accomplished to protect us. We are aware that the decisions are difficult and often treacherous, and that the situation has cost the City millions of dollars in lost revenue. In recognition that we have a role to play in rebuilding the economic life of the City, we are asking, instead, simply for a deferment of payments until we have the capacity and resources to repay them.

The Theater must survive this health and economic crisis, and it will emerge with greater experience and greater resilience - for its inner resources, but also and most importantly in partnership with the City. The need for housing, and specifically housing in support of artists and the arts is no less important now than it ever was - it is, rather, even greater. There can be no better statement of our will to survive, our commitment to artists and commitment to our community, than to proceed with this project. It reflects our aspirations, once we have the pandemic behind us, to once again, produce world-class theater, to teach children and adults the joy of creative expression, to house our programs for teens and young professionals and welcome back to Berkeley, arts-lovers from throughout the Bay area.

If there is one feature of our lives that we have all come to understand during shelter-in-place, it is the value of being able to commune together in a shared, real space and to be able to enjoy the pleasure of live, unmediated artistic expression. The virtual world may have been our lifeline during this long, long spell, but it has birthed in many of us, a newfound appreciation for what we have lost.

Susan Medak
Managing Director
Berkeley Repertory Theater



Office of the Mayor

REVISED AGENDA MATERIAL

Meeting Date: December 15, 2020

Item Number: #32

Item Description: Deferral of Remaining Permit Fees for 2009 Addison Street

Supplemental/Revision Submitted By: Mayor Arreguin

“Good of the City” Analysis:

The analysis below must demonstrate how accepting this supplement/revision is for the “good of the City” and outweighs the lack of time for citizen review or evaluation by the Council.

Based on discussions with City staff, the item has been revised as a referral to the City Manager to conduct a feasibility analysis and develop an MOU to defer the remaining fees, determining the terms of the deferral and the fund source.

Consideration of supplemental or revised agenda material is subject to approval by a two-thirds vote of the City Council. (BMC 2.06.070)

A minimum of **42 copies** must be submitted to the City Clerk for distribution at the Council meeting. This completed cover page must accompany every copy.

Copies of the supplemental/revised agenda material may be delivered to the City Clerk Department by 12:00 p.m. the day of the meeting. Copies that are ready after 12:00 p.m. must be delivered directly to the City Clerk at Council Chambers prior to the start of the meeting.

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



Office of the Mayor

#32

REVISED
CONSENT CALENDAR
December 15, 2020

To: Members of the City Council
From: Mayor Jesse Arreguin
Subject: [Referral to City Manager](#): Deferral of Remaining Permit Fees for 2009 Addison Street

RECOMMENDATION

[Refer to the City Manager to conduct a feasibility analysis and develop an MOU with the Berkeley Repertory Theater to defer \\$720,000 in remaining permit and inspection fees for Berkeley Repertory Theater's housing project at 2009 Addison Street \(leaving flexibility for timing, setting of interest, schedule of payments, and fund sources\).](#)

Deleted: Approve the deferral of

Deleted: for a period of ten years, after which point the fees will be repaid to the City of Berkeley. Authorize the City Manager to execute a written agreement to memorialize this deferral and repayment requirements.

FINANCIAL IMPLICATIONS

According to the Berkeley Rep roughly \$385,000 in permit fees have already been paid to the Permit Service Center Enterprise Fund, with a remaining \$720,000 in fees due in order to receive building permits to complete construction. Through adoption of this item, the remaining permit and inspection fees would be deferred for a period of ten years, after which time they would need to be repaid in full. This would enable the project to proceed and allow Berkeley Rep time to recover from the COVID-19 pandemic and recover economically.

Deleted: The funding to cover the remaining \$720,000 would be borne from the balance of the Permit Service Center Enterprise Fund.

BACKGROUND

The Berkeley Repertory Theater has received approval in 2018 for a seven-story, mixed use project at 2009 Addison Street in Downtown Berkeley. The project will provide housing for Berkeley Rep's visiting artists as well as the 15 young professionals who are awarded fellowships every year. In addition to 45 apartment units, the building will include two spaces for the Berkeley Rep School of Theatre, an outdoor terrace, and an 88-foot video display marquee on the mezzanine level. This groundbreaking project provides artist housing in collaboration with a regional theater company. 2009 Addison will bring more residents and economic vitality to our Downtown area, further bolstering our tax base.

Due to the COVID-19 pandemic and increasing costs, the project budget has increased significantly making it financially prohibitive to proceed with construction. Berkeley Rep has requested that the City consider deferring remaining permit fees in order to help make the project economically feasible and to allow construction to proceed. Berkeley Rep has agreed to repay remaining permit fees 10 years from the date of deferral.

Deleted: While this will result in a short-term impact on the Permit Service Center (PSC) Fund, the PSC Fund has a sufficient balance to be able to cover this amount, and fees will be repaid over time. City Council action is required to defer any permit fees over \$50,000.

CONTACT PERSON

Mayor Jesse Arreguin 510-981-7100

Attachments:
1: Letter from Berkeley Rep requesting fee deferral for 2009 Addison Street