



URGENT ITEM AGENDA MATERIAL

Government Code Section 54954.2(b)
Rules of Procedure Chapter III.C.5

THIS ITEM IS NOT YET AGENDIZED AND MAY OR MAY NOT BE ACCEPTED FOR THE AGENDA AS A LATE ITEM, SUBJECT TO THE CITY COUNCIL'S DISCRETION ACCORDING TO BROWN ACT RULES

Meeting Date: February 13, 2024

Item Description: Urgency Resolution: FY 2024 Business License Tax on Large Non-profits

This item is submitted pursuant to the provision checked below:

- Emergency Situation (54954.2(b)(1) - majority vote required)
Determination by a majority vote of the legislative body that an emergency situation exists, as defined in Section 54956.5.
- Immediate Action Required (54954.2(b)(2) - two-thirds vote required)
There is a need to take immediate action and the need for action came to the attention of the local agency subsequent to the agenda for this meeting being posted.

Once the item is added to the agenda (Consent or Action) it must be passed by the standard required vote threshold (majority, two-thirds, or 7/9).

Facts supporting the addition of the item to the agenda under Section 54954.2(b) and Chapter III.C.5 of the Rules of Procedure:

Councilmember Harrison's office learned after the submission date that the Berkeley Repertory Theater's tax is due by February 15, 2024. The Berkeley Rep has had a long-standing relationship with and has helped revitalize the City, and the tax is detrimental to the organization's wellbeing and operating budget.

In 2023, new construction (that began in 2019) was completed and increased Berkeley Rep's square footage to 139,463, making it subject to the City's large non-profit tax. As the tax applies to the square footage in excess of 120,000 feet, Berkeley Rep is subject to a \$15,393.29 (19,463 square feet x \$0.7909/per foot) business license tax on large non-profits.

It is in the public interest to accept this urgency resolution to offset the tax amount annually through one-time grants.



Kate Harrison
Councilmember District 4

CONSENT CALENDAR
February 13, 2024

To: Honorable Mayor and Members of the City Council
From: Councilmember Harrison
Subject: Resolution Granting the Berkeley Repertory Theater \$15,393.29 to Offset the City's Business License Tax on Large Non-profits

RECOMMENDATION

Adopt a Resolution to support the Berkeley Repertory Theater (Berkeley Rep) by donating \$15,393.29 to their general operating budget in FY24 and grant them the amount of the tax annually.

FINANCIAL IMPLICATIONS

The General Fund will be reduced by \$15,393.29 in FY24.

CURRENT SITUATION AND ITS EFFECTS

Per Ordinance 7,781 and BMC 9.04.305, large non-profits are subject to a business license tax of \$0.7909 per square foot of improvements over 120,000 building square feet. The tax rate is indexed for inflation annually for the following year in May, by the greater of the increase in the cost of living in the immediate San Francisco Bay Area or per capita personal income growth in the state, as verified by official United States Bureau of Labor Statistics.

Currently, four non-profits are subject to this business license tax:

1. YMCA
2. Alta Bates
3. Redwood Gardens
4. Berkeley Rep

In 2023, new construction (that began in 2019) was completed and increased Berkeley Rep's square footage to 139,463, making it subject to the City's large non-profit tax. As the tax applies to the square footage in excess of 120,000 feet, Berkeley Rep is subject to a \$15,393.29 (19,463 square feet x \$0.7909/per foot) business license tax on large non-profits.

BACKGROUND

Berkeley Rep has had a long-standing relationship with the City. It creates ambitious theatre that entertains and challenges its audiences, provokes civic engagement, and inspires people to experience the world in new and surprising ways. It has grown from a storefront stage to an international leader in innovative theatre. The nonprofit has provided a welcoming home for emerging and established artists since 1968. Over 5.5 million people have enjoyed nearly 500 shows at Berkeley Rep, which have gone on to win six Tony Awards, seven Obie Awards, nine Drama Desk Awards, one Grammy Award, one Pulitzer Prize, and many other honors. Berkeley Rep received the Tony Award for Outstanding Regional Theatre in 1997.

The Berkeley Rep School of Theatre engages and educates some 20,000 people a year and helps build the audiences of tomorrow with its nationally recognized teen programs. Berkeley Rep's bustling facilities—which also include the 400-seat Peet's Theatre, the 600-seat Roda Theatre, and a spacious campus in West Berkeley—are helping revitalize the City.

This additional business license tax was billed in January 2024 and would adversely impact the Berkeley Rep. Rather than exempt Berkeley Rep from this tax, the City Council is making a one-time grant to Berkeley Rep to offset the FY24 tax amount and grant them the amount of the tax annually.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

CONTACT PERSON

Councilmember Kate Harrison
510-981-7146

Attachments:

1: Resolution

Exhibit A: Grant to the Berkeley Repertory Theater

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

GRANTING THE BERKELEY REPERTORY THEATER \$15,393.29 TO OFFSET THE CITY'S BUSINESS LICENSE TAX ON LARGE NON-PROFITS

WHEREAS, Berkeley Rep has had a long-standing relationship with and has helped revitalize the City; and

WHEREAS, Berkeley Rep creates ambitious theatre that entertains and challenges its audiences, provokes civic engagement, and inspires people to experience the world in new and surprising ways; and

WHEREAS, the nonprofit has provided a welcoming home for emerging and established artists since 1968, and over 5.5 million people have enjoyed nearly 500 shows at Berkeley Rep, which have gone on to win six Tony Awards, seven Obie Awards, nine Drama Desk Awards, one Grammy Award, one Pulitzer Prize, and many other honors; and

WHEREAS, Berkeley Rep engages and educates some 20,000 people a year and helps build the audiences of tomorrow with its nationally recognized teen programs; and

WHEREAS, this is the first year Berkeley Rep would be subject to the business license tax on large non-profits due to its increased footprint in the City; and

WHEREAS, this tax would adversely impact Berkeley Rep's operating budget; and

WHEREAS, each fiscal year, per Resolution No. 70, 072-N.S. Amending City Council Office Budget Expenditures and Reimbursement Policies (adopted October 26, 2021) which stated that donations to non-profit organizations be made in the name of the entire Berkeley City Council on behalf of the residents of Berkeley; and

WHEREAS, Berkeley Rep has had and continues to have a profound, positive impact to Berkeley residents.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it donate \$15,393.29 to the Berkeley Rep in FY24 and grant them the amount of the tax annually.