



Office of the City Manager

PUBLIC HEARING
September 10, 2024

To: Honorable Mayor and Members of the City Council
 From: LaTanya Bellow, Interim City Manager
 Submitted by: David Sprague, Interim Fire Chief
 Subject: Ambulance Transport Fee Increase

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 July 1, 2024, for the Cities of Alameda, Albany, Berkeley, and Piedmont and to adjust the First Responder Fee. The increase would be included as an updated addendum to the Ambulance Provider Agreement, and rescinding Resolution 71,063–N.S.

FISCAL IMPACTS OF RECOMMENDATION

The Alameda County Health Care Services Agency notified the City on July 16, 2024 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 \$4,051.06, Mileage to \$91.41, Oxygen to \$302.64, and Treatment/Non-Transport to \$812.46 beginning July 1, 2024. Further, the Department is proposing to bring the City's first responder fee into alignment with other first responder agencies. This fee will be consolidated (bundled) with the transport fee into a Bundled Base Rate of \$4551.06. The City will increase its rate effective September 11, 2024 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
Base Rate	\$3,664.87	\$4,051.06
Mileage	\$82.69	\$91.41
Oxygen	\$273.79	\$302.64
Treatment / Non-Transport *	\$735.01	\$812.46

First Responder Fee**	\$300.00	\$500.00
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**This rate shall be limited to patients who receive a medical intervention, such as intravenous medication administration, and subsequently refuse transport. Patient assessment, including ECG monitoring, does not constitute treatment.*

***This fee would be limited to instances when a patient is transported.*

CURRENT SITUATION AND ITS EFFECTS

Under the terms of the Alameda County Ambulance Provider Agreement, Alameda County Board of Supervisors is responsible for setting and approving any fees that are applicable to all providers. 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 October 3, 2023 (Resolution 71,063–N.S.); and the rate increase was made effective November 1, 2023.

BACKGROUND

Alameda County EMS is responsible for the procurement of emergency ambulance services for the local EMS system. The Berkeley Fire Department has an agreement with Alameda County to be the emergency transport provider for Berkeley since 1977. Albany, Piedmont, Alameda City, and Falck serve as the ambulance transport providers for other parts of Alameda County. Under the current agreement, all transport providers, including Berkeley, are in the Alameda County Emergency Medical Services District. Since 1986, the Berkeley Fire Department (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, Alameda County Board of Supervisors is responsible for setting and approving any fees that are applicable to all agencies. The increases are either COLA or base rate adjustments. As the exclusive provider for transport services within the City of Berkeley, the Department may propose adjustments to the fees charged for these services. As background, in 1980, the California Legislature enacted the EMS Act “to achieve coordination and integration” for the prehospital EMS system.¹ The EMS Act establishes a two-tiered system of regulation of the California Emergency Medical Services Authority on the state level and local EMS agencies, such as the Alameda County local EMS agency (“Alameda LEMSA”), at the local level:²

If a county elects to establish an emergency medical services program, the duties of its designated local EMS agency include the following: (1) planning, implementing, and evaluating an emergency medical services system “consisting of an organized pattern of readiness and response services based on public and private agreements and operational procedures” (§ 1797.204); (2) developing a

¹ *County of San Bernardino v. City of San Bernardino* (1997) 15 Cal. 4th 909, 915.

² *Ibid.*

formal plan for the system in accordance with the Authority's guidelines and submitting the plan to the Authority on an annual basis (§§ 1797.250, 1797.254); (3) “consistent with such plan, coordinat[ing] and otherwise facilitat[ing] arrangements necessary to develop the emergency medical services system” (§ 1797.252). Once a local EMS agency implements its system, all providers of prehospital emergency medical services within its jurisdiction must operate within that system. (See § 1797.178 [“No person or organization shall provide advanced life support or limited advanced life support unless that person or organization is an authorized part of the emergency medical services system of the local EMS agency....”].)

An important aspect of the EMS Act is the Legislature’s acknowledgment of the continued role of cities and fire districts, such as the Berkeley Fire Department, through the enactment of Health and Safety Code section 1797.201, which states, in relevant part:

[Unless a city or fire district consents through agreement or waiver³], prehospital emergency medical services shall be continued at not less than the existing level, and the administration of prehospital EMS by cities and fire districts presently providing such services shall be retained by those cities and fire districts....

Section 1797.201 is “a grandfathering of existing emergency medical service operations [by cities or fire districts] until such time as these services are integrated into the larger EMS system. The apparent purpose of this grandfathering provision was to ‘allow such entities to protect the investments they had already made in various assets—emergency medical equipment, infrastructure, personnel, etc.’, as well as to ensure against the disruption of adequate emergency medical services.”⁴ The Department operates a grandfathered EMS system within the City of Berkeley, and has consistently done so since the enactment of the EMS Act.

The EMS Act defines “emergency medical services,” as “services utilized in responding” to “a condition or situation in which an individual has a need for immediate medical attention, or where the potential for such need is perceived by emergency medical personnel or a public safety agency.” (Health and Safety Code §§ 1797.72, 1797.90.) This is reinforced by the ordinances in Alameda County that defines a 9-1-1 level of service, which includes “a 9-1-1 request for an ambulance to transport or assist persons

³ *Id.* at 924; Health & Saf. Code § 1797.201.

⁴ *Valley Med. Transp., Inc. v. Apple Valley Fire Prot. Dist.* (1998) 17 Cal. 4th 747, 758.

in apparent sudden need of medical attention; or an ambulance transport that is initially classified as a non-emergency call that becomes a 9-1-1 emergency call due to a change in the patient's medical condition.”⁵ Within the City of Berkeley, the Department is the sole entity authorized under state law to provide EMS transports. Within the City of Berkeley, any other ambulance that arrives and discovers that a patient appears to have a medical emergency is required to call 9-1-1, so that the Department or a subcontractor to the Department, can transport the patient.⁶ With the exception of the Department or a provider subcontracted to the Department, no private ambulance company or other entity is an authorized provider of EMS within the City of Berkeley.⁷

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects, climate impacts, or sustainability 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 effective on July 1, 2024 and to bring them in line with those of other regional transport providers. Additionally, the department is seeking to increase the first responder fee to be similar to those of other transporting fire department. Periodic rate increases help 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 July 1, 2023 and adopted by the City on October 3, 2023, implemented on November 1, 2023.

CONTACT PERSON

David Sprague, Fire Chief, (510) 981-3473

Attachments:

- 1: Resolution
- 2: Public Hearing Notice

⁵ Alameda County Code of Ordinances § 6.114.050

⁶ Alameda County Ordinance §§ 6.114.060(A), 6.114.270(B).

⁷ Health & Saf. Code § 1797.178.

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

AMBULANCE USER FEE ADJUSTMENT

WHEREAS, the County of Alameda and the City of Berkeley are in an Ambulance provider Agreement dated June 1, 1984; and

WHEREAS, the County of Alameda Board of Supervisors sets the rates applicable to all providers within the district for emergency ambulance transport; and

WHEREAS, the County of Alameda Board of Supervisors established and approved a new Contractor's User Fee schedule for ambulance transport providers. The rates were made effective July 1, 2024; and

WHEREAS, under the California Emergency Medical Services Act (the "EMS Act"), Health and Safety Code sections 1797, *et seq.* The Department operates a grandfathered EMS system within the City of Berkeley, and has consistently done so since the enactment of the EMS Act; and

WHEREAS, as the exclusive provider within the City of Berkeley, the Department may propose adjustments to fees that bring them in line with those of other regional transport providers and cover expenses related to providing said service; and

WHEREAS, the revenue collected will be deposited into General Fund revenue account 010-6405-341-7900; and

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, 2024, as follows:

	User Fee Schedule
Base Rate	\$4,051.06
Mileage	\$91.41
Oxygen	\$302.64
Treatment / Non-Transport	\$812.46
First Responder Fee	\$500.00
Base Bundled Rate	\$4551.06

BE IT FURTHER RESOLVED that the new ambulance user fee schedule shall be effective and that Resolution No. 71,063–N.S. is rescinded, effective September 11, 2024.

September 10, 2024

NOTICE OF PUBLIC HEARING BERKELEY CITY COUNCIL AMBULANCE USER FEE ADJUSTMENT

The public may participate in this hearing by remote video or in-person.

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 and charged by other regional transport providers. 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 July 1, 2024. The City of Berkeley fee increase would be effective September 11, 2024. For the City of Berkeley, the last rate increase was approved by the City Council on October 3, 2023 (Resolution 71,063–N.S.); and the rate increase was made effective November 1, 2023.

	Existing	Proposed
Base Rate	\$3,664.87	\$4,051.06
Mileage	\$82.69	\$91.41
Oxygen	\$273.79	\$302.64
Treatment / Non-Transport *	\$735.01	\$812.46
First Responder Fee		\$500.00
Base Bundled Rate		\$4551.06

**This rate shall be limited to patients who receive a medical intervention, such as intravenous medication administration, and subsequently refuse transport. Patient assessment, including ECG monitoring, does not constitute treatment.*

The hearing will be held on September 10, 2024 **at 6:00 p.m.** in the School District Board Room, 1231 Addison Street, Berkeley CA 94702.

For further information, please contact David McPartland, EMS Assistant Chief, at (510) 981-3473.

A copy of the staff report for this hearing will be available on the City's website at www.berkeleyca.gov as of **August 29, 2024**. **Once posted, the agenda for this**

September 10, 2024

meeting will include a link for public participation using Zoom video technology, as well as any health and safety requirements for in-person attendance.

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or e-mailed to council@berkeleyca.gov 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 (510) 981-6900 or clerk@berkeleyca.gov 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: August 30 and September 6, 2024 – The Berkeley Voice
Per Government Code 6062A

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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 the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on August 29, 2024.

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Mark Numainville, City Clerk





Alameda County Health  
**Emergency Medical Services**

July 16, 2024

**Colleen Chawla**  
Alameda County Health  
Director

**Lauri McFadden**  
EMS Director

**Zita Konik, MD**  
EMS Medical Director

1000 San Leandro Boulevard  
Suite 200  
San Leandro, CA 94577

TEL (510) 618-2050  
FAX (510) 618-2099

Health.AlamedaCountyCA.gov

Dee Williams-Ridley  
City Manager  
City of Berkeley  
2180 Milvia St.,  
Berkeley, CA 94704

Dear Ms. Williams-Ridley:

This letter constitutes notice that the EMS Director of the Alameda County EMS Agency has approved an increase in the user fees that may be charged by the County's contracted 9-1-1 ambulance transport service provider Falck. Under the terms of the City of Berkeley's current Emergency Medical Services Ambulance Transport Agreement Section 10.2, your City may consequently increase its user fees to remain equivalent to the County's Contracted Private Provider rates effective July 1, 2024.

**UPDATED EXHIBIT G**  
**CITY'S USER FEES – 911 SYSTEM**

|                                     | <b>Current</b> | <b>Effective 7/1/2024*</b> |
|-------------------------------------|----------------|----------------------------|
| <b>Bundled Base Rate</b>            | \$ 3,664.87    | \$ 4,051.06                |
| <b>Mileage/Mile</b>                 | \$ 82.69       | \$ 91.41                   |
| <b>Oxygen</b>                       | \$ 273.79      | \$ 302.64                  |
| <b>** Treat, Non-transport Rate</b> | \$ 735.01      | \$ 812.46                  |

\* It is understood that these rate increases are conditional on each city's ability to demonstrate that the charges are not considered taxes under the California Constitution (art. XIII C sec. 1e). Each city will be responsible for vetting this issue for their individual Councils. Actual effective date based on City Council approval.

\*\* Treat, Non-transport rate applies to patients who receive a treatment intervention (such as 50% Dextrose) and subsequently refuse transport. Assessment (vital signs, EKG, etc.) does not constitute treatment interventions. The Treat, Non-Transport rate also applies to patients who receive treatment via referral to EMS Agency Director-approved telehealth providers under Contractor's pilot or permanent telehealth program.

All other terms and conditions of your Agreement with the County shall remain in full force and effect. Please acknowledge receipt and understanding of this notification as provided below, and return an original signed copy to the Alameda County Emergency Medical Services Agency no later than August 23, 2024 at the following address:

Alameda County Emergency Medical Services Agency  
Attention: Michelle Barrientos  
1000 San Leandro Blvd, Suite 200  
San Leandro, CA 94577





Please also forward a copy of any documentation reflecting approval of the user fee increase by your City Council, if applicable, upon receipt.

Should you have any questions, please feel free to contact me at (510) 618-2055.

Sincerely,

A handwritten signature in black ink that reads "Lauri McFadden". The signature is written in a cursive, flowing style.

Lauri McFadden  
EMS Director  
Alameda County EMS Agency

\_\_\_\_\_  
Acknowledged by (Signature)  
For: City of Berkeley

Dee Williams-Ridley, City Manager  
Name and Title

\_\_\_\_\_  
Date

CC: Chief David Sprague, Berkeley Fire Department  
Colleen Chawla, Director, Alameda County Health  
Scott Dickey, Alameda County Assistant County Counsel



**ANNOTATED AGENDA**  
**BERKELEY CITY COUNCIL MEETING**  
**Tuesday, September 10, 2024**  
**6:00 PM**

SCHOOL DISTRICT BOARD ROOM - 1231 ADDISON STREET, BERKELEY, CA 94702  
TELECONFERENCE LOCATION - 1404 LE ROY AVENUE, BERKELEY, CA 94708  
TELECONFERENCE LOCATION – 17 E MONROE STREET, CHICAGO, IL 60603

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. Live captioned broadcasts of Council Meetings are available on B-TV (Channel 33) and via internet video stream at [http://berkeley.granicus.com/MediaPlayer.php?publish\\_id=1244](http://berkeley.granicus.com/MediaPlayer.php?publish_id=1244). All Council meetings are recorded.*

*To access the meeting remotely use this URL: <https://cityofberkeley-info.zoomgov.com/j/1607838997>. To request to speak, use the “raise hand” function in Zoom. To join by phone: Dial **1-669-254-5252** or **1-833-568-8864 (Toll Free)** and enter **Meeting ID: 160 783 8997**. To provide public comment, Press \*9 and wait to be recognized by the Chair. To submit a written communication for the public record, email [council@berkeleyca.gov](mailto:council@berkeleyca.gov).*

*This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting, however, if you are feeling sick, please do not attend the meeting in person. 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.*

**Government Code Section 84308 (Levine Act)** - Parties to a proceeding involving a license, permit, or other entitlement for use are required to disclose if they made contributions over \$250 within the prior 12 months to any City employee or officer. Parties and participants with a financial interest are prohibited from making more than \$250 in contributions to a decisionmaker for the 12 months after the final decision is rendered on the proceeding. The above contribution disclosures and restrictions do not apply when the proceeding is competitively bid, or involves a personnel or labor contract. For more information, see Government Code Section 84308.

## Preliminary Matters

**Roll Call:** 6:05 p.m.

**Present:** Taplin, Bartlett, Tregub, Hahn, Wengraf, Lunaparra, Humbert, Arreguin

**Absent:** Kesarwani

Councilmember Kesarwani present at 6:11 p.m.

**Land Acknowledgement Statement:** *The City of Berkeley recognizes that the community we live in was built on the territory of xučyun (Huchiun (Hooch-yoon)), the ancestral and unceded land of the Chochenyo (Cho-chen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley's residents have and continue to benefit from the use and occupation of this unceded stolen land since the City of Berkeley's incorporation in 1878. As stewards of the laws regulating the City of Berkeley, it is not only vital that we recognize the history of this land, but also recognize that the Ohlone people are present members of Berkeley and other East Bay communities today. The City of Berkeley will continue to build relationships with the Lisjan Tribe and to create meaningful actions that uphold the intention of this land acknowledgement.*

### Ceremonial Matters:

1. Pledge of Allegiance

### City Manager Comments:

The City Manager announced several community events including Movies in the Park at Grove Park on 9/13; Skate Jam at the Skate Park on 9/14; Poppin' Thursday Roller Party at Gove Park on 9/19; Coastal Cleanup at Shorebird Park on 9/21.

**Public Comment on Non-Agenda Matters:** 10 speakers.

**Public Comment by Employee Unions:** 0 speakers.

## Consent Calendar

**Public Comment on Consent Calendar and Information Items Only:** 7 speakers.

**Action:** M/S/C (Arreguin/Tregub) to adopt the Consent Calendar in one motion except as indicated.

**Vote:** Ayes – Kesarwani, Taplin, Tregub, Hahn, Wengraf, Lunaparra, Humbert, Arreguin; Noes – None; Abstain – None; Absent – Bartlett.

## Recess Items

1. **Grant Application: Local Transportation Climate Adaptation Program (LTCAP) for the Interstate 80 Aquatic Park Lagoon Tidetube Culvert Resiliency Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to submit a grant application to the state Local Transportation Climate Adaptation Program (LTCAP) for the Aquatic Park Tidetube Culvert Resiliency Project; accept any grants; execute any resulting grant agreements and any amendments; and that Council authorize the implementation of the projects and appropriation of funding for related expenses, subject to securing the grants.  
**Financial Implications:** \$3.2 million in grant revenue.  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted Resolution No. 71,485–N.S.
2. **Grant Application: U.S. DOT – Charging and Fueling Infrastructure Discretionary Grant – South Cove West Parking Lot Renovation and EV Charging Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to submit a grant application to the U.S. DOT Charging and Fueling Infrastructure (CFI) Discretionary Grant program for the South Cove West Parking Lot Renovation and EV Charging Project.  
**Financial Implications:** See report  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted Resolution No. 71,486–N.S.

## Consent Calendar

3. **Lot Line Adjustments at 1401 Carleton Street and 1423 Ward Street**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,932–N.S. authorizing the City Manager to execute lot line adjustments with 1401 Carleton Street and 1423 Ward Street to resolve main dwelling encroachments at the City's Santa Fe Trackbed to Park Conversion Project Site.  
**First Reading Vote:** All Ayes.  
**Financial Implications:** See report  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted second reading of Ordinance No. 7,932–N.S.

## Consent Calendar

- 4. Lease Agreement: Youth Musical Theater Company for the Live Oak Theater at 1301 Shattuck Ave**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,933-N.S. authorizing the City Manager to execute a lease agreement with Youth Musical Theater Company (YMTC) for the use and management of the City's Live Oak Theater at 1301 Shattuck Avenue for a term of three years, anticipated to begin September 1, 2024 and ending August 31, 2027, with one five-year option.  
**First Reading Vote:** All Ayes.  
**Financial Implications:** See report  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted second reading of Ordinance No. 7,933–N.S.
- 5. Minutes for Approval**  
**From: City Manager**  
**Recommendation:** Approve the minutes for the Council meetings of July 8, 2024 (special), July 9, 2024 (special and regular), July 22, 2024 (special), July 23, 2024 (specials and regular), July 29, 2024 (special), July 30, 2024 (special and regular) August 5, 2024 (special).  
**Financial Implications:** None  
Contact: Mark Numainville, City Clerk, (510) 981-6900  
**Action:** Approved the minutes as submitted.
- 6. Contract: FileTrail, Inc. for Records Management Software System**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract with FileTrail, Inc. for \$178,653.47 for software licensing, maintenance, and related services for a records management software system, for a total contract amount not to exceed \$178,653.47 and for the term from September 26, 2024 to September 26, 2029.  
**Financial Implications:** General Fund - \$178,653.47  
Contact: Mark Numainville, City Clerk, (510) 981-6900  
**Action:** Adopted Resolution No. 71,487–N.S.
- 7. Voting Delegates – League of California Cities Annual Conference**  
**From: City Manager**  
**Recommendation:** Designate, by motion, a voting delegate and alternate for the General Assembly of the Annual League of California Cities conference to be held on Friday, October 18, 2024, in Long Beach.  
**Financial Implications:** See report  
Contact: Mark Numainville, City Clerk, (510) 981-6900  
**Action:** Designated Councilmember Humbert as the City's Voting Delegate.



## Consent Calendar

**8. City Council Rules of Procedure and Order Revisions** *(Reviewed by the Agenda & Rules Committee)*

**From: City Manager**

**Recommendation:** Adopt a Resolution revising the City Council Rules of Procedure and Order to clarify and reorganize existing language, make technical corrections related to account for hybrid meetings; incorporate temporary provisions from Appendix C into the main body of the document; add revisions recommended by the Open Government Commission and approved by Council; Add new language and update existing language related to the legislative process recommended by the Agenda & Rules Committee; and rescinding any preceding amendatory resolutions.

*Policy Committee Recommendation: To send the proposed amendments to the Rules of Procedure, as discussed and further amended on August 26, 2024, to the City Council with a positive recommendation.*

**Financial Implications:** None

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

**Action:** Item 8 continued to September 24, 2024.

**9. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on September 10, 2024**

**From: City Manager**

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

**Financial Implications:** Various Funds - \$5,960,000

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

**Action:** Approved recommendation.

**10. Mental Health Services Act Fiscal Year 2025 Annual Update**

**From: City Manager**

**Recommendation:** Adopt a Resolution approving the Mental Health Services Act (MHSA) Fiscal Year 2025 Annual Update, which identifies uses of funds for mental health programming, and forwarding the Annual Update to appropriate State officials.

**Financial Implications:** See report.

Contact: Scott Gilman, Health, Housing, and Community Services, (510) 981-5400

**Action:** Adopted Resolution No. 71,488–N.S.

## Consent Calendar

### 11. 2024 Local Housing Trust Fund Application

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to apply for and accept funds from the State of California's Local Housing Trust Fund program, in an amount not to exceed \$5,000,000, and to apply such funds to the City's existing funding reservations for two projects at the North Berkeley BART (NBB) site: NBB East Bay Asian Local Development Corporation (EBALDC) Project and NBB BRIDGE Insight Permanent Supportive Housing (PSH) Project via the City's Housing Trust Fund program.

**Financial Implications:** See report

Contact: Scott Gilman, Health, Housing, and Community Services, (510) 981-5400

**Action:** Adopted Resolution No. 71,489–N.S.

### 12. Contract No. 32300112 Amendment: Harold Dichoso for COVID-19 Outreach and Education

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to amend Contract No. 32300112 with Harold Dichoso, to extend the contract end date through June 30, 2025 and increase the not-to-exceed amount (NTE) by \$63,928 utilizing one-time grant funds. The amendment will increase the NTE amount from \$144,950 to \$208,878.

**Financial Implications:** One-Time Fund - \$63,928

Contact: Scott Gilman, Health, Housing, and Community Services, (510) 981-5400

**Action:** Adopted Resolution No. 71,490–N.S.

### 13. Contract No. 32200135 Second Amendment: Multicultural Institute for COVID-19 Outreach and Education

**From: City Manager**

**Recommendation:** Adopt a Resolution amending Contract No. 32200135 with Multicultural Institute, to extend the contract end date through June 30, 2025, and increase the not-to-exceed amount (NTE) by \$45,136 utilizing one-time grant funds. The amendment will increase the NTE amount from \$186,000 to \$231,136.

**Financial Implications:** One-Time Fund - \$45,136

Contact: Scott Gilman, Health, Housing, and Community Services, (510) 981-5400

**Action:** Moved to Action Calendar. M/S/C (Tregub/Lunaparra) to adopt Resolution No. 71,491–N.S.

**Vote:** Ayes – Kesarwani, Taplin, Tregub, Hahn, Wengraf, Lunaparra, Humbert; Noes – None; Abstain – None; Absent – Bartlett, Arreguin (Recused).

## Consent Calendar

- 14. Contract No. 32500020 Amendment: ACAPMO for Technology PMO Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 32500020 with company ACAPMO for Technology Program/Project Management Office (PMO) services, to allow for additional services and support for a total not to exceed \$249,999 from August 1, 2024 to December 31, 2025.  
**Financial Implications:** See report  
Contact: Kevin Fong, Information Technology, (510) 981-6500  
**Action:** Adopted Resolution No. 71,492–N.S.
- 15. Contract No. 31900187 (Fund\$ 10734) Amendment: ISP.NET (formerly LV.NET) for Secondary Internet for Redundancy and Load Balancing**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 31900187 (Fund\$ 10734) with ISP.NET (formerly LV.NET) for redundant secondary internet services, increasing the contract amount by \$84,000 for a total not-to-exceed amount of \$362,000 from October 3, 2017 to June 30, 2026.  
**Financial Implications:** Communications Services Fund - \$84,000  
Contact: Kevin Fong, Information Technology, (510) 981-6500  
**Action:** Adopted Resolution No. 71,493–N.S.
- 16. Contract No. 32100185 Amendment: Digital Hands for Cybersecurity Event Monitoring and Security Information and Event Management (SIEM)**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 32100185 with Digital Hands, for Cybersecurity Event Monitoring and Security Information and Event Management (SIEM), increasing the contract by \$1,037,372 for an increased total not to exceed amount of \$2,033,489, from May 14, 2021 to June 30, 2027.  
**Financial Implications:** IT Cost Allocation Fund - \$1,037,372  
Contact: Kevin Fong, Information Technology, (510) 981-6500  
**Action:** Adopted Resolution No. 71,494–N.S.
- 17. Contract No. 114159-1 Amendment: Tyler Technologies, Inc. for Computer Aided Dispatch (CAD) Software**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 114159-1 with Tyler Technologies, Inc. for an extension of the maintenance and support of Computer Aided Dispatch (CAD) software, increasing the amount by \$645,173 for a total contract value not-to-exceed \$2,934,123, and extending the term of the contract through June 30, 2026.  
**Financial Implications:** General Fund - \$645,173  
Contact: Kevin Fong, Information Technology, (510) 981-6500  
**Action:** Adopted Resolution No. 71,495–N.S.

## Consent Calendar

18. **Contract: With Roundstone Solutions Inc., an implementer of Nutanix Hyperconverged Technologies: Using State of California Department of General Services (DGS) Leveraged Procurement Agreement (LPA) for hardware, software, and services related to the Server Infrastructure Upgrade and Azure Disaster Recovery**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to enter into a Contract with Roundstone Solutions Inc., an implementer of Nutanix Hyperconverged Technologies, for the purchase of server hardware, software, and related services for a server infrastructure upgrade and disaster recovery enhancements, utilizing pricing established by the State of California Department of General Services (DGS) Leveraged Procurement Agreement (LPA), for a total amount not to exceed of \$1,395,000 for the term August 1, 2024 through July 31, 2027.  
**Financial Implications:** IT Cost Allocation Fund - \$1,395,000  
Contact: Kevin Fong, Information Technology, (510) 981-6500  
**Action:** Adopted Resolution No. 71,496–N.S.
19. **Contract No. 32000223 Amendment: Gray Quarter, Inc. for Accela Professional Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 32000223 with Gray Quarter, Inc. for professional services, increasing the amount by \$50,000, for a total not-to-exceed amount of \$299,500 through July 31, 2025.  
**Financial Implications:** IT Cost Allocation - \$50,000  
Contact: Kevin Fong, Information Technology, (510) 981-6500  
**Action:** Adopted Resolution No. 71,497–N.S.
20. **Dell Computers, Inc.: Contract # 319002070-Using County of Riverside Amendment No. 1 to the Licensing Solution Provider Agreement with Dell Marketing L.P. for Computer Hardware and Software Purchases**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to increase spending authority with Dell Computers, Inc. for the purchase of computer and server hardware, software, and related services, utilizing pricing and contracts, amendments, and extensions from the County of Riverside Amendment No. 1 to the Licensing Solution Provider for the period beginning November 1, 2019 through October 31, 2025 for an additional amount of \$1,704,438 in Fiscal Year 2025 with a total Not-To-Exceed (NTE) contract amount of \$5,411,676.  
**Financial Implications:** See report  
Contact: Kevin Fong, Information Technology, (510) 981-6500  
**Action:** Adopted Resolution No. 71,498–N.S.

## Consent Calendar

21. **Contract No. 099471-1 Amendment: Integrated Business Consultants of GA to Extend Term, Maintenance & Support for the PacSoft Marina Management System**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 099471-1 with Integrated Business Consultants of GA (“Reseller”) for: (1) additional software maintenance and (2) twenty (20) additional support hours, in an amount not to exceed \$16,906.61 for a new not to exceed contract amount of \$100,359.61, and extending the contract term through June 30, 2027.  
**Financial Implications:** Marina Operations Fund - \$16,906.61  
Contact: Kevin Fong, Information Technology, (510) 981-6500  
**Action:** Adopted Resolution No. 71,499–N.S.
22. **Contract No. 32400029 Amendment: Baldoni Construction Services, Inc. for Echo Lake Camp Accessibility Upgrades**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution increasing the amount for Contract No. 32400029 with Baldoni Construction Service, Inc. for the Echo Lake Camp Accessibility Upgrades Project by \$120,000 for a total not to exceed amount of \$556,954.  
**Financial Implications:** General Fund - \$120,000  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted Resolution No. 71,500–N.S.
23. **Donation: Memorial Bench at the Berkeley Waterfront Pathway in memory of Ying Xiang Liu**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution accepting a cash donation in the amount of \$3,400 for a memorial bench to be placed at the Berkeley Waterfront Pathway in memory of Ying Xiang Liu.  
**Financial Implications:** \$3,400 (donation)  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted Resolution No. 71,501–N.S.
24. **Donation: Memorial Bench at the Berkeley Waterfront in memory of Obaidulla Khan**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution accepting a cash donation in the amount of \$3,400 for a memorial bench to be placed at the Berkeley Waterfront in memory of Obaidulla Khan.  
**Financial Implications:** \$3,400 (donation)  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted Resolution No. 71,502–N.S.

## Consent Calendar

### 25. Mills Act Contract – 1401 Le Roy Avenue

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to enter into a Mills Act contract with Michael Greenwald and Ronna Bach for the City Landmark property at 1401 Le Roy Avenue.

**Financial Implications:** See report

Contact: Jordan Klein, Planning and Development, (510) 981-7400

**Action:** Moved to Action Calendar. M/S/C (Arreguin/Hahn) to adopt Resolution No. 71,503–N.S.

**Vote:** Ayes – Kesarwani, Taplin, Bartlett, Tregub, Hahn, Lunaparra, Humbert, Arreguin; Noes – None; Abstain – None; Absent – Wengraf (Recused).

### 26. Mills Act Contract – 60 Panoramic Way

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to enter into a Mills Act contract with Jordan Kanarek and Gabrielle Goldstein for the City Structure of Merit property at 60 Panoramic Way.

**Financial Implications:** See report

Contact: Jordan Klein, Planning and Development, (510) 981-7400

**Action:** Adopted Resolution No. 71,504–N.S.

### 27. Mills Act Contract – 7 Greenwood Common

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to enter into a Mills Act contract with Anne and Michael Ray for the City Landmark property at 7 Greenwood Common.

**Financial Implications:** See report

Contact: Jordan Klein, Planning and Development, (510) 981-7400

**Action:** Moved to Action Calendar. M/S/C (Arreguin/Hahn) to adopt Resolution No. 71,505–N.S.

**Vote:** Ayes – Kesarwani, Taplin, Bartlett, Tregub, Hahn, Lunaparra, Humbert, Arreguin; Noes – None; Abstain – None; Absent – Wengraf (Recused).

### 28. Donation: Fusako Castro Estate to the Berkeley Police Department

**From: City Manager**

**Recommendation:** Adopt a Resolution accepting a donation in the amount of \$1,125.42 from the Fusako Castro Estate to the Berkeley Police Department.

**Financial Implications:** See report

Contact: Jennifer Louis, Police, (510) 981-5900

**Action:** Adopted Resolution No. 71,506–N.S.

## Consent Calendar

**29. Contract: All-Star Talent for Recruiting, Advertising, and Marketing Strategy for the Berkeley Police and Fire Departments**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with All-Star Talent for public safety recruiting and retention services from June 1, 2024 through May 30, 2028 and a not to exceed \$1,313,482 with an option to extend for two additional two-year periods.

**Financial Implications:** Various Funds - \$1,313,482

Contact: Jennifer Louis, Police, (510) 981-5900, David Sprague, Fire, (510) 981-3473

**Action:** Adopted Resolution No. 71,507–N.S.

**Vote:** Ayes – Kesarwani, Taplin, Tregub, Hahn, Wengraf, Humbert, Arreguin; Noes – None; Abstain – Lunaparra; Absent – Bartlett.

**30. Revenue Grant: California Office of Traffic Safety (OTS) for the 2025 “Selective Traffic Enforcement Program (STEP) Grant**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the Chief of Police to accept the "Selective Traffic Enforcement Program (STEP)" grant and enter into the resultant grant agreement and any amendments, with the California Office of Traffic Safety. This OTS grant is for \$255,000 for the period of October 1, 2024 through September 30, 2025, which is Federal Fiscal Year 2025.

**Financial Implications:** See report

Contact: Jennifer Louis, Police, (510) 981-5900

**Action:** Adopted Resolution No. 71,508–N.S.

**31a. Recommendation Regarding Panoramic Hill Secondary Evacuation** *(Reviewed by the Public Safety Committee)*

**From: Disaster and Fire Safety Commission**

**Recommendation:** Adopt a Resolution approving the development of a plan that includes a feasibility study and identification of funding sources for the construction of an emergency secondary egress road on Panoramic Hill. Such a plan could include discussions between the City of Berkeley, the City of Oakland, UC Berkeley, East Bay Regional Parks District and Alameda County and should also provide for continued contact with the Disaster and Fire Safety Commission (DFSC) as well as other related Berkeley Commissions as the Council determines.

*Policy Committee Recommendation: To send the Commission item and the City Manager Companion Report to Council, and giving a positive recommendation to the City Manager Companion Report for City Council to adopt a Resolution directing the Fire Department to reach out to other impacted landowners to determine interest in pursuing, and coordinate costs sharing to conduct a feasibility study to identify a safe secondary evacuation and access route for the access impaired Panoramic neighborhood.*

**Financial Implications:** See report

Contact: Keith May, Commission Secretary, (510) 981-3473

**Action:** Adopted Resolution No. 71,509–N.S.

## Consent Calendar

**31b. Companion Report: Recommendation Regarding Panoramic Hill Secondary Evacuation** *(Reviewed by the Public Safety Committee)*

**From:** City Manager

**Recommendation:** Adopt a Resolution directing the Fire Department to reach out to other impacted landowners to determine interest in pursuing, and coordinate costs sharing to conduct a feasibility study to identify a safe secondary evacuation and access route for the access impaired Panoramic neighborhood. The results of the study should then be shared with the Public Safety Policy Committee.

*Policy Committee Recommendation: To send the Commission item and the City Manager Companion Report to Council, and giving a positive recommendation to the City Manager Companion Report for City Council to adopt a Resolution directing the Fire Department to reach out to other impacted landowners to determine interest in pursuing, and coordinate costs sharing to conduct a feasibility study to identify a safe secondary evacuation and access route for the access impaired Panoramic neighborhood.*

**Financial Implications:** See report

Contact: David Sprague, Fire, (510) 981-3473

**Action:** Adopted Resolution No. 71,510–N.S.

**32. Request for One Additional Meeting in 2024 due to Special Meeting to Address Insight Housing Allocation**

**From:** Homeless Services Panel of Experts

**Recommendation:** That Council recommend to refer to the City Manager that one additional meeting be granted to the Homeless Services Panel of Experts (HSPE) in 2024.

**Financial Implications:** See report

Contact: Josh Jacobs, Commission Secretary, (510) 981-5400

**Action:** Approved recommendation.

**33. Official Naming of the Concrete Planter at the Southeast Corner of Adeline St and Alcatraz Ave as the “Ms. Richie and Friends of Adeline Native Garden”**

**From:** Parks, Recreation and Waterfront Commission

**Recommendation:** Adopt a Resolution officially naming the concrete planter at the southeast corner of Adeline St and Alcatraz Ave as the “Ms. Richie and Friends of Adeline Native Garden”.

**Financial Implications:** None

Contact: Roger Miller, Commission Secretary, (510) 981-6700

**Action:** Adopted Resolution No. 71,511–N.S.



## Council Consent Items

34. **Amending BMC 7.52.060 to include “Wildfire Hardening” in the Real Property Transfer Tax Exceptions**  
**From: Councilmember Wengraf (Author), Councilmember Hahn (Co-Sponsor)**  
**Recommendation:** Adopt the first reading of an Ordinance to amend Berkeley Municipal Code 7.52.060, Real Property Transfer Tax Exceptions, by adding Sub-section L, Wildfire Hardening, below Sub-section K, Seismic Upgrades.  
**Financial Implications:** To be determined  
Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160  
**Action:** Adopt first reading of Ordinance No. 7,934–N.S. as revised in Supplemental Communications Packet #2 by Vice-Mayor Wengraf. Second reading scheduled for September 24, 2024.
35. **AC Transit Draft Final Plan**  
**From: Councilmember Wengraf (Author), Mayor Arreguin (Co-Sponsor), Councilmember Hahn (Co-Sponsor)**  
**Recommendation:** Send a letter to AC Transit urging them to reconsider the frequency of service for bus lines 65 and 67 including restoration of weekend service.  
**Financial Implications:** None  
Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160  
**Action:** Councilmember Humbert added as a co-sponsor. Approved recommendation.

## Action Calendar – Public Hearings

36. **Ambulance Transport Fee Increase**  
**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 July 1, 2024, for the Cities of Alameda, Albany, Berkeley, and Piedmont and to adjust the First Responder Fee. The increase would be included as an updated addendum to the Ambulance Provider Agreement, and rescinding Resolution 71,063–N.S.  
**Financial Implications:** See report  
Contact: David Sprague, Fire, (510) 981-3473
- Public Testimony:** The Mayor opened the public hearing. 2 speakers. M/S/C (Arreguin/Tregub) to close the public hearing.  
**Vote:** All Ayes.
- Action:** M/S/C (Arreguin/Taplin) to adopt Resolution No. 71,512–N.S.  
**Vote:** All Ayes.
- Recess 7:19 p.m. – 7:34 p.m.

## Council Action Items

### 37. **Encampment Policy Resolution to Promote Healthy and Safe Neighborhoods and Related First Reading of Ordinance Amending Chapter 14.48 of the Berkeley Municipal Code**

**From: Councilmember Kesarwani (Author), Councilmember Wengraf (Co-Sponsor)**

**Recommendation:** Adopt a resolution affirming that the City of Berkeley will continue to offer interim housing (i.e., a shelter offer, with a preference for non-congregate options) when closing encampments, in accordance with the City's existing "Housing First" approach and best practices guidance from the federal government. In order to account for nuanced health and safety situations, the resolution allows for six specific exceptions to this practice, based on City staff experience.

Offering shelter and housing to homeless individuals is considered a best practice, according to the United States Interagency Council on Addressing Homelessness. It will continue to be the City's practice to make shelter offers whenever practicable and to invest in more shelter options. However, in the event that the City cannot make a shelter offer, then the City Manager is nonetheless authorized to enforce, including the use of citation and arrest, only under the following circumstances:

- The Fire Department has determined that an encampment poses a fire hazard or emergency condition as referenced in the Berkeley Fire Code, Berkeley Municipal Code (BMC) Chapter 19.48; or
- The Environmental Health Division of the Health, Housing and Community Services Department has determined that the encampment poses an imminent health hazard as defined in BMC section 11.36.030; or
- The City has determined that a situation constitutes a public nuisance as defined in the BMC and is subject to an abatement pursuant to the BMC; or
- The encampment is located on a City street median, in the roadway, or otherwise in dangerous proximity to traffic pursuant to BMC section 14.32.040; or
- The encampment is located in an area where the City has authorized work (such as for construction, major or minor encroachments, etc.) pursuant to BMC section 13.36.045; or
- The encampment interferes with or impedes city or utility companies' construction or maintenance activities in the public right-of-way, street lighting installation or repair, street tree maintenance, or utilities maintenance or repair.

The City Manager is authorized to take enforcement actions to deter re-encampment (after clearing an encampment involving any of the six instances enumerated above) through such means as hardscaping; signage that references state Penal Code Section 647(e) ; or citation and arrest, even if a shelter offer cannot be made.

Adopt revisions to BMC Chapter 14.48 (Ordinance No. 7632) on miscellaneous use of streets and sidewalks to delete portions of 14.48.020, 14.48.120A and 14.48.120B in order to give the City Manager authority to make conforming changes to Administrative Regulation 10.2 to effectuate the above-stated encampment policy. Administrative Regulation 10.2 Regulating Temporary Non-Commercial Objects on Sidewalks and In Parklets Pursuant to BMC 14.48.120 is to be revised by the City Manager to enable enforcement of temporary non-commercial objects of less than nine-square-feet within less than 24 hours in a designated public area marked with

## Council Action Items

signage to deter re-encampment.

**Financial Implications:** None

Contact: Rashmi Kesarwani, Councilmember, District 1, (510) 981-7110

Recess 9:35 p.m. – 9:56 p.m.

**Action:** M/S/C (Arreguin/Hahn) to suspend the rules and extend the council meeting to 11:30 p.m.

**Vote:** All Ayes.

**Action:** M/S/Failed (Hahn/Bartlett) to:

- 1) Direct the City Manager to enforce the current policy for temporary non-commercial items, as written, at the two West Berkeley encampments and any other severely and consistently impacted locations;
- 2) Adopt first reading of the ordinance proposed in the agenda item; and
- 3) Refer to the City Manager the concepts in this item, the comments received from homeless services providers, and the comments of the Council; and request that the City Manager return to Council with a carefully nuanced item, with the effective policy that articulates our affirmative commitments to shelter services and long-term housing; and that provides a clear and more limited set of circumstances, where we might enforce our rules against large and persistent accumulations of materials.

**Vote:** Ayes – Bartlett, Tregub, Hahn; Noes – Kesarwani, Taplin, Wengraf, Lunaparra, Humbert, Arreguin.

**Action:** 85 speakers. M/S/Carried (Kesarwani/Humbert) to:

- 1) Adopt Resolution No. 71,513–N.S. with the Resolved clauses amended to read:

*NOW THEREFORE, BE IT RESOLVED that the City of Berkeley will continue to offer interim housing (generally a shelter offer, with a preference for non-congregate options) when closing encampments, whenever practicable, in accordance with the City's existing "Housing First" approach and best practices guidance from the federal government;*

*BE IT FURTHER RESOLVED, in the event that the City Manager determines that cannot make a shelter offer is not practicable, then the City Manager is nonetheless authorized to enforce state and local laws, including the use of citation and arrest, only to address under the following specific circumstances:*

- *The Fire Department has determined that an encampment poses a fire hazard or emergency condition as referenced in the Berkeley Fire Code, BMC Chapter 19.48; or*
- *The Environmental Health Division of the Health, Housing and Community Services Department has determined that the encampment poses an imminent health hazard as defined in BMC section 11.36.030; or*
- *The City has determined that a situation constitutes a public nuisance as defined in the BMC and is subject to an abatement pursuant to the BMC; or*

## Council Action Items

- *The encampment is located on a City street median, in the roadway, or otherwise in dangerous proximity to traffic pursuant to BMC section 14.32.040; or*
- *The encampment is located in an area where the City has authorized work (such as for construction, major or minor encroachments, etc.) pursuant to BMC section 13.36.045; or*
- *The encampment interferes with or impedes city or utility companies' construction or maintenance activities in the public right-of-way, street lighting installation or repair, street tree maintenance, or utilities maintenance or repair.*

BE IT FURTHER RESOLVED, the City Manager is authorized to take ~~enforcement~~ actions to deter re-encampment (after clearing an encampment involving any of the six instances enumerated above) through such means as hardscaping; signage that references state Penal Code Section 647(e); and/or enforcement through applicable state and local laws ~~citation and arrest~~, even if a shelter offer is not practicable ~~cannot be made~~.

BE IT FURTHER RESOLVED, that the City Council determines that the Harrison Corridor (Harrison Street between Ninth and Seventh Streets, including Eighth Street north of Harrison) and the Second and Cedar area (Second Street between Cedar and Page, Cedar from Eastshore Highway to Fourth, and on Page and Jones Streets west of Fourth) meet all six health and safety exceptions as proscribed by the above-stated policy and should therefore be prioritized for enforcement.

- 2) Adopt first reading of Ordinance No. 7,935–N.S. Second reading scheduled for September 24, 2024.
- 3) Refer to City Manager to draft a public memo to clarify and explain the existing practices of City staff for engagement and outreach to service providers and the encampments prior to any kind of enforcement action that is contemplated in this item.

**Vote:** Ayes – Kesarwani, Taplin, Bartlett, Tregub, Hahn, Wengraf, Humbert, Arreguin; Noes – Lunaparra.

## Information Reports

- 38. 2024-25 Housing Advisory Commission Work Plan**  
**From:** Housing Advisory Commission  
Contact: Mike Uberti, Commission Secretary, (510) 981-7400  
**Action:** Received and filed.

## **Adjournment**

**Action:** M/S/C (Arreguin/Hahn) to suspend the rules and adjourn the meeting.

**Vote:** All Ayes.

Adjourned at 11:19 p.m.

## **Communications**

### **Item #37: Encampment Policy Resolution to Promote Healthy and Safe Neighborhoods and Related First Reading of Ordinance Amending Chapter 14.48 of the Berkeley Municipal Code**

1. Caroline Winnett
2. Tom Parrish
3. Steve Kromer
4. Peg Bogle
5. Jacques Janson
6. Dixon Brooke
7. Mary Law
8. Phil Allen
9. Chris Schalis
10. Steven S.
11. Gary Shoyama
12. Chia Zau
13. Dorothea Dorenz
14. David Rosen
15. Jim Liefer
16. Mark Rhoades
17. Mel
18. Tylee Holden
19. John Norheim
20. Susan Andres
21. Fabian Goericke
22. 48 Similarly-worded form letters

### **Specificity of Agenda Item Descriptions**

23. Kitt Saginor, Chair, Open Government Commission

### **Mitigation Plan**

24. Mary BehmSteinberg
25. Susan Schwartz, President, Friends of Five Creeks

### **Zoning Concerns**

26. John J. Parman
27. Elke Glendenning

28. Clifford Fred
29. Joe Schlessinger
30. Miki Tal
31. James Cline
32. Arlene Taylor
33. Betsy Bigelow-Teller
34. Susan Nunes Fadley (2)
35. Audre Newman
36. Tyler Kennedy
37. Dean Pollycove
38. Taya Monfried
39. Dorothea Dorenz
40. Gwen Martini
41. Lisa Bruce
42. John Rice
43. Rachel Bradley
44. Laurent de Janvry
45. Kathy Dittmer
46. Mary Louise Zernicke

#### **Traffic Concerns**

47. Amantuck Cappa-Lambert

#### **Public Funds**

48. David Lerman

#### **East Bay Kidical Mass Invitation**

49. Marc Hedlund

#### **Flag Concerns**

50. Michael J. Cassidy
51. Dorothea Dorenz

#### **Containers at 2556 Haste St.**

52. Jennifer Frehn

#### **Wildlife Population**

53. Erin Williams

#### **Residential Parking Permit**

54. John J Brogan

#### **Police Review Commission**

55. Alan Jencks

**Construction Debris**

56. Chess Club

**New Housing Concern**

57. Ken Bukowski

**Delaware Streets ADU**

58. Leif White and Felisa Ramirez

**New Tax Proposals**

59. Gregory Harper

**Rent Stabilization Ordinance Revisions**

60. Toni Mester

**Cedar Rose Park**

61. Carol Hirth

**BPD's Policy 300 Community Input Sessions**

62. Office of the Director of Police Accountability (2)

**Blocked Sidewalk Concern**

63. Neighbors on 5<sup>th</sup> Street

**Diverter Visibility**

64. Alfred Twu

65. Warren J. Wells

**Russell/Milvia Junction**

66. Andy Verity

**Small Landlords**

67. Elliot Abrams

**Berkeley Day Camp**

68. Kendra K. Levine

**Appliance Upgrades**

69. Nicole Bloom & Sue Swigart

**Natural Gas**

70. Ghawar Camij Toschian

**People's Park**

71. Gabriel Cornejo

72. Russbumper

73. Paul Kealoha Blake

**School Safety Programs**

74. Dorothea Dorenz

**Garbage Cans at Codornices Park**

75. Katherine Silver

**Safety Concerns**

76. Katya and Unity Stoakes

77. Dr. Bruce Brody

**Reusable Air Filters**

78. Christopher La Combe

**Rental Regulatory Agreement**

79. Alex S. Merenkov

**Restaurant Inspections**

80. Barbara Gilbert

81. David Lerman

82. Sabina McMurtry

**CA Senate Bill 4**

83. Shane Bohart

**UA Theater**

84. Mimi Moungovan

85. Charlene Woodcock (2)

86. Constance Rivemale

87. James Hudkins

88. Mischa Lorriane

89. T.T. Nhu

90. Diana Naparst

91. Salli Lundgren

92. Allen Michaan

93. Laura Linden

**Longfellow Middle School**

94. Liza Lutzker

95. Wahid Amiri

**San Pablo Ave**

96. Caramia Visick



**Vandalism**

97. Tim O'Brien

**Police Accountability**

98. Carol Denney (2)

**Berkeley Post Office**

99. Michael Martel

**K Street Flats**

100. Devisadaria Duchine

**Chevron**

101. Leslie West

**Housing and Health Concern**

102. Anne McClintock

**Stadiums**

103. Josh Atwood

**Sylvia Mendez Air Quality**

104. Carrie Rybczynski

105. Sara Peschel and Troy Martinez

106. Maria Carriedo (2)

**TOPA**

107. Jean Tepperman Tepperman

108. Tahira Dean

**Veteran Blog**

109. William T. Elliot

**Lorin Commercial District**

110. Teresa Clarke

**Email Request**

111. Pat Wilde

**Presidential Election**

112. Russbumber (2)

113. David L. Axelrod

114. Arthur Fonseca

**Middle East Conflict**

115. Russbumber (8)

- 116. Erwan Illian (12)
- 117. Crustyrusty
- 118. Nora Shourd
- 119. Elana Auerbach

#### **Newsletters**

- 120. Vivian Warkentin
- 121. Erwan Illian (9)
- 122. Josh Atwood

#### **URL's**

- 123. Russbumper (37)
- 124. Josh Atwood
- 125. Erwan Illian

### **Supplemental Communications and Reports 1**

#### **Item #37: Encampment Policy Resolution to Promote Healthy and Safe Neighborhoods and Related First Reading of Ordinance Amending Chapter 14.48 of the Berkeley Municipal Code**

- 126. Colleen Yamada
- 127. Tylee Holden
- 128. 9 Similarly-worded form letters

### **Supplemental Communications and Reports 2**

#### **Item #31a: Recommendation Regarding Panoramic Hill Secondary Evacuation (Reviewed by the Public Safety Committee)**

#### **Item #31b: Companion Report: Recommendation Regarding Panoramic Hill Secondary Evacuation (Reviewed by the Public Safety Committee)**

- 129. Janice Thomas
- 130. Michael Kelly on behalf of the Panoramic Hill Association

#### **Item #34: Amending BMC 7.52.060 to include "Wildfire Hardening" in the Real Property Transfer Tax Exceptions**

- 131. Revised agenda material submitted by Vice Mayor Susan Wengraf

#### **Item #37: Encampment Policy Resolution to Promote Healthy and Safe Neighborhoods and Related First Reading of Ordinance Amending Chapter 14.48 of the Berkeley Municipal Code**

- 132. Toni Mester
- 133. Bobbi Fabian
- 134. Anne Fletcher
- 135. Dorothea Dorenz
- 136. Eric Johnson
- 137. Cassandra Turgman

138. Scott Robinson
139. Stephanie Baron
140. Bill Berland
141. Xy Indigo Golden
142. Daniel Clancy
143. Maricar Almeda
144. Susan Schwartz, President, Friends of Five Creeks
145. Melissa Matheney
146. Alfred Twu
147. Jared Hammond
148. Asano Fertig and James Apriletti
149. Kasara Mena
150. Josh Jacobs on behalf of the Homeless Services Panel of Experts  
Commission
151. Martin F Guerrero
152. Phillip Sanders
153. Aimee Baldwin
154. Aran Kaufer
155. Dominic Valerian
156. Chris Chase
157. Tim Daniels
158. Janice Schroeder
159. Beverly Libaire
160. Christine U'Ren
161. Scott Abbott
162. Terri Fashing
163. Rick Smith
164. Justin Remais
165. Nora Daly
166. Martha Duncan
167. James Pirie on behalf of Susan Libby
168. Brad Smith
169. David Epstein (2)
170. Douglas Smith
171. Molly Miller
172. Emily Winston
173. Rachel Bradley
174. D. Miller Wise
175. Jeff Fenigstein
176. Diana Bohn
177. Barbara Rydlander
178. Susie Medak
179. Pamela Blair
180. Dr. R. H. Fish
181. Carol Valk
182. Andrea Satir

- 183. Laura Katz
- 184. Brian Gilbane
- 185. Mike Bank
- 186. John Rice
- 187. Michael Lewis
- 188. Susan Frankel and Moshe Maler
- 189. Nancy Genn
- 190. Rachel Tobey
- 191. Alan Block
- 192. Meryl & Aimee
- 193. Michele Lawrence
- 194. Gina Reiger
- 195. Sandy Simon
- 196. Dave Kent
- 197. Norman Postone
- 198. Varun Paul
- 199. Thomas Herrmann
- 200. Peter Levitt
- 201. Sherry Keith
- 202. Jo Ann Driscoll
- 203. Christopher Reiss
- 204. Jake Teitelbaum
- 205. Joan Adams
- 206. Richard Maisel
- 207. Mark Mueller
- 208. Dorothea Dorenz
- 209. Sabyl Landrum
- 210. 22 Similarly-worded opposing form letters
- 211. 134 Similarly-worded supporting form letters

### **Supplemental Communications and Reports 3**

#### **Item #8: City Council Rules of Procedure and Order Revisions (*Reviewed by the Agenda & Rules Committee*)**

- 212. Kitt Saginor

#### **Item #37: Encampment Policy Resolution to Promote Healthy and Safe Neighborhoods and Related First Reading of Ordinance Amending Chapter 14.48 of the Berkeley Municipal Code**

- 213. Sivan Orr
- 214. Mary Behm-Steinberg
- 215. Rina Margolin
- 216. Jack von Euw
- 217. Fred Krieger
- 218. Emrad Radek
- 219. Leigh Stewart
- 220. J Moore
- 221. Molly Rosenthal

222. Kevin Jones
223. Julie Greer
224. Sandra Smith
225. Todd Jersey
226. DeAnna Dalton
227. Eric Mason (2)
228. Nancy Rader
229. Jonathan Bachrach
230. Rev. Sophia DeWitt
231. Michael Lonergan
232. Carol Thornton
233. Gib Cattanach
234. Nathaniel Emodi
235. Lee Bishop
236. Claudia Kawczynska
237. Chip Harley
238. Joshua Greene
239. Fatima Espejo
240. Mark Merritt
241. Alan Kiviat
242. Elana Auerbach
243. Ellen Lewis
244. Alison Christiana
245. Chris Hudson
246. Katy Andrews
247. Erica Leverett
248. Jenny Wenk
249. Yesica Prado and Gordon Gilmore on behalf of the Berkeley Homeless Union
250. Ginger Ogle
251. Itamar Landau
252. Jason McGatlin
253. Perry Ko
254. Tatiana Davis
255. Mike Roche
256. Ben Buettner
257. Sam Kaplan Pettus
258. Claudia Benton
259. Juliet Leftwich
260. Susan McKay
261. Joan Wager
262. Carrie Gray
263. Maren Bell
264. Jill McIntire
265. Jorie Heilman
266. Diane Tokugawa

267. Ken Krich
268. Wende Micco and Guy Micco
269. Sylvia
270. Pam Shandrick
271. Tom Attar
272. Elizabeth Pulling
273. David Rosenthal
274. Lynda Caesara
275. Peter DiMaria
276. Lynn Bradley
277. Maria Yates
278. Linda Franklin
279. Veronica King
280. Dan White
281. Jack Kurzweil
282. Jason Gentry
283. Liz Ruhland
284. Josh Buswell-Charkow
285. Matthew Barry
286. Matt Weber
287. Criss Hartzell
288. Cameron Woo
289. Laila Hamidi
290. Becca Freed
291. Karl Knobler
292. Jaime Perkins
293. Olivia deBree
294. Richard Marcus
295. Eva Herzer
296. Rowena Carlson
297. John Niles
298. Barbara
299. Madeline Feingold
300. Laura Cornwall
301. Kristine Dixon
302. Vanessa Moraga
303. Walter Wood
304. Robert Girling
305. John M. Rea
306. Carol Sutton
307. Tony Warwick
308. Andrew Coggiola
309. CC Miksza
310. Bhima Sheridan
311. Irene Rice (2)
312. Irene Brydon

- 313. Martin Nicolaus
- 314. G. Vollmer
- 315. Jacque Ensign
- 316. Francie Shaw
- 317. Kathy Farley
- 318. Stephanie Antalocy
- 319. Chris Hamilton
- 320. Meryl & Aimee
- 321. Rich Walkling
- 322. Erika Shore
- 323. Lucas Woodward
- 324. Sheryl Drinkwater
- 325. Kathy Ritter
- 326. Carol Min
- 327. Ellen Franzen
- 328. Steven Donaldson
- 329. Christine Hayamizu
- 330. Sylvia Soriano
- 331. Christine Mukai
- 332. Lauren Ankersmit
- 333. John Rutherford
- 334. Abbot Foote
- 335. Leonard Gilbert
- 336. Kate Kirkhuff
- 337. Judith Forrest
- 338. Rowyn McDonald
- 339. 14 Similarly worded form letters in support if amended
- 340. 20 Similarly worded form letters to oppose
- 341. 79 Similarly worded form letters in support

**Miscellaneous Communications**

- 342. Eid (4)