

**BERKELEY CITY COUNCIL AGENDA & RULES COMMITTEE  
SPECIAL MEETING**

**BERKELEY CITY COUNCIL SPECIAL MEETING**

**MONDAY, MARCH 18, 2019**

**2:30 P.M.**

2180 Milvia Street, 6<sup>th</sup> Floor – Redwood Room

Committee Members:

Mayor Jesse Arreguin, Councilmembers Kate Harrison and Susan Wengraf

**AGENDA**

**Roll Call**

**Public Comment**

**Review of Agendas**

1. **Approval of Minutes: March 11, 2019**
2. **Review and Approve Draft Agendas:**
  - a. 4/2/19 – 6:00 p.m. Regular City Council Meeting
3. **Selection of Item for the Berkeley Considers Online Engagement Portal**
4. **Adjournments In Memory Of**

**Scheduling**

5. **Council Worksessions Schedule**
6. **Council Referrals to Agenda Committee for Scheduling**
7. **Land Use Calendar**

## Referred Items for Review

Following review and discussion of the items listed below, the Committee may continue an item to a future committee meeting, or refer the item to the City Council.

- None

## Adjournment – Next Meeting Monday, April 8, 2019

### Additional items may be added to the draft agenda per Council Rules of Procedure.

*Rules of Procedure as adopted by Council resolution, Article III, C3c - Agenda - Submission of Time Critical Items*

*Time Critical Items. A Time Critical item is defined as a matter that is considered urgent by the sponsor and that has a deadline for action that is prior to the next meeting of the Council and for which a report prepared by the City Manager, Auditor, Mayor or council member is received by the City Clerk after established deadlines and is not included on the Agenda Committee's published agenda.*

*The City Clerk shall bring any reports submitted as Time Critical to the meeting of the Agenda Committee. If the Agenda Committee finds the matter to meet the definition of Time Critical, the Agenda Committee may place the matter on the Agenda on either the Consent or Action Calendar.*

*The City Clerk shall not accept any item past the adjournment of the Agenda Committee meeting for which the agenda that the item is requested to appear on has been approved.*

*This is a meeting of the Berkeley City Council Agenda Committee. Since a quorum of the Berkeley City Council may actually be present to discuss matters with the Council Agenda Committee, this meeting is being noticed as a special meeting of the Berkeley City Council as well as a Council Agenda Committee meeting.*

*Written communications addressed to the Agenda Committee and submitted to the City Clerk Department by 5:00 p.m. the Friday before the Committee meeting, will be distributed to the Committee prior to the meeting. After the deadline for submission, residents must provide 10 copies of written communications to the City Clerk at the time of the meeting.*

*This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, 981-6900.*



#### COMMUNICATION ACCESS INFORMATION:

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

\* \* \*

I hereby certify that the agenda for this special meeting of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on March 14, 2019.

A handwritten signature in black ink that reads "Mark Numainville".

Mark Numainville, City Clerk

## **Communications**

*Communications submitted to City Council Policy Committees are on file in the City Clerk Department at 2180 Milvia Street, 1st Floor, Berkeley, CA.*



**BERKELEY CITY COUNCIL AGENDA & RULES COMMITTEE  
SPECIAL MEETING MINUTES**

**BERKELEY CITY COUNCIL SPECIAL MEETING MINUTES**

**MONDAY, MARCH 11, 2019**

**2:30 P.M.**

2180 Milvia Street, 6<sup>th</sup> Floor – Redwood Room

Committee Members:

Mayor Jesse Arreguin, Councilmembers Kate Harrison and Susan Wengraf

**Roll Call:** 2:30 p.m. All present.

**Public Comment:** 3 speakers.

**Review of Agendas**

**1. Approval of Minutes: February 25, 2019**

**Action:** M/S/C (Wengraf/Harrison) to approve the minutes of 2/25/19.

**Vote:** All Ayes.

**2. Review and Approve Draft Agendas:**

a. 3/26/19 – 6:00 p.m. Regular City Council Meeting

**Action:** M/S/C (Harrison/Wengraf) to approve the agenda of 3/26/19 with the revisions noted below.

**Vote:** All Ayes.

- *Ceremonial Item: Recognition of the Suitcase Clinic*
- *Ceremonial Item: Recognition of March for Meals Month*
- *Item 1 RV Parking (City Manager) – Moved to Action Calendar*
- *Item 12 Healthy Black Families (Davila) - Councilmembers Harrison, Wengraf, and Bartlett added as co-sponsors*
- *Item 13 Lifelong Medical (Davila) – Councilmembers Wengraf and Bartlett added as co-sponsors*
- *Item 14 Holocaust Remembrance (Wengraf) – Revised item submitted; Councilmembers Bartlett and Hahn, and Mayor Arreguin added as co-sponsors*
- *Item 15 Support SB 190 (Wengraf) – Councilmembers Hahn, Droste, and Kesarwani added as co-sponsors*
- *Item 16 Suitcase Clinic (Robinson) – Councilmembers Harrison, Hahn, and Davila added as co-sponsors*
- *Item 20 Presentation from Mosquito Abatement District – Removed from the agenda*
- *Item 22a/b Lead Paint Practices (CEAC) – Scheduled for April 2, 2019*
- *Item 23 Street Paving (Arreguin) – Councilmembers Harrison and Davila added as co-sponsors; Referred to Facilities, Infrastructure, Transportation, Environment & Sustainability Committee*
- *Item 24 UC Theater Allocation (Arreguin) – Councilmember Davila added as a co-sponsor; Amended to be a referral to the FY2020 - FY2021 Budget Process; Moved to March 26, 2019 Consent Calendar*
- *Item 25 New General Plan (Arreguin) – Councilmember Wengraf added as a co-sponsor; Amended to remove “Short Term” in title and recommendation; Moved to March 26, 2019 Action Calendar*
- *Item 26 Dynamex Decision (Bartlett) – Moved to March 26, 2019 Consent Calendar*

- *Item 27 Election Day Holiday (Robinson) – Councilmember Hahn added as a co-sponsor; Referred to the Budget and Finance Committee*
- *Item 28 Hairstyle Discrimination (Robinson) – Councilmember Hahn added as a co-sponsor; Referred to the Health, Life Enrichment, Equity & Community Committee*
- *Item 29 Short Term Referrals (City Manager) – Schedule for April 2, 2019 Action Calendar*

Order of Items on the Action Calendar

Item 17 ZAB Appeal

Item 21 Measure T1 Projects

Item 1 RV Parking

Item 19 Missing Middle Report

Item 25 New General Plan

Item 18 Report on 1000 Person Plan

**3. Selection of Item for the Berkeley Considers Online Engagement Portal**

- Selected Item #19 Missing Middle Report

**4. Adjournments In Memory Of – None**

**Scheduling**

**5. Council Worksessions Schedule – received and filed**

**6. Council Referrals to Agenda Committee for Scheduling – received and filed**

**7. Land Use Calendar – received and filed**

## Referred Items for Review

*Following review and discussion of the items listed below, the Committee may continue an item to a future committee meeting, or refer the item to the City Council.*

**8. Referral Response: Updated Policy for Emergency Standby Officers for the Mayor and Councilmembers**

**From: City Manager**

**Referred: February 19, 2019**

**Due: July 9, 2019**

**Recommendation:** Adopt a Resolution updating the selection process and criteria for the appointment of Standby Officers for the Mayor and each Councilmember to serve in the event the elected official is unavailable during an emergency, and rescinding Resolution No. 57,906-N.S.

**Financial Implications:** None

Contact: Mark Numainville, City Clerk, 981-6900; Farimah Brown, City Attorney, 981-6950

**Action:** 1 speaker. M/S/C (Harrison/Wengraf) to recommend that the report and resolution be submitted to the City Council with a Positive Recommendation and including the following amendments: 1) include a requirement for filing Form 700; 2) revise the requirement for city government experience; 3) revise the due date.

**Vote:** All Ayes.

**9. Adopt the Sanctuary Contracting Ordinance proposed by the Peace and Justice Commission** *(Continued from February 26, 2019. Item contains revised material).*

**From: Councilmembers Worthington, Davila, Harrison, and Bartlett**

**Referred: February 26, 2019**

**Due: July 16, 2019**

**Recommendation:** That the City Council adopt the attached Sanctuary Contracting Ordinance proposed by the Peace and Justice Commission. This ordinance prohibits the award of city contracts to vendors acting as ICE data brokers, or those providing extreme vetting services.

**Financial Implications:** Minimal

Contact: Kriss Worthington, Councilmember, District 7, 981-7170

**Action:** 1 speaker. M/S/C (Harrison/Arreguin) to recommend that the report and ordinance as submitted to the Agenda and Rules Committee on March 11, 2019 and further amended to include Chapter and Section numbering and additional information in the Financial Implications section be submitted to the City Council with a Positive Recommendation.

**Vote:** All Ayes.

## Adjournment

**Action:** M/S/C (Wengraf/Harrison) to adjourn the meeting.

**Vote:** All Ayes.

Adjourned at 3:47 p.m.

\* \* \*

I hereby certify that these are the true and correct minutes of the meeting of March 11, 2019.



Mark Numainville, City Clerk



## DRAFT AGENDA



### BERKELEY CITY COUNCIL MEETING

**Tuesday, April 2, 2019  
6:00 PM**

SCHOOL DISTRICT BOARD ROOM - 1231 ADDISON STREET, BERKELEY, CA 94702  
TELECONFERENCE LOCATION: 92-1185 ALI'INUI DR, KAPOLEI, HI 96707

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
DISTRICT 2 – CHERYL DAVILA  
DISTRICT 3 – BEN BARTLETT  
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN  
DISTRICT 6 – SUSAN WENGRAF  
DISTRICT 7 – RIGEL ROBINSON  
DISTRICT 8 – LORI DROSTE

*This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, 981-6900.*

*The City Council may take action related to any subject listed on the Agenda. The Mayor may exercise a two minute speaking limitation to comments from Councilmembers. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.*

## Preliminary Matters

### Roll Call:

**Ceremonial Matters:** *In addition to those items listed on the agenda, the Mayor may add additional ceremonial matters.*

**City Manager Comments:** *The City Manager may make announcements or provide information to the City Council in the form of an oral report. The Council will not take action on such items but may request the City Manager place a report on a future agenda for discussion.*

**Public Comment on Non-Agenda Matters:** *Persons will be selected by lottery to address matters not on the Council agenda. If five or fewer persons submit speaker cards for the lottery, each person selected will be allotted two minutes each. If more than five persons submit speaker cards for the lottery, up to ten persons will be selected to address matters not on the Council agenda and each person selected will be allotted one minute each. Persons wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a speaker card to the City Clerk in person at the meeting location and prior to commencement of that meeting. The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda. Speaker cards are not required for this second round of public comment on non-agenda matters.*

## Consent Calendar

*The Council will first determine whether to move items on the agenda for “Action” or “Information” to the “Consent Calendar”, or move “Consent Calendar” items to “Action.” Items that remain on the “Consent Calendar” are voted on in one motion as a group. “Information” items are not discussed or acted upon at the Council meeting unless they are moved to “Action” or “Consent”.*

*No additional items can be moved onto the Consent Calendar once public comment has commenced. At any time during, or immediately after, public comment on Information and Consent items, any Councilmember may move any Information or Consent item to “Action.” Following this, the Council will vote on the items remaining on the Consent Calendar in one motion.*

*For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.*

**Public Comment on Consent Calendar and Information Items Only:** *The Council will take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. Speakers will be entitled to two minutes each to speak in opposition to or support of Consent Calendar and Information Items. A speaker may only speak once during the period for public comment on Consent Calendar and Information items.*

*Additional information regarding public comment by City of Berkeley employees and interns: Employees and interns of the City of Berkeley, although not required, are encouraged to identify themselves as such, the department in which they work and state whether they are speaking as an individual or in their official capacity when addressing the Council in open session or workshops.*

## Consent Calendar

- 1. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on April 2, 2019**  
**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:** See Report  
Contact: Henry Oyekanmi, Finance, 981-7300
- 2. Contract No. 9863 Amendment: Arup North America, Ltd. for Construction Support Services for the Shattuck Reconfiguration and Pedestrian Safety Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 9863 with Arup North America, Ltd. for Construction Support Services for the for the Shattuck Reconfiguration and Pedestrian Safety Project, increasing the contract by \$50,000, for a total amount not to exceed \$763,800, and extending the term of the contract from June 30, 2019 to June 30, 2021.  
**Financial Implications:** Capital Improvement Fund - \$50,000  
Contact: Phillip Harrington, Public Works, 981-6300

## Council Consent Items

- 3. Budget Referral: Opening the West Campus Pool Year-Round**  
**From: Mayor Arreguin and Councilmember Davila**  
**Recommendation:** Refer to the FY2020 Budget Process at least \$213,000 and up to \$481,745 to reinstate the year-round opening of the West Campus Pool.  
**Financial Implications:** See report  
Contact: Jesse Arreguin, Mayor, 981-7100
- 4. Women's Daytime Drop-In Center: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**  
**From: Councilmembers Davila and Hahn**  
**Recommendation:** Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember including \$150 from Councilmember Cheryl Davila, to the Women's Daytime Drop-In Center, for their 31st Annual Chance for Change on May 4, 2019, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Davila and any other Councilmembers who would like to contribute.  
**Financial Implications:** Councilmember's Discretionary Funds - \$150  
Contact: Cheryl Davila, Councilmember, District 2, 981-7120
- 5. Proclamation in Honor of Holocaust Remembrance Day**  
**From: Councilmember Wengraf**  
**Recommendation:** Adopt the Holocaust Remembrance Day Proclamation for the 17th annual Holocaust Remembrance Day program.  
**Financial Implications:** None  
Contact: Susan Wengraf, Councilmember, District 6, 981-7160
- 6. Berkeley World Music Festival: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Fund**  
**From: Councilmember Robinson**  
**Recommendation:** Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember including \$250 from Councilmember Robinson, to the Berkeley World Music Festival to assist with payment to artist fees, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Robinson and any other Councilmembers who would like to contribute.  
**Financial Implications:** Councilmember's Discretionary Funds - \$250  
Contact: Rigel Robinson, Councilmember, District 7, 981-7170
- 7. Support for AB-969 (Collective Bargaining: Legislature)**  
**From: Councilmember Robinson**  
**Recommendation:** Send a letter to Senator Skinner and Assemblymembers Wicks and Gonzalez supporting AB-969, which would provide employees of the state legislature the right to participate in employee organizations for the purpose of collective bargaining and other aspects of employer-employee relations.  
**Financial Implications:** None  
Contact: Rigel Robinson, Councilmember, District 7, 981-7170

## Council Consent Items

### 8. Support for SCA-1: Public Housing Projects

**From: Councilmember Robinson**

**Recommendation:** Adopt a resolution supporting SCA-1, which repeals Article 34 of the state constitution, requiring a citywide vote for construction of publicly funded low income housing projects. Copies of the resolution will be sent to Senator Nancy Skinner, Assemblymember Buffy Wicks, Senator Bill Allen, and Senator Scott Weiner.

**Financial Implications:** None

Contact: Rigel Robinson, Councilmember, District 7, 981-7170

## Action Calendar

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

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

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

## Action Calendar – Public Hearings

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

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

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

## Action Calendar – Public Hearings

### 9. Cannabis Ordinance Revisions; Amending the Berkeley Municipal Code

*(Continued from March 12, 2019)*

**From: City Manager**

**Recommendation:** Conduct a public hearing and upon conclusion, provide direction regarding proposed ordinance language alternatives and adopt the first reading of five ordinances amending the Berkeley Municipal Code (BMC) which would:

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

The ordinances would adopt BMC Chapters 12.21 and 20.40, amend Chapters 12.22, and 23C.25, Sub-Titles 23E and 23F, and repeal Chapters 12.23, 12.25 and 12.27.

**Financial Implications:** See report.

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

### 10. New Marina Fee – South Cove Parking Lots

**From: City Manager**

**Recommendation:** Conduct a public hearing and upon conclusion, adopt a Resolution approving a new Marina Fee Schedule to include a new parking fee in the South Cove Parking lot, and rescinding Resolution No. 68,415-N.S. and all amendatory resolutions.

**Financial Implications:** See report

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

## Action Calendar – New Business

### 11. City Council Short Term Referral Process – Monthly Update

**From: City Manager**

Contact: Mark Numainville, City Clerk, 981-6900

## Action Calendar – New Business

### 12a. **Effective Enforcement of Safe Lead-Paint Practices**

**From: Community Environmental Advisory Commission**

**Recommendation:** Direct the City Manager to prepare two ordinances as described below and return them for vote of the City Council within two months, so that when passed the city staff can effectively intervene when painters ignore safe practices they have agreed to uphold in removing lead paint from structures built before 1978:

1. An ordinance adding safe lead-paint practices (already mandated by the state and federal governments) to the City Code so that such practices can be regularly enforced as part of code enforcement; [this ordinance could follow the wording of an ordinance proposed in the City of Emeryville in 2017.

2. An ordinance in accord with California law that allows the city to be reimbursed for costs (staff time) for enforcement efforts (thus making it cost-effective for the City staff to engage in enforcement) and to automatically add fines up to \$1,000 for each day of failing to comply with orders to cease unlawful practices. This ordinance could apply generally to all municipal code violations, in addition to lead paint cleanup, to fund and reimburse stronger enforcement efforts by the City.

**Financial Implications:** See report

Contact: Viviana Garcia, Commission Secretary, 981-7460

### 12b. **Companion Report: Effective Enforcement of Safe Lead-Paint Practices**

**From: City Manager**

**Recommendation:** Based on the intent of the recommendation from the Community Environmental Advisory Commission (CEAC) for the City to expand enforcement of unsafe lead paint practices, refer to the City Manager to: - Coordinate with the Alameda County Healthy Homes Program to clearly identify roles and responsibilities for expanding enforcement of unsafe lead practices, and to explore options for sharing resources that can support expanded local enforcement; - Identify what resources, staff capacity, and program structure would be required to expand City enforcement of unsafe lead practices; - Continue current work to educate building permit applicants and contractors about safe lead paint practices; train and certify all City of Berkeley Building and Housing Inspectors in lead paint safety; respond to, investigate, and enforce safe lead paint practices as needed; and administer the Public Health Division's Childhood Lead Poisoning Prevention Program; and - Provide an update to City Council within one-year that identifies progress and next steps for expanding enforcement of unsafe lead practices.

**Financial Implications:** See report

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

### 13. **Implementation of Resolution 68,132 (Council Funding for Additional Services Amending Contracts with Eviction Defense Center (“EDC”) and East Bay Community Law Center (“EBCLC”) For The Period Ending June 30, 2018**

**From: Rent Stabilization Board**

Contact: Jay Kelekian, Rent Stabilization Board, 981-7368

## Action Calendar – Policy Committee Track Items

### 14. Sponsorship and Funding for the 2019 Bay Area Book Festival

**From: Mayor Arreguin**

**Recommendation:**

1. Adopt a resolution approving city co-sponsorship of the nonprofit Bay Area Book Festival to be held from May 4-5, 2019 in Downtown Berkeley.
2. Reaffirm Berkeley's commitment to provide \$50,000 to the Bay Area Book Festival as a regular line item in the City Budget

**Financial Implications:** See report

Contact: Jesse Arreguin, Mayor, 981-7100

### 15. Draft Supplemental Environmental Impact Report for Upper Hearst Development and Amendment to 2020 Long Range Development Plan

**From: Mayor Arreguin**

**Recommendation:** Discuss the draft Supplemental Environmental Impact Report (SEIR) for the Upper Hearst Development and Minor Amendment to the 2020 Long Range Development Plan. Provide direction to the City Manager on formal comments to the Upper Hearst SEIR. Comments to be submitted to UC Berkeley by the April 8, 2019 deadline.

**Financial Implications:** See report

Contact: Jesse Arreguin, Mayor, 981-7100

## Action Calendar – Policy Committee Track Items

**16. Short-term referral to City Manager and budget referral for creation of a “vehicle dweller program” in Berkeley, including a permitting program.**

**From: Councilmembers Davila and Harrison**

**Recommendation:** Create a comprehensive program to support a given number of people living in their vehicles, including but not limited to RVs, in Berkeley and include the support needed to have minimal impact on the neighborhoods in which they reside. The program could include: -Issue 3-6 month permits for registered vehicles in running order with an option to renew providing there have been no validated complaints filed against the permitted vehicle within the timeframe of the permit. -Create an affordable sliding scale permit fee structure based on size of vehicle, weight, number of wheels and number of axles. -Create a registration process where vehicular dwellers have an option to choose additional support services. -Distribute permits equally throughout all districts and identify restrictions on parking (i.e. near schools, bus stops, etc.), including the number of vehicles allowed per a block face. -Create a consistent, clear and transparent process for investigating complaints to determine validity, provide documentation and issue warnings. -Provide pump-out services, waste disposal and other support as needed. -Create a new revenue source: a pump-out station for use by RVs within the City of Berkeley (possibly the in the transfer station rebuild), including a pump-out fee structure. -Create a program for up to \$3,000 per permitted vehicle for maintenance, mechanical and sanitation repairs, and registration. Offer a grace period length of time for vehicles to come into compliance in order to purchase a permit. -Pilot a Safe Parking Program pilot modeled after Oakland’s Safe Parking Program pilot: host sites for RVs and vehicle dwellers at business, community or faith-based site parking lots that includes support and sanitation services.

Vehicles with permits are exempt from Berkeley Municipal Code (BMC) Chapter 12.76.010 and BMC Section 14.40.120.

**Financial Implications:** See report

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

**17. Referral to the Energy Commission to Hold a Series of Public Outreach and Educational Meetings Regarding Electrification**

**From: Councilmembers Harrison, Davila, and Robinson**

**Recommendation:** Refer to Berkeley’s Energy Commission to hold four separate special public outreach and educational meetings regarding electrification in new buildings:

1. A meeting with community members;
2. A meeting with building professionals and labor (buildings trades, contractors, architects, engineers etc.);
3. A meeting with affordable housing developers;
4. A meeting with market-rate developers.

**Financial Implications:** See report

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



## Action Calendar – Policy Committee Track Items

18. **Referral: Fee on New Non-Residential Development to Contribute to the Revolving Loan Fund**  
**From: Councilmember Robinson**  
**Recommendation:** Refer to the City Manager to develop a new fee on non-residential development to contribute to the City of Berkeley's Revolving Loan Fund (RLF) for small business financing.  
**Financial Implications:** See report  
Contact: Rigel Robinson, Councilmember, District 7, 981-7170
19. **Adopt a Spot Initiative**  
**From: Councilmembers Droste and Kesarwani**  
**Recommendation:** Refer to the Public Works Commission and Parks and Waterfront Commission to develop an Adopt A Spot initiative; specifically outlining potential environmental benefits, program costs, staffing. Rationale: -Adopt a Spot programs enable a network of volunteer residents to assist in city maintenance and clean up efforts which have great impact using minimal City staff/funding. -Vision 2050 will include stormwater and watershed management goals, both of which this program would support.  
**Financial Implications:** Staff time  
Contact: Lori Droste, Councilmember, District 8, 981-7180

## Public Comment – Items Not Listed on the Agenda

### Adjournment

**NOTICE CONCERNING YOUR LEGAL RIGHTS:** *If you object to a decision by the City Council to approve or deny a use permit or variance for a project the following requirements and restrictions apply: 1) No lawsuit challenging a City decision to deny (Code Civ. Proc. §1094.6(b)) or approve (Gov. Code 65009(c)(5)) a use permit or variance may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a use permit or variance, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.*

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Archived indexed video streams are available at <http://www.cityofberkeley.info/citycouncil>. Channel 33 rebroadcasts the following Wednesday at 9:00 a.m. and Sunday at 9:00 a.m.

Communications to the City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk Department at 2180 Milvia Street. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk Department for further information.

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at the public counter at the City Clerk Department located on

the first floor of City Hall located at 2180 Milvia Street as well as posted on the City's website at <http://www.cityofberkeley.info>.

Agendas and agenda reports may be accessed via the Internet at <http://www.cityofberkeley.info/citycouncil> and may be read at reference desks at the following locations:

City Clerk Department  
2180 Milvia Street  
Tel: 510-981-6900  
TDD: 510-981-6903  
Fax: 510-981-6901  
Email: [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info)

Libraries:  
Main - 2090 Kittredge Street  
Claremont Branch – 2940 Benvenue  
West Branch – 1125 University  
North Branch – 1170 The Alameda  
South Branch – 1901 Russell

**COMMUNICATION ACCESS INFORMATION:**

This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6418 (V) or 981-6347 (TDD) at least three business days before the meeting date.

Attendees at public meetings are reminded that other attendees may be sensitive to various scents, whether natural or manufactured, in products and materials. Please help the City respect these needs.



Captioning services are provided at the meeting, on B-TV, and on the Internet. In addition, assisted listening devices for the hearing impaired are available from the City Clerk prior to the meeting, and are to be returned before the end of the meeting.

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Office of the Mayor

CONSENT CALENDAR

April 2, 2019

To: Honorable Mayor and Members of the City Council

From: Mayor Jesse Arreguín and Councilmember Cheryl Davila

Subject: Budget Referral: Opening the West Campus Pool Year-Round

RECOMMENDATION

Refer to the FY2020 Budget Process at least \$213,000 and up to \$481,745 to reinstate the year-round opening of the West Campus Pool.

BACKGROUND

The City currently operates two public pools: King Pool, which is open year-round, and West Campus Pool, which is open from May-September. Both pools are owned by the Berkeley Unified School District and use agreements have been signed since the 1960s, with the latest agreement set to expire in December 2020. West Campus is the only pool that serves South Berkeley after Willard Pool was closed in 2010. West Campus was open year round until budget reductions in the FY 2004-2005 reduced its opening times to the current five months.

In January 2018, Councilmember Davila, introduced a Council item cosponsored by Councilmembers Bartlett, Harrison and Hahn referring to the City Manager to look into the feasibility of keeping the pool open year-round<sup>1</sup>. This comes as an increasing number of constituents who do not have the means to travel to King have requested to expand hours at West Campus.

Currently, \$853,000 is spent annually on combined operation costs for King and West Campus. In the Staff response to the January 2018 referral (Attachment 1), various options are provided for costs associated with expanded hours, including two for year-round operations. Option 1 would provide limited hours during non-summer months at an additional cost of \$213,000, and Option 2 would duplicate the current hours at King at an additional cost of \$481,745.

RATIONALE FOR RECOMMENDATION

Reopening the West Campus Pool year round is in line with Berkeley's commitment of creating an equitable community. With the King Pool in North Berkeley open year round, South and West Berkeley residents should also have an opportunity to have their local

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<sup>1</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2018/01\\_Jan/Documents/2018-01-23\\_Item\\_27\\_Open\\_West\\_Campus\\_Pool.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2018/01_Jan/Documents/2018-01-23_Item_27_Open_West_Campus_Pool.aspx)

pool be open year round. Increased access to the pool also provides health benefits to those who use it.

FINANCIAL IMPLICATIONS

Depending on what option is chosen, costs will range between \$213,000 – \$481,745 annually. See Attachment 1 for details. However, costs could be recovered through revenue generated as a result of the pool's year-round availability.

ENVIRONMENTAL SUSTAINABILITY

Not applicable

CONTACT PERSON

Mayor Jesse Arreguín      510-981-7100

Attachments:

1: Partial Referral Response to Feasibility of Keeping West Campus Open Year Round



Office of the City Manager

October 16, 2018

To: Honorable Mayor and Members of the City Council

From:  Dee Williams-Ridley, City Manager

Subject: Partial Response to the January 23, 2018 Council Referral - Assess the feasibility of keeping the West Campus Pool open all year round and starting a shower program at the West Campus Pool

### Introduction

This report describes the history of City-operated pools and the costs associated with keeping West Campus Pool open year-round. On June 12, 2018, a partial response to this referral, detailing the costs of establishing a year round shower program at West Campus, was submitted as an Off-Agenda item (see following link).

[https://www.cityofberkeley.info/uploadedFiles/Clerk/Level\\_3\\_-\\_General/Shower%20Referral%20Response%20061218.pdf](https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_General/Shower%20Referral%20Response%20061218.pdf)

### Current Situation

The City currently operates two public pools: King Pool is open year-round and West Campus Pool is open five (5) months per year (May - September). While Willard Pool is currently closed, the building serves as a hub for the City's Recreation Division, the site of the City's public shower program, and the site of a community garden operated by Willard Middle School. The warm water pool, which was previously located at Berkeley High School, was closed in 2011. All three existing pool sites are owned by Berkeley Unified School District (BUSD) and operated by the City of Berkeley (City). BUSD currently uses King Pool during the school year to teach King Middle School students to swim. The City's current Aquatics budget is \$853,000 to operate King Pool and West Campus Pool. The City currently covers all capital, maintenance, and operational expenses at all three sites.

### Background

*Berkeley Unified School District Agreement, Bond Measures and other Issues*

Pool use agreements between the Berkeley Unified School District (BUSD) and the City of Berkeley have been in place since the construction of Willard (1963), West Campus (1964) and King (1965). An agreement for the use of the pools at Berkeley High School (BHS) was added in 1982. In 1991, the pool agreements were consolidated into a larger MOU between BUSD and the City (Attachment 3). This agreement expires on December 31, 2020. The City and BUSD have started discussions about a new agreement, but these discussions are on hold because BUSD is starting a facility masterplan which will include the pools properties.

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Re: Partial Response to the January 23, 2018 Council Referral - Assess the feasibility of keeping the West Campus Pool open all year round and starting a shower program at the West Campus Pool

BUSD has suggested we do a short term (2-3 year) agreement that continues the terms contained in the 1991 MOU.

In November of 2000, BUSD passed a General Obligation (GO) Bond to renovate the BHS Old Gym building, while the City passed a GO Bond (Measure R \$3.25 M) to renovate the Warm Water pool. After several years of building evaluations and master planning activities, BUSD decided to build classrooms at the existing space and recommended that the new Warm Water Pool be located across the street. However, this left the City bond funds from Measure R unusable because they were tied to the original site. In 2007, the City studied the new Milvia Street location for the Warm Water Pool. This study was completed in October of 2007. BUSD decided against use of this site for the Warm Water Pool (see following link).

[https://www.cityofberkeley.info/Public\\_Works/Facilities\\_Management/Warm\\_Water\\_Pool\\_Study.aspx](https://www.cityofberkeley.info/Public_Works/Facilities_Management/Warm_Water_Pool_Study.aspx)

In early 2008 the City and BUSD approved a joint resolution on the future development of public pools in Berkeley. This resolution established an 11-member task force representing the City, BUSD, and numerous pool advocates and users to develop a comprehensive plan for all the pools on BUSD property. The City funded the costs of the planning process. In November 2009, the City adopted the Citywide Pools Masterplan (see the following link):

[https://www.cityofberkeley.info/Parks\\_Rec\\_Waterfront/Recreation/Citywide\\_Pools\\_Master\\_Plan.aspx](https://www.cityofberkeley.info/Parks_Rec_Waterfront/Recreation/Citywide_Pools_Master_Plan.aspx)

The preferred plan would have relocated the Warm Water Pool to the West Campus site (adding a second pool to West Campus) and renovated King, West Campus and Willard pool sites to include a competitive pool and play pool, giving the City and BUSD 4 pools on three sites. In November of 2010, the City placed a measure on the ballot as a Mello-Roos Bond that included approximately \$22.5M for capital and operations. The measure needed 2/3 vote to pass, It failed with an approximately 62.5% approval rate. A similar measure was put on the ballot in 2012 with a similar result.

In 2010, the City closed Willard Pool and filled it with soil for safety purposes. The facility was in poor shape – many of the pool systems and infrastructure had failed because they had been poorly maintained for many years. In June of 2011, BUSD started construction of its South Bancroft Project and the Warm Water Pool was removed, leaving the City with two functioning public pools, King and West Campus.

### **Capital/Major Maintenance**

The two existing pools are 50+ years old. In large part, ongoing maintenance has been minimal and capital funds have not been set aside or budgeted for the pools by either BUSD or the City. Maintenance has been performed by the City when emergencies have surfaced.

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Re: Partial Response to the January 23, 2018 Council Referral - Assess the feasibility of keeping the West Campus Pool open all year round and starting a shower program at the West Campus Pool

The City has performed over \$1.3 M of major maintenance since 2009:

- 2009: Replacement of King Pool plaster/shell, coping stones, tile and compliance with the federal Virginia Graeme Baker Pool and Spa Safety Act of 2007 (the VGB Act).
- 2010: Replacement of West Campus pool plaster/shell, coping stones, tile and VGB Compliance.
- 2013: King Pool Pumps and Filters replaced/ 1 West Campus filter replaced with used filter from Willard.
- 2017: King Pool Boiler Replaced.
- 2018: West Campus Pool Boiler Replaced.

While this maintenance has kept King and West Campus open, the following maintenance work totaling \$750,000 needs to be performed in the next two years in order keep both facilities operable:

- King Pool plaster/shell and tile replacement - \$325,000.
- King Pool roof - \$250,000.
- West Campus Pool filters - \$175,000.

In addition, the following maintenance/capital work totaling \$5.95 M needs to be performed in the next 5 years:

- King Pool decking and piping replacement - \$517,500
- King and West Campus Pool locker room and office renovations - \$4.6M (\$2.3M each)
- West Campus Pool decking and piping replacement - \$450,000.
- West Campus Pool plaster/shell and tile replacement - \$373,750.

None of the \$6.7 M for maintenance needed in the next five years has an identified funding source nor has been budgeted. If this work is not performed, safety issues could force the closure of one or both pools.

Attachment 1 shows a 30-year timeline of the needed capital/maintenance improvements to King and West Campus Pools. Pools are not currently eligible for T1 funding (the City's \$100 million bond funds for improvements to the City's existing infrastructure and facilities) because the City does not have a long-term agreement in place for the facilities. To be eligible for T1 funding, the City must have the right to use the pools for municipal purposes for the term of the Measure T1 bonds that finance the improvements.

### **Past Operation and Reductions**

At one point in the 1990s, the City operated five (5) pools: the old north pool and south warm water pool at Berkeley High School, and the King, West Campus, and Willard pools. From the budget record, it appears that King, West Campus, and Willard were open year round in the late 1990's, but all at different levels of operation. King and Willard were open more hours

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Re: Partial Response to the January 23, 2018 Council Referral - Assess the feasibility of keeping the West Campus Pool open all year round and starting a shower program at the West Campus Pool

than West Campus because they were located next to middle schools. This model continued until General Fund reductions in the FY 2004-2005 budget cycle led to the reduction of Willard and West Campus pool operations to five (5) months per year (May-September). In 2010, the Aquatics program incurred further General Fund budget reductions that eliminated the funding for Willard Pool operation, with the exception of the shower program. Since that time, the City has operated King Pool year-round and West Campus for five (5) months a year. During these General Fund reductions, full-time staff that supervised pool operations and part-time staff positions that provided administrative support, maintenance, and supervision to all the pools were dramatically decreased. In addition, the Parks Tax had reductions in the same budget cycle that eliminated a Building Maintenance Mechanic who maintained the pools.

### **Current Operations**

During the summer season (mid-June to August), City pools are open much more extensively than during the school year (September- early June). During the summer, King Pool is open from 6 AM to 8:30 PM on weekdays and from 7 AM - 5:30 PM on the weekends. It hosts morning and afternoon lessons, Berkeley Aquatic Masters (BAM), public swim, and independent exercise. During the school year it is generally open from 6 AM to 1 PM and from 4 PM to 8:30 PM. King Middle school runs swim lessons for two months during the school year (from 9 AM – 4 PM). Additionally, during the school year senior exercise and the Barracudas youth swim team is at King Pool. The pool is closed for up to two weeks during December and January.

The summer hours at West Campus Pool are from 9 AM – 6 PM. West Campus hosts morning lessons, an expanded public swim, senior exercise, large group lessons, and the Barracudas. During May and September the pool is the site of senior exercise, BAM and other programs. The pool is closed from October through April. A complete schedule of summer and school year programs and hours at both pools can be found in the following Recreation Activity Guides:

#### **Fall/Holiday 2018 Activity Guide**

[https://www.cityofberkeley.info/uploadedFiles/Parks\\_Rec\\_Waterfront/Level\\_3\\_-\\_Recreation/2018-Fall-Activity%20Guide-REV%203-9.21.18.pdf](https://www.cityofberkeley.info/uploadedFiles/Parks_Rec_Waterfront/Level_3_-_Recreation/2018-Fall-Activity%20Guide-REV%203-9.21.18.pdf)

#### **Summer 2018 Activity Guide**

[https://www.cityofberkeley.info/uploadedFiles/Parks\\_Rec\\_Waterfront/Level\\_3\\_-\\_Recreation/Berk\\_Summer18\\_RecGuide\\_finaldraft.pdf](https://www.cityofberkeley.info/uploadedFiles/Parks_Rec_Waterfront/Level_3_-_Recreation/Berk_Summer18_RecGuide_finaldraft.pdf)

### **Costs Options for Keeping West Campus Open Year-Round**

The current model of operation, including King and West Campus pools, has an annual cost of approximately \$853,000. This model does not include the operation of the Willard facility or the shower program. Any discussion of expanding pool hours or pools needs to be coupled with a discussion of re-instituting full time staff for supervision, administration support and



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Re: Partial Response to the January 23, 2018 Council Referral - Assess the feasibility of keeping the West Campus Pool open all year round and starting a shower program at the West Campus Pool

maintenance. The City's operation of pools comes with significant liability and, if supervision, support and maintenance are not fully funded, the City would be exposed to costly problems that have surfaced in other local municipalities.

Five options for expanding pool hours are outlined in Attachment 2 below. Following are two options for keeping West Campus pool open year-round:

Option 1 includes keeping West Campus pool open year round with non-summer hours (Monday, Wednesday, Friday 9:00 AM -1:00 PM and Tuesday and Thursday 10:00 AM – 1:00 PM). It is not currently open on the weekends. This would require an additional 0.5 FTE for supervision, 0.25 FTE for administration and 0.25 FTE for maintenance, along with increased part-time labor and non-personnel expenditures, for an additional annual cost of \$213,000.

Option 2 includes duplicating King Pool's yearly schedule at West Campus. West Campus pool would be open 7 days a week between 10 and 15 hours per day. Option 2 would require an additional 1.0 FTE for supervision, 0.5 FTE for administration and a 0.5 FTE for maintenance, along with the part-time labor and non-personnel expenditures, for an additional cost of \$481,745. The full details for these projections and options that include the use of three pools projections are included in Attachment 2.

cc: Paul Buddenhagen, Interim Deputy City Manager  
Ann-Marie Hogan, City Auditor  
Mark Numainville, City Clerk  
Scott Ferris, Director, Parks, Recreation & Waterfront  
Matthai Chakko, Assistant to the City Manager / Public Information Officer

Attachments:

- 1 – Capital Maintenance Estimate for King and West Campus Pools
- 2 – Aquatics Expense and Revenue Projections
- 3 – Agreement between City of Berkeley and Berkeley Unified School District (Reso. No. 58,377-N.S.)

10/9/2018

| <b>Capital Maintenance Estimate for West Campus and King Pools</b> |                       |                |                   |                                                                                |                    |                    |                    |                    |                      |
|--------------------------------------------------------------------|-----------------------|----------------|-------------------|--------------------------------------------------------------------------------|--------------------|--------------------|--------------------|--------------------|----------------------|
| 30-year replacement schedule                                       |                       |                |                   |                                                                                |                    |                    |                    |                    |                      |
|                                                                    | Replacement Schedule* |                |                   |                                                                                |                    |                    |                    |                    | Estimated Costs      |
| Expense                                                            | Current Rate          | Immediate Need | 5 yrs. (15% incr) | 10 yrs. (30% incr)                                                             | 15 yrs. (45% incr) | 20 yrs. (60% incr) | 25 yrs. (75% incr) | 30 yrs. (90% incr) |                      |
| <b>Boilers</b> - King                                              | \$ 140,000            |                |                   |                                                                                |                    |                    | \$ 245,000         |                    | \$ 245,000           |
| - West Campus                                                      |                       |                |                   |                                                                                |                    |                    |                    |                    | \$ -                 |
| <b>Pool Filters</b> - King                                         | \$ 175,000            |                |                   |                                                                                | \$ 253,750         |                    |                    |                    | \$ 253,750           |
| - West Campus                                                      |                       | \$ 175,000     |                   |                                                                                |                    | \$ 280,000         |                    |                    | \$ 455,000           |
| <b>Deck/Piping Repl</b> - King                                     | \$ 450,000            |                | \$ 517,500        |                                                                                |                    |                    |                    |                    | \$ 517,500           |
| - West Campus                                                      |                       | \$ 450,000     |                   |                                                                                |                    |                    |                    | \$ 855,000         | \$ 1,305,000         |
| <b>Rest/Locker Rm**</b> - King                                     | \$ 2,000,000          |                |                   |                                                                                |                    |                    |                    |                    | \$ -                 |
| - West Campus                                                      |                       |                | \$ 4,600,000      |                                                                                |                    |                    |                    |                    | \$ 4,600,000         |
| <b>Roof</b> - King                                                 | \$ 250,000            | \$ 250,000     |                   |                                                                                |                    |                    |                    | \$ 475,000         | \$ 725,000           |
| - West Campus                                                      |                       |                |                   | \$ 325,000                                                                     |                    |                    |                    |                    | \$ 325,000           |
| <b>Tile/Plaster</b> - King                                         | \$ 325,000            | \$ 325,000     |                   | \$ 422,500                                                                     |                    | \$ 520,000         |                    | \$ 617,500         | \$ 1,885,000         |
| - West Campus                                                      |                       |                | \$ 373,750        |                                                                                | \$ 422,500         |                    | \$ 568,750         |                    | \$ 1,365,000         |
|                                                                    |                       | \$ 1,200,000   | \$ 5,491,250      | <b>Estimated Maintenance Cost over 30 Years for West Campus and King pools</b> |                    |                    |                    |                    | <b>\$ 11,676,250</b> |
| * Replacement costs are escalated by 3% each year                  |                       |                |                   |                                                                                |                    |                    |                    |                    |                      |
| **Includes Office and Locker Rooms                                 |                       |                |                   |                                                                                |                    |                    |                    |                    |                      |

## Attachment 2

**Aquatics Expense and Revenue Projections**

includes Pool Model Options (excludes the Willard Shower Program costs)

| Pool Model Options                                              | Personnel Projections           |                                           |                               |                              |                            | Personnel Expenses | Non-Personnel Expenses | Total Projected Expenses (b) | Increased Operational Cost as compared to current model |
|-----------------------------------------------------------------|---------------------------------|-------------------------------------------|-------------------------------|------------------------------|----------------------------|--------------------|------------------------|------------------------------|---------------------------------------------------------|
|                                                                 | Aquatics Coordinator (FTE/Cost) | Aquatics Facilities Supervisor (FTE/Cost) | Admin Staff / OSII (FTE/Cost) | Maintenance Staff (FTE/Cost) | Part-Time Labor (FTE/Cost) |                    |                        |                              |                                                         |
| <b>Current Model (King Year Round, West Campus 5mo)*</b>        | 1.00                            | 1.00                                      | Absorbed in Budget            | 0.25                         | 7.33                       | 657,820            | 195,693                | 853,513                      | NA                                                      |
|                                                                 | \$121,500                       | \$98,982                                  |                               | \$31,838                     | \$405,500                  |                    |                        |                              |                                                         |
| <b>Option 1 - Two Pools Year Round (limited hrs at pool #2)</b> | 1.00                            | 1.50                                      | 0.25                          | 0.50                         | 8.56                       | 831,799            | 234,832                | 1,066,631                    | 213,118                                                 |
|                                                                 | \$121,500                       | \$148,473                                 | \$25,110                      | \$63,676                     | \$473,040                  |                    |                        |                              |                                                         |
| <b>Option 2 - Two Pools Year Round</b>                          | 1.00                            | 2.00                                      | 0.50                          | 0.75                         | 10.18                      | 1,085,692          | 249,566                | 1,335,258                    | 481,745                                                 |
|                                                                 | \$121,500                       | \$197,964                                 | \$50,220                      | \$95,514                     | \$620,494                  |                    |                        |                              |                                                         |
| <b>Option 3 - Two Pools Year Round, One Pool 5 Months</b>       | 1.00                            | 2.50                                      | 1.00                          | 1.00                         | 12.42                      | 1,311,705          | 320,476                | 1,632,181                    | 778,668                                                 |
|                                                                 | \$121,500                       | \$247,455                                 | \$100,440                     | \$127,352                    | \$714,958                  |                    |                        |                              |                                                         |
| <b>Option 4 - Two Pools Year Round, One Pool 9 Months</b>       | 1.00                            | 2.75                                      | 1.25                          | 1.00                         | 11.73                      | 1,345,922          | 343,153                | 1,689,075                    | 835,562                                                 |
|                                                                 | \$121,500                       | \$272,201                                 | \$125,550                     | \$127,352                    | \$699,319                  |                    |                        |                              |                                                         |
| <b>Option 5 - All Three Pools Year Round</b>                    | 1.00                            | 3.00                                      | 1.50                          | 1.50                         | 15.27                      | 1,691,758          | 374,359                | 2,066,117                    | 1,212,604                                               |
|                                                                 | \$121,500                       | \$296,946                                 | \$150,660                     | \$191,028                    | \$931,624                  |                    |                        |                              |                                                         |

**\*Assumption for current model**

- Maintenance: This position is currently underfunded and should be a 0.5 FTE
- Aquatic Facility Supervisor: This position is currently underfunded by 0.25 FTE
- Calculated in FY2019 dollars
- All personnel costs include benefit rates based on Worker's Comp Code rates
- Assumes comparable programming scope, style, and staffing needs at each swim center
- Assumes 5-month programming May-September
- Assumes 9-month programming during school year (September 1-June 10)

Agreement between  
City of Berkeley  
and  
Berkeley Unified School District  
Effective July 1, 1990  
(Resolution No. 55,918)

Reso No: 53, 118-11  
June 4, 1991

A G R E E M E N T

THIS AGREEMENT, made and entered into this 14th day of May 1991, by and between the CITY OF BERKELEY, a municipal corporation, hereinafter called CITY, and the BERKELEY UNIFIED SCHOOL DISTRICT, hereinafter called DISTRICT,

WITNESSETH:

WHEREAS, for a number of years the City and District have mutually provided services, site development and facility use through mutual understanding and various agreements; and

WHEREAS, in the spirit of cooperation, the City and District have entered into negotiations to clarify and continue the mutual facility use, site development and services; and

WHEREAS, the effective date for the agreement shall commence on July 1, 1990;

WHEREAS, this agreement only governs the specific items described herein and shall not be construed to waive any rights or debts otherwise due either party.

NOW, THEREFORE, in consideration of the mutual promises herein contained, the parties hereto agree as follows:

Section 1. Berkeley High School Donahue Gym

As of January 7, 1991, the City will relocate its activities from Berkeley High School Donahue Gymnasium complex to King Junior High School's Gym.

Section 2. Use of District Properties

The District encourages the use of its facilities by the City.

Priority on use of District properties will be as follows:

- a. District
- b. City
- c. Others

It is agreed that the City and District will charge each other for the use of their facilities based on direct cost, defined as follows:

Direct costs are actual and necessary costs which create a financial liability to the lessor by the lessee. These costs shall include, but are not limited to, personnel overtime, utilities, equipment, and supplies required by the use. Also included are the costs to repair damage caused during such use.

It is agreed that both parties will inform each other on or before January 1 of each year what facilities they would like to schedule for their use for the subsequent fiscal year, starting July 1 through June 30.

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City and District will agree annually on direct cost rates on or before January 1 for the subsequent fiscal year starting July 1.

**Section 3. King Junior High School Outdoor Recreational Facilities Development**

The City and District agree to jointly study the further development of the outdoor recreational facilities at King Junior High School.

**Section 4. King Junior High School Tennis Courts**

If the City obtains funds for the rehabilitation of the five (5) tennis courts at King Junior High School, the District will lease these courts to the City at no cost for a term ending December 31, 2020 or twenty-five (25) years, whichever is longer.

The District shall close the King Junior High School tennis courts at such time as the City and District determine that they are unsafe.

**Section 5. Measure Y Parks**

The City and District have five (5) agreements on Measure Y Parks. The maintenance of the Measure Y Parks shall be as follows:

- a. The City will fully maintain King Junior High and Thousand Oaks Measure Y Parks.
- b. The District will fully maintain Le Conte, Malcolm X and Columbus Measure Y Parks.
- c. Under this agreement, there will be no need for billing between the City and District in regard to maintenance of Measure Y Parks.
- d. There is no existing agreement between the City and District in regard to the Measure Y Parks at John Muir and Washington School. Therefore, the District will continue to maintain John Muir and Washington School Measure Y Parks.
- e. This agreement will require that the four (4) existing agreements on Measure Y Parks be canceled (King Junior High School, Le Conte, Thousand Oaks, and Malcolm X). Further, the Columbus agreement shall be amended to provide only for City interest to promote eligibility of East Bay Regional Park District's County AA Bond moneys.
- f. The District will then enter into new twenty-five (25) year lease agreements with the City for King Junior High School and Thousand Oaks park lands or for a period ending December 31, 2020.
- g. The District has basic requirements for the use of all District properties, including its fields. These requirements include:

- i. Permit for use of facilities.
- ii. Minimum insurance.
- h. The District extends these same requirements to Measure Y Parks, except Thousand Oaks and King Junior High School which the City will manage.
- i. The District and City will separate the utility services for the Measure Y Parks at Thousand Oaks and King Junior High School, where feasible.
- j. The District will continue to allow public access to Measure Y Parks between the hours of 8:30 A.M. to sunset, except during school hours.
- k. The City will use \$40,000 of County AA money to rehabilitate the Columbus School, Measure Y Park.
- l. The District will maintain the Columbus School Measure Y Park in accordance with generally accepted field maintenance standards, as mutually agreed to by the City and District.

Section 6. Mental Health Center Rental (1925 Derby Street)

The District will waive rental fees for the period July 1, 1989 through June 30, 1993. Thereafter, the rental rate will be based on the District's direct costs.

Section 7. Old City Hall Custodial Overtime Facility Meetings

The City will be charged one (1) hour of custodial overtime for the set-up and clean-up for each meeting. In addition, the City will be charged for custodial overtime when a meeting extends past 11:00 P.M. in 15-minute increments.

Section 8. Pools

Effective July 1, 1990, the City will operate and maintain all pools except for the locker rooms and showers at Berkeley High School. It is further agreed that the costs of use for Willard Junior High School, King Junior High School, Berkeley High School, and West Campus pool will include maintenance, operating and capital improvement costs. It is agreed that capital improvement costs will be amortized over the useful life or within the remaining lease term of the capital improvements and will be charged back to the District based on hours of use with a minimum District share of twenty percent (20%) of capital improvement costs. All capital improvements must be mutually agreed to by the City and District prior to construction. The maintenance and operations costs will be charged back to the District based on actual hours of use.

The District will inform the City on or before June 1 of each year what facilities it would like to schedule for its use for the subsequent fiscal year beginning July 1 through June 30.

The District will have first priority on the use of all pools

between the hours of 8:00 A.M. and 5:00 P.M. on school days. The District is open to negotiations with the City on joint use of pools during school hours.

The existing lease agreements on pool are as follows:

| <u>SCHOOL</u> | <u>LEASE BEGIN</u> | <u>LEASE END</u> |
|---------------|--------------------|------------------|
| Willard       | 1/01/63            | 12/31/03         |
| King          | 11/23/65           | 11/22/05         |
| West Campus   | 7/15/64            | 7/14/04          |
| Berkeley High | 12/07/82           | 12/06/07         |

The Alameda County AA Bond funding requires a minimum of twenty-five (25) years lease in order to obtain this money. Therefore, it is in the best interest of the City and District to extend all pool leases so that there would be a minimum remaining lease period of twenty-five (25) years. Further, it is desirable that all pool leases expire simultaneously.

Therefore, all four existing pool leases shall be extended to December 31, 2020. Upon completion of the leases for the pool at King, Willard and West Campus the buildings, equipment and apparatus will revert to City's ownership.

Further, the District may wish to develop any or all of the properties on which existing pools are located. The District has the option of relocating any and all of its existing pools on the existing site or to another site, said location to be done at the cost of the District to a site mutually agreed to between the City and District.

Section 9. Quarterly Meetings: City and District

The City and District staff will hold quarterly meetings to communicate with each other on the implementation of the various sections of the agreement between the City and the District.

Section 10. Open Space

The City and the District agree it is desirable to maintain open space. If school sites are withdrawn from school use, the District will make every effort to maintain adequate open space consistent with the District's development objectives and in accordance with Measure N.

Section 11. Building Permits

The City will exempt the District from the City requirement of obtaining building permits only for building construction fees that relate to educational projects.

Section 12. Election Costs

The District will be paid the current flat rate for polling places as established by Alameda County and the City at school sites used as polling places.



Section 13. District/City Sub-Lease of Mutual Property

The City and District will not sub-lease any property rented from one another, except to the extent provided in any existing lease between City and District not specifically incorporated herein.

Section 14. Summary of Account Outstanding

The parties owe each other sums of money as set forth in Attachment 2 for the provision of services specified in the attachment. Nothing in this section shall modify, abrogate or otherwise govern any obligation not specifically described in such attachment. After accounting for offsetting charges for the period July 1, 1986 through June 30, 1990, the District shall pay the City the amount of \$359,801 over a three year period without interest as follows:

|                                                      |           |            |
|------------------------------------------------------|-----------|------------|
| a. First payment upon ratification of this agreement |           | \$ 85,000  |
| b. Second payment                                    | July 1991 | 75,000     |
| c. Third payment                                     | July 1992 | 125,000    |
| d. Fourth payment                                    | July 1993 | 74,801     |
|                                                      | TOTAL     | \$ 359,801 |

IN WITNESS WHEREOF, first party has hereunto set its corporate name and seal by its officers thereunto duly authorized and second party has hereunto set its name by its officers thereunto duly authorized, the day and year first above written.

CITY OF BERKELEY

By \_\_\_\_\_  
Mayor

By \_\_\_\_\_  
City Manager

By \_\_\_\_\_  
City Clerk  
Approved as to form:

Registered by:  
By \_\_\_\_\_  
City Auditor

\_\_\_\_\_  
City Attorney

BERKELEY UNIFIED SCHOOL DISTRICT

By \_\_\_\_\_  
President of its Board of  
Education

By \_\_\_\_\_  
Secretary of its Board of  
Education

Approved as to form:

\_\_\_\_\_  
District Attorney

CITY OF BERKELEY AND BERKELEY UNIFIED SCHOOL DISTRICTSSUMMARY OF ACCOUNTS OUTSTANDING

| DESCRIPTION                                                        | CHARGES TO<br>CITY | CHARGES TO<br>DISTRICT |
|--------------------------------------------------------------------|--------------------|------------------------|
| 1. City billing for swim centers at King, West Campus, and Willard |                    |                        |
| 1987                                                               |                    | \$ 58,145              |
| 1988                                                               |                    | 49,325                 |
| 1989                                                               |                    | 40,020                 |
| 1990                                                               |                    | 30,435                 |
| 2. District bill for swim pool at Berkeley High                    |                    |                        |
| 1987                                                               | \$ 16,218          |                        |
| 1988                                                               | 15,160             |                        |
| 1989                                                               | 16,940             |                        |
| 1990                                                               | 18,998             |                        |
| 3. City billing for Berkeley High swim pool maintenance            |                    |                        |
| 1987                                                               |                    | 13,000                 |
| 1988                                                               |                    | 14,449                 |
| 1989                                                               |                    | 15,458                 |
| 1990                                                               |                    | 21,562                 |
| 4. City billing for Measure Y Parks                                |                    |                        |
| 1989                                                               |                    | 85,000                 |
| 1990                                                               |                    | 85,000                 |
| 5. City billing for playground equipment replacement               |                    |                        |
| 1989                                                               |                    | 19,000                 |
| 1990                                                               |                    | 19,000                 |
| 6. District billing for Columbus Measure Y Park maintenance        |                    |                        |
| 1989                                                               | 10,000             |                        |
| 1990                                                               | 2,000              |                        |
| 7. District billing Donahue Gym                                    |                    |                        |
| 1988                                                               | 7,000              |                        |
| 1989                                                               | 7,000              |                        |
| 1990                                                               | 7,000              |                        |

## SUMMARY OF OUTSTANDING ACCOUNTS

May 7, 1991

Page 2

| DESCRIPTION                                                                    | CHARGES TO<br>CITY | CHARGES TO<br>DISTRICT |
|--------------------------------------------------------------------------------|--------------------|------------------------|
| 8. District billing<br>for West Campus<br>Gym                                  |                    |                        |
| 1988                                                                           | 0                  |                        |
| 1989                                                                           | 0                  |                        |
| 1990                                                                           | \$ 5,000           |                        |
| 9. District billing<br>for summer play-<br>ground 5 sites                      |                    |                        |
| 1989                                                                           | 0                  |                        |
| 1990                                                                           | 401                |                        |
| 10. District billing<br>for rental of<br>East Campus bld.<br>for Mental Health |                    |                        |
| 1989                                                                           | waived             |                        |
| 1990                                                                           | waived             |                        |
| 11. District rent not<br>paid to District                                      |                    |                        |
| 1990                                                                           | 10,683             |                        |
| 12. Double payment<br>District owe City                                        |                    |                        |
| 1986                                                                           |                    | \$ 25,807              |
| GRAND TOTAL                                                                    | \$ 116,400         | \$ 476,201             |

D.(a)13

CITY OF BERKELEY  
CONSENT CALENDAR INFORMATION

Deadline for Council Action \_\_\_\_\_

From: HEALTH AND HUMAN SERVICES THROUGH  
CITY MANAGER  Council Meeting Date: June 4, 1991

IT IS RECOMMENDED THAT THE CITY COUNCIL: AUTHORIZE THE CITY MANAGER TO ENTER  
INTO AN AGREEMENT WITH THE BERKELEY UNIFIED SCHOOL DISTRICT FOR MUTUAL  
FACILITY USE, SERVICES AND PAYMENT-SCHEDULE

1. COMMENTS, CITY ATTORNEY:

Council approval is required.

2. BACKGROUND AND NEED FOR COUNCIL ACTION:

Since 1949, the City of Berkeley (City) and the Berkeley Unified School District (District) have entered into a number of contracts for the mutual use of City and District facilities, site development, services and fees associated with the usage and services. Many of the agreements were written, while some agreements have been oral agreements between City and District staff. For the past ten years there have been a number of disagreements and disputes between the City and District in regard to the application and interpretation of use fees associated with the various written and oral agreements. As a result of the disagreements, no payments have been made between the City and District since July 1986.

In a spirit of cooperation, the City and District began discussions in December of 1988 to identify and compile the various written and oral agreements into a document that would provide the framework for shared facility use, site development and services. The City and District staff entered into negotiations on October 12, 1989. They were suspended subsequent to the earthquake and only concluded on December 20, 1990. The recommendations were forwarded to the School Board for approval and were ratified on February 6, 1991.

The delay in submission to the City Council was caused by the District's request for a sewer fee waiver. The City Attorney has rendered an opinion that the City, as a recipient of federal Clean Water Act funds, cannot waive the fees for sewer operation and maintenance incurred by the District. As a result, staff is in the process of calculating the fees to be assessed the School District.

It is recommended that the City Council authorize the City Manager to enter into an agreement with the Berkeley Unified School District for facility usage, site development, services, fees and the schedule for payment of fees without interest. The agreement shall become effective July 1, 1990 (Attachment 1).

AUTHORIZE AGREEMENT WITH  
BERKELEY UNIFIED SCHOOL DISTRICT

CONSENT CALENDAR  
June 4, 1991

3. FINANCIAL IMPLICATIONS (include any dollar amount, in-kind services, multi-year commitment) AND SOURCE OF FUNDS (for both cash and in-kind services; indicated if amount is currently budgeted and requirement for budget code), IF SUBMITTAL, AUTHORIZATION OR EXECUTION OF GRANTS IS INVOLVED (includes new grants or modification form) AN FNO06 (budget modification form) SHOULD BE SUBMITTED WITH ITEM. ITEM WILL NOT BE PROCESSED UNLESS FNO06 IS INCLUDED.

The agreement will set forth the fee structure for the use of various facilities, site development and services rendered by the City and District. After accounting for offsetting charges (Attachment 2) for the period July 1, 1986 through June 30, 1990, the District shall pay the City the amount of \$ 359,801 over a three year period without interest as follows:

Facility & Services

|    |                                              |           |            |
|----|----------------------------------------------|-----------|------------|
| 1. | First payment upon ratification of agreement |           | \$ 85,000  |
| 2. | Second payment                               | July 1991 | 75,000     |
| 3. | Third payment                                | July 1992 | 125,000    |
| 4. | Fourth payment                               | July 1993 | 74,801     |
|    | TOTAL                                        |           | \$ 359,801 |

4. COUNCIL POLICY AND LEGISLATIVE HISTORY, IF ANY;

Council has entered into various agreements with the Berkeley Unified School District for facility use, site development, services and fees.

5. COMMUNITY GROUPS AFFECTED

The entire population of the City of Berkeley

6. NAME, TITLE AND TELEPHONE NUMBER OF PERSON(S), DEPARTMENT(S) BOARD(S), COMMISSION(S), COMMITTEE(S) TO CONTACT FOR ADDITIONAL INFORMATION:

Anton Jungherr, Associate Superintendent of Schools, Berkeley Unified School District .....644-6674  
Emmett E. Jones, Assistant City Manager, Health & Human Services..644-6459

RESOLUTION NO.            -N.S.

AUTHORIZING AN AGREEMENT WITH THE BERKELEY UNIFIED SCHOOL DISTRICT FOR MUTUAL FACILITY USE, SITE DEVELOPMENT, SERVICES, FEES AND PAYMENT SCHEDULE.

BE IT RESOLVED by Council of the City of Berkeley follows:

That the City Manager is hereby authorized to enter into an agreement with the Berkeley Unified School District for mutual facility use, site development, services, fees and a payment schedule for Berkeley Unified School District's outstanding account, without interest as follows:

|                                                    |           |            |
|----------------------------------------------------|-----------|------------|
| 1. First Payment upon ratification<br>of agreement |           | \$ 85,000  |
| 2. Second Payment                                  | July 1991 | 75,000     |
| 3. Third Payment                                   | July 1992 | 125,000    |
| 4. Fourth Payment                                  | July 1993 | 74,801     |
|                                                    | TOTAL     | \$ 359,801 |

FURTHER RESOLVED, that the agreement shall be effective July 1, 1990; a record signature copy of said agreement is to be on file in the Office of the City Clerk.

COPY

polling places.

Section 13. District/City Sub-Lease of Mutual Property

The City and District will not sub-lease any property rented from one another, except to the extent provided in any existing lease between City and District not specifically incorporated herein.

Section 14. Summary of Account Outstanding

The parties owe each other sums of money as set forth in Attachment 2 for the provision of services specified in the attachment. Nothing in this section shall modify, abrogate or otherwise govern any obligation not specifically described in such attachment. After accounting for offsetting charges for the period July 1, 1986 through June 30, 1990, the District shall pay the City the amount of \$359,801 over a three year period without interest as follows:

|                                                      |           |            |
|------------------------------------------------------|-----------|------------|
| a. First payment upon ratification of this agreement |           | \$ 85,000  |
| b. Second payment                                    | July 1991 | 75,000     |
| c. Third payment                                     | July 1992 | 125,000    |
| d. Fourth payment                                    | July 1993 | 74,801     |
|                                                      | TOTAL     | \$ 359,801 |

IN WITNESS WHEREOF, first party has hereunto set its corporate name and seal by its officers thereunto duly authorized and second party has hereunto set its name by its officers thereunto duly authorized, the day and year first above written.

CITY OF BERKELEY

By Carla Woodworth  
Mayor

By [Signature]  
City Manager

By \_\_\_\_\_  
City Clerk

Registered by:  
By Anna Raskin  
City Auditor

Approved as to form:  
Katherine G. Lee  
Deputy City Attorney

BERKELEY UNIFIED SCHOOL DISTRICT

By Jeanne R. Hegarty  
President of its Board of Education

By [Signature]  
Acting Superintendent of Schools

RESOLUTION NO. 58,377-N.S.

**AUTHORIZING THE CITY MANAGER TO EXECUTE AN ADDENDUM TO THE JUNE 3, 1991 AGREEMENT BETWEEN THE CITY OF BERKELEY AND THE BERKELEY UNIFIED SCHOOL DISTRICT ESTABLISHING THE USE OF THE THOUSAND OAKS SCHOOL PARK.**

WHEREAS, the City of Berkeley (City) and the Berkeley Unified School District (BUSD) have an agreement dated June 3, 1991, to which they wish to provide an addendum establishing use of Thousand Oaks School Park.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to execute an addendum to the June 3, 1991 agreement between the City and the Berkeley Unified School District to establish the use of the Thousand Oaks School Park as follows:

- 1) from September to June, the normal school year, the entire school yard and park will be available on school days for education, physical education, noon recreation, and after school use by the Thousand Oaks school children under faculty supervision; and
- 2) the school day shall be eight hours, 8 AM to 4 PM; and
- 3) limited use of the school yard and park during regular school hours, 8 AM to 4 PM, may be permitted at the discretion of the school principal; and
- 4) preschool children, when accompanied by adults, may use designated areas of school grounds during school hours when those areas are not in use by the school; and
- 5) after school hours, or when school is not in session, the entire park shall be open to the public for park related use.

BE IT FURTHER RESOLVED, that a map of the Thousand Oaks School Park is attached hereto as Exhibit A and is to be added to the agreement.

The foregoing Resolution was adopted by the Berkeley City Council on March 5, 1996 by the following vote:

- Ayes: Councilmembers Armstrong, Maio, Olds, Shirek, Wainwright, Woolley-Bauer, Woodworth and President Dean.
- Noes: None.
- Abstain: None.
- Absent: Councilmember Spring.

SHIRLEY DEAN  
Mayor and President of the Council

Attest: SHERRY M. KELLY  
City Clerk and Clerk of the Council



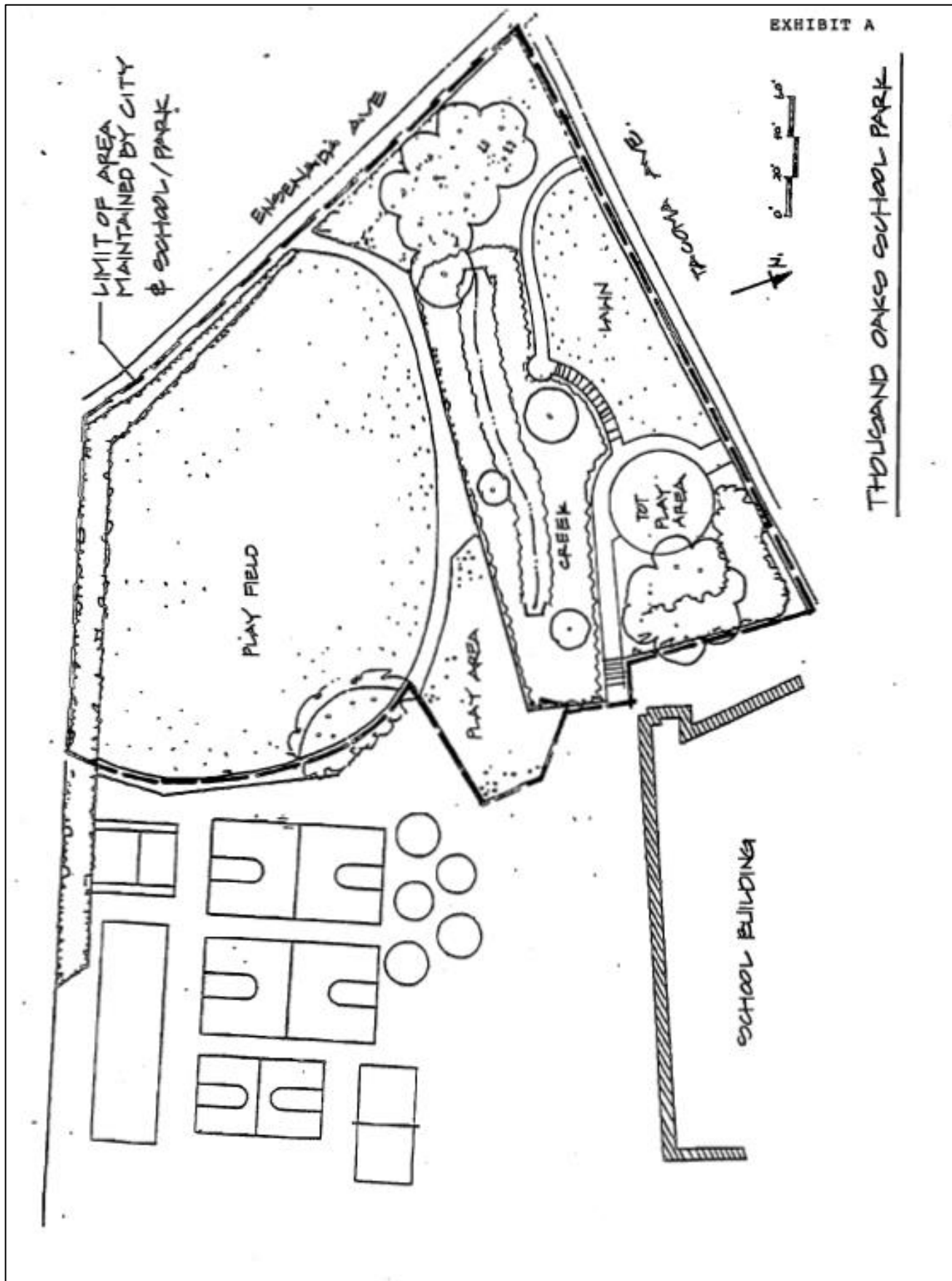


EXHIBIT A

THOUSAND OAKS SCHOOL PARK





Councilmember  
Cheryl Davila  
District 2

CONSENT CALENDAR

April 2, 2019

**To:** Honorable Mayor and Members of the City Council

**From:** Councilmembers Cheryl Davila and Sophie Hahn

**Subject:** Women's Daytime Drop-In Center: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds

**RECOMMENDATION**

Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember including \$150 from Councilmember Cheryl Davila, to the Women's Daytime Drop-In Center, for their 31<sup>st</sup> Annual Chance for Change on May 4, 2019, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Davila and any other Councilmembers who would like to contribute.

FISCAL IMPACTS OF RECOMMENDATION

No General Fund impact; \$150 is available from Councilmember Cheryl Davila's Council Office Budget discretionary account.

ENVIRONMENTAL SUSTAINABILITY

None.

BACKGROUND

We are proposing that the City Council make a minimum grant of \$100 to the Women's Daytime Drop-In Center, for their 31<sup>st</sup> Annual Chance for Change on May 4, 2019. The Women's Daytime Drop-In Center proudly celebrates 30-years of empowering women and children to move from the streets to a home by providing ongoing and intensive counseling, case management services, daily support groups, a comprehensive children's program, a variety of referral services, and a transitional housing program for four single parent families. The WDDC serves an average of 150 women and children each month, available at no fee to any homeless woman or child.

CONTACT PERSON

Cheryl Davila, Councilmember, District 2                      510-981-7120

ATTACHMENT: 1: Resolution

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

AUTHORIZING THE EXPENDITURE OF SURPLUS FUNDS FROM THE OFFICE EXPENSE ACCOUNTS OF THE MAYOR AND COUNCILMEMBERS FOR A GRANT TO PROVIDE PUBLIC SERVICES FOR A MUNICIPAL PUBLIC PURPOSE

WHEREAS, Councilmember Cheryl Davila has surplus funds in her office expenditure account (budget code 010-0224-410); and

WHEREAS, a California non-profit tax-exempt corporation Women's Daytime Drop-In Center seeks funds in the amount of \$150 for their 31<sup>st</sup> Annual Chance for Change on May 4, 2019, toward raising funds to provide services to homeless women and children; and

WHEREAS, WDDC proudly celebrates 31-years of service to the community, providing services, free-of-charge, to over 1300 homeless women and children, 10,000 hot home-cooked meals, 200 free counseling sessions, weekly workshops on intimate partner violence, a parenting program and other supportive services; and

WHEREAS, the provision of such services would fulfill the following municipal public purpose: serving the immediate and on-going support needs of homeless women and their children; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that funds relinquished by the Mayor and Councilmembers from their Council Office Budget up to \$250 per office shall be granted to Women's Daytime Drop-In Center to fund the above services for their 31<sup>st</sup> Annual Chance for Change.



Susan Wengraf  
Councilmember District 6

CONSENT CALENDAR  
April 2, 2019

To: Honorable Mayor and Members of the City Council  
From: Councilmember Susan Wengraf  
Subject: Proclamation in Honor of Holocaust Remembrance Day

RECOMMENDATION

Adopt the Holocaust Remembrance Day Proclamation for the 17<sup>th</sup> annual Holocaust Remembrance Day program.

FINANCIAL IMPLICATIONS

None

BACKGROUND

On April 28, 2019 at the Magnes Collection of Jewish Art and Life, the City of Berkeley sponsored Holocaust Remembrance Day event will be honoring Ralph Samuel, holocaust survivor. This year, one of the many speakers will include UC Professor Emeritus Russ Ellis. The program will also feature candle lighting, music and refreshments.

ENVIRONMENTAL SUSTAINABILITY

N/A

CONTACT PERSON

Councilmember Wengraf                      Council District 6                      510-981-7160

Attachments:  
1: Proclamation

Proclamation in Honor of Holocaust Remembrance Day

CONSENT CALENDAR  
April 2, 2019

*HOLOCAUST REMEMBRANCE DAY*

*Whereas*, the Holocaust was the state-sponsored, systematic persecution and annihilation of European Jews by Nazi Germany and its collaborators between 1933 and 1945, and

Whereas six million Jews were murdered and also Roma Gypsies, people with mental illness and physical disabilities, and Poles were also targeted for destruction for racial, ethnic, or national reasons; and millions more, including homosexuals, Jehovah's Witnesses, Soviet prisoners of war, and political dissidents also suffered grievous oppression and death under Nazi tyranny; and

*Whereas*, The history of the Holocaust offers an opportunity to reflect on the moral responsibilities of individuals, societies, and governments; and

*Whereas*, We the people of the City of Berkeley should always remember the terrible events of the Holocaust and remain vigilant against hatred, persecution, prejudice and tyranny; and

*Whereas*, We the people of the City of Berkeley should actively rededicate ourselves to the principles of individual freedom in a just society; and

Whereas, We remember this is the 76<sup>th</sup> anniversary of the Warsaw Ghetto uprising when the human spirit resisted and fought back, against great odds, and by memorializing the past we help to steel ourselves for the challenges of tomorrow, and

*Whereas*, the Holocaust Remembrance Day has been set aside for the people of the City of Berkeley to join together as a community to remember the victims of the Holocaust, as well as to reflect on the need for respect of all peoples.

*Now Therefore*, I, Jesse Arreguin, Mayor of the City of Berkeley, do hereby proclaim Sunday, April 28, 2019 as Holocaust Remembrance Day in the City of Berkeley, in memory of the victims of the Holocaust and in honor of the survivors as well as the rescuers and liberators.

*Now Therefore I Further Proclaim* that we, as citizens of the City of Berkeley, will work to promote human dignity and confront hate whenever and wherever it occurs.

Mayor Arreguin

Councilmember Wengraf

Councilmember Droste

Councilmember Hahn

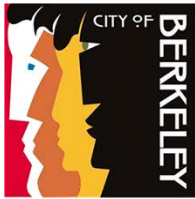
Councilmember Bartlett

Councilmember Davila

Councilmember Harrison

Councilmember Kesarwani

Councilmember Robinson



CITY COUNCILMEMBER  
**RIGEL ROBINSON**  
DISTRICT 7

CONSENT CALENDAR  
April 2, 2019

To: Honorable Mayor and Members of the City Council  
From: Councilmember Rigel Robinson  
Subject: Berkeley World Music Festival: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Fund

RECOMMENDATION

Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember including \$250 from Councilmember Robinson, to the Berkeley World Music Festival to assist with payment to artist fees, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Robinson and any other Councilmembers who would like to contribute.

BACKGROUND

The Berkeley World Music Festival is a significant cultural event offering extraordinary world music performances by some of the Bay Area's finest artists to the public free of charge. This Berkeley tradition, now celebrating its 16th year in the City, also encourages an appreciation of global music and recognizes the Bay Area as a regional center for world music.

The Berkeley World Music Festival is requesting funds to assist with payment of artist fees. These payments enable the Berkeley World Music Festival to continue hosting a diverse range of the musical acts and musicians who call the Bay Area home, such as Baraka Moon (Sufi Trance & World Groves) with Sukhawat Ali Khan (vocals) and Stephen Kent (Didgeridoo).

FINANCIAL IMPLICATIONS

No General Fund impact; \$250 is available from Councilmember Robinson's Office Budget discretionary accounts.

ENVIRONMENTAL SUSTAINABILITY

No Impact

CONTACT PERSON

Councilmember Rigel Robinson, (510) 981-7170

Attachments:

- 1: Resolution for Council Expenditures

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

AUTHORIZING THE EXPENDITURE OF SURPLUS FUNDS FROM THE OFFICE EXPENSE ACCOUNTS OF THE MAYOR AND COUNCILMEMBERS FOR A GRANT TO PROVIDE PUBLIC SERVICES FOR A MUNICIPAL PUBLIC PURPOSE

WHEREAS, Councilmember Rigel Robinson has surplus funds in his office expenditure account; and

WHEREAS, a California non-profit tax exempt corporation, Berkeley World Music Festival, seeks funds in the amount of \$250 to assist with payment of artist fees; and

WHEREAS, the provision of such services would fulfill the municipal public purpose of offering extraordinary world music performances by some of the Bay Area's finest artists to the public free of charge, and encouraging appreciation of global music.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that funds relinquished by the Mayor and Councilmembers from their Council Office Budget up to \$250 per office shall be granted to Berkeley World Music Festival to support the cultivation of world music.





CONSENT CALENDAR  
April 2, 2019

To: Honorable Mayor and Members of the City Council  
From: Councilmember Rigel Robinson  
Subject: Support for AB-969 (Collective Bargaining: Legislature)

### RECOMMENDATION

Send a letter to Senator Skinner and Assemblymembers Wicks and Gonzalez supporting AB-969, which would provide employees of the state legislature the right to participate in employee organizations for the purpose of collective bargaining and other aspects of employer-employee relations.

### BACKGROUND

In California, The Dills Act governs collective bargaining by state employees and contractors. As written, the Dills Act does not apply to managerial or supervisory employees of the state, nor the majority of state legislature employees, meaning they cannot join an employees union. This bars them from collectively negotiating wages, hours, and the redress of employer-employee grievances.

Given that the State already recognized the right of its public employees to form, participate in, and collectively bargain through employment organizations, this bill would extend that recognition to those employees with whom the legislature works directly.

According to a 2018 study by Princeton University, membership in an employee organization, and the ability to collectively bargain contributes significantly to reduction of inequality among workers.

The passage of AB 969 would allow legislative workers to exercise critical rights to ensure worker equity and justice in the workplace, especially for groups marginalized both in the workplace and the negotiating process including women and minority groups.

Allowing State legislative aides to unionize is an important tool to address harassment and assault in the workplace. After the wave of credible harassment allegations led to 3 Sacramento legislators resigning, and 150 California women decrying male-dominance at the capitol in an open letter<sup>1</sup>, this is particularly pertinent to a safe and equitable workplace for California legislative employees.

<sup>1</sup> <https://www.sacbee.com/news/politics-government/article226211955.html>

FINANCIAL IMPLICATIONS

None.

ENVIRONMENTAL SUSTAINABILITY

No impact.

CONTACT PERSON

Councilmember Rigel Robinson, (510) 981-7170  
Rachel Alper, Intern

Attachments:

- 1: Letter of support to Senator Skinner
- 2: Letter of support to Assemblymember Wicks
- 3: Letter of support to Assemblymember Gonzalez
- 4: Bill Text - AB 177

([https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201920200AB969](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB969))

The Honorable Nancy Skinner  
Member of the Senate  
State Capitol, Room 2059  
Sacramento, CA 95814

Re: AB-969 (Gonzalez) - Collective Bargaining: Legislature

Dear Senator Skinner,

The Berkeley City Council would like to convey its full support for AB-969. AB-969 seeks to provide employees of the legislature and some supervisory and managerial employees the right to participate in collective bargaining organizations.

In California, The Dills Act governs collective bargaining by state employees and contractors. As written, the Dills Act does not apply to managerial or supervisory employees of the state, nor the majority of state legislature employees, meaning they cannot join an employees union. This bars them from collectively negotiating wages, hours, and the redress of employer-employee grievances.

Given that the State already recognized the right of its public employees to form, participate in, and collectively bargain through employment organizations, this bill would extend that recognition to those employees with whom the legislature works directly.

According to a 2018 study by Princeton University, membership in an employee organization, and the ability to collectively bargain contributes significantly to reduction of inequality among workers.

The passage of AB 969 would allow legislative workers to exercise critical rights to ensure worker equity and justice in the workplace, especially for groups marginalized both in the workplace and the negotiating process including women and minority groups.

Allowing State legislative aides to unionize is an important tool to address harassment and assault in the workplace. After the wave of credible harassment allegations led to 3 Sacramento legislators resigning, and 150 California women decrying male-dominance at the capitol in an open letter (Sacbee.com, 2018), this is particularly pertinent to a safe and equitable workplace for California legislative employees.

Berkeley City Council requests that you support this critical piece of legislation to provide workers with pivotal negotiating rights.

Respectfully,

The Berkeley City Council

The Honorable Buffy Wicks  
Member of the Assembly  
State Capitol, Room 5160  
Sacramento, CA 95814

Re: AB-969 (Gonzalez) - Collective Bargaining: Legislature

Dear Assemblymember Wicks,

The Berkeley City Council would like to convey its full support for AB-969. AB-969 seeks to provide employees of the legislature and some supervisory and managerial employees the right to participate in collective bargaining organizations.

In California, The Dills Act governs collective bargaining by state employees and contractors. As written, the Dills Act does not apply to managerial or supervisory employees of the state, nor the majority of state legislature employees, meaning they cannot join an employees union. This bars them from collectively negotiating wages, hours, and the redress of employer-employee grievances.

Given that the State already recognized the right of its public employees to form, participate in, and collectively bargain through employment organizations, this bill would extend that recognition to those employees with whom the legislature works directly.

According to a 2018 study by Princeton University, membership in an employee organization, and the ability to collectively bargain contributes significantly to reduction of inequality among workers.

The passage of AB 969 would allow legislative workers to exercise critical rights to ensure worker equity and justice in the workplace, especially for groups marginalized both in the workplace and the negotiating process including women and minority groups.

Allowing State legislative aides to unionize is an important tool to address harassment and assault in the workplace. After the wave of credible harassment allegations led to 3 Sacramento legislators resigning, and 150 California women decrying male-dominance at the capitol in an open letter (Sacbee.com, 2018), this is particularly pertinent to a safe and equitable workplace for California legislative employees.

Berkeley City Council requests that you support this critical piece of legislation to provide workers with pivotal negotiating rights.

Respectfully,

The Berkeley City Council

The Honorable Lorena Gonzalez  
Member of the Assembly  
State Capitol, Room 2114  
Sacramento, CA 95814

Re: AB-969 (Gonzalez) - Collective Bargaining: Legislature

Dear Assemblymember Gonzalez,

The Berkeley City Council would like to convey its full support for AB-969.

In California, The Dills Act governs collective bargaining by state employees and contractors. As written, the Dills Act does not apply to managerial or supervisory employees of the state, nor the majority of state legislature employees, meaning they cannot join an employees union. This bars them from collectively negotiating wages, hours, and the redress of employer-employee grievances.

Given that the State already recognized the right of its public employees to form, participate in, and collectively bargain through employment organizations, this bill would extend that recognition to those employees with whom the legislature works directly. According to a 2018 study by Princeton University, membership in an employee organization, and the ability to collectively bargain contributes significantly to reduction of inequality among workers.

The passage of AB 969 would allow legislative workers to exercise critical rights to ensure worker equity and justice in the workplace, especially for groups marginalized both in the workplace and the negotiating process including women and minority groups.

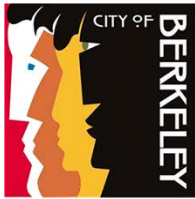
Allowing State legislative aides to unionize is an important tool to address harassment and assault in the workplace. After the wave of credible harassment allegations led to 3 Sacramento legislators resigning, and 150 California women decrying male-dominance at the capitol in an open letter (Sacbee.com, 2018), this is particularly pertinent to a safe and equitable workplace for California legislative employees.

Thank you for authoring this important piece of legislation.

Respectfully,

The Berkeley City Council





CITY COUNCILMEMBER  
**RIGEL ROBINSON**  
 DISTRICT 7

CONSENT CALENDAR  
 April 2, 2019

To: Honorable Mayor and Members of the City Council  
 From: Councilmember Rigel Robinson  
 Subject: Support for SCA-1: Public Housing Projects

RECOMMENDATION

Adopt a resolution supporting SCA-1, which repeals Article 34 of the state constitution, requiring a citywide vote for construction of publicly funded low income housing projects. Copies of the resolution will be sent to Senator Nancy Skinner, Assemblymember Buffy Wicks, Senator Bill Allen, and Senator Scott Weiner.

BACKGROUND

On December 3, 2018, Senators Ben Allen and Scott Weiner introduced a bill to the state legislature repealing Article 34. Repealing this section would enable city and local governments to expedite the process of funding low-income housing projects, without the delays of electorate approval. Given the current shortage of affordable housing in California, SCA 1 would be a catalyst to much-needed development.

Article 34 defines “‘low rent housing project’ as any development composed of urban or rural dwellings, apartments or other living accommodations for persons of low income. ‘Person of low income’ shall mean persons or families who lack the amount of income which is necessary (as determined by the state public body developing, constructing, or acquiring the housing project) to enable them, without financial assistance, to live in decent, safe and sanitary dwellings, without overcrowding.”

Initially added to the Constitution in 1950 through a ballot initiative, Article 34 is a legislative relic of a racially discriminatory era, and institutes a disruptive obstacle to construction of new affordable public housing.

The attached resolution states the City of Berkeley’s endorsement of the proposed constitutional amendment. Copies of the resolution will be sent to Senator Nancy Skinner, Assemblymember Buffy Wicks, and the bill’s authors, Senators Ben Allen and Scott Weiner.

FINANCIAL IMPLICATIONS

None.

ENVIRONMENTAL SUSTAINABILITY

Consistent with the City’s climate and environmental goals.

[Title of Report]

CONSENT CALENDAR  
April 2, 2019

CONTACT PERSON

Councilmember Rigel Robinson, (510) 981-7170

Ronit Sholkoff and Mars Svec-Burdick, Interns to Councilmember Rigel Robinson

Attachments:

1: Resolution in Support of SCA-1



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

ENDORSEMENT OF SCA-1 (2019)

WHEREAS, housing is a human right, and;

WHEREAS, development of publicly funded affordable housing enables cities to further the public good by expanding access to this basic right, and;

WHEREAS, under current law, the cumbersome requirement of electoral approval impedes the capacity of municipalities to develop adequate numbers of affordable housing units, and;

WHEREAS, restrictions on affordable housing reinforce intergenerational income inequality and perpetuate systems of economic disenfranchisement which disproportionately impact minority communities, and;

WHEREAS, construction of new affordable housing empowers cities to both correct historic inequalities and address contemporary shortages when they arise, and;

WHEREAS, SCA-1 (Allen and Weiner), also known as the Public Housing Projects Amendment, will repeal Article 34 of the California Constitution, thereby removing an antiquated procedural obstacle to progress.

NOW THEREFORE, BE IT RESOLVED that the City of Berkeley hereby endorses SCA-1 and the constitutional amendments which will result from its passage; and

BE IT FURTHER RESOLVED that the City of Berkeley may be listed as a supporter of said constitutional amendments by the official proponents of the measure; and

BE IT FURTHER RESOLVED that copies of this resolution will be sent to Senator Nancy Skinner, Assemblymember Buffy Wicks, Senator Bill Allen, and Senator Scott Weiner.





Community Environmental Advisory Commission

ACTION CALENDAR  
April 2, 2019

To: Honorable Mayor, Members of the City Council,  
 From: Community Environmental Advisory Commission (CEAC)  
 Submitted by: Michael Goldhaber, CEAC Chair  
 Subject: Effective Enforcement of Safe Lead-Paint Practices

RECOMMENDATION

Direct the City Manager to prepare two ordinances as described below and return them for vote of the City Council within two months, so that when passed the city staff can effectively intervene when painters ignore safe practices they have agreed to uphold in removing lead paint from structures built before 1978:

- 1) an ordinance adding safe lead-paint practices (already mandated by the state and federal governments) to the City Code so that such practices can be regularly enforced as part of code enforcement; [this ordinance could follow the wording of an ordinance proposed in the City of Emeryville in 2017 ({see Attachment 1}]
- 2) an ordinance in accord with California law that allows the city to be reimbursed for costs (staff time) for enforcement efforts (thus making it cost-effective for the City staff to engage in enforcement) and to automatically add fines up to \$1,000 for each day of failing to comply with orders to cease unlawful practices. This ordinance could apply generally to all municipal code violations, in addition to lead paint cleanup, to fund and reimburse stronger enforcement efforts by the City. [See Attachment 2, for legal justification].

FISCAL IMPACTS OF RECOMMENDATION:

Because the recommended actions would allow streamlining enforcement measures when lead-paint safe practices are ignored, and because the City would have a way to be reimbursed for any staff time resulting in successful litigation, the total effect would probably be a net saving for the City, quite apart from the reduced costs needed for any

kind of mitigation of lead poisoning of residents or the environment. (In addition to reimbursement for FTE's, the City is apparently permitted to level fines of up to \$1,000.00 per day for ongoing violations.)

#### CURRENT SITUATION AND ITS EFFECTS:

The only current mention of lead paint in the Municipal Code is 13.78.060 [Tenant Protections] C.7: "No Landlord of any Rental Unit located in the City of Berkeley, shall [...] in bad faith fail to follow appropriate industry standards to or protocols designed to minimize exposure to [...] lead paint [...]" The language says nothing about owners, developers, remodelers, etc., who are not acting as landlords.

The City currently requires that all permits that contain plans for construction or remodeling are stamped with the statement:

##### *Lead Hazard Warning*

*Due to the possible presence of lead-based paint, lead-safe work practices are required by law for all repairs that disturb paint in pre-1979 buildings. Failure to do so could create lead hazards that violate California Health and Safety Code, Sections 17920.10 and 105256 with potential fines for violations up to \$5,000 (Section [d] amended) or imprisonment for not more than 6 months in the county jail or both. For more information, visit [www.aclppp.org](http://www.aclppp.org)*

We understand that recipients of permits must declare that that they have read (and will heed) this warning. But at present the City staff has no adequate way to respond to reported violations of the declaration. Recently, knowledgeable residents observed neighbor's violations of safe practices and repeatedly complained to City officials but were unable to obtain any redress until CEAC did its best to intervene on their behalf, and even after that intervention, enforcement was limited. The limited investigation we were able to conduct, through the good offices of our Secretary revealed the City officials felt their hands were tied because the City has no lead-paint code of its own. Also, previously, we heard repeatedly that the City staff was reluctant to enforce because staff time such as for court appearances and evidence preparation would not be sufficiently compensated by the fines allowed by State law. We have now learned that State Law permits the City to enact an ordinance allowing FTE recovery of such staff time, as indicated Appendix 2

At its October 11, 2018 meeting, the Commission approved the above recommendation and requests that the Planning Commission bring said action to City Council for adoption.

M/S/C (Ticconi, Lim) to prepare two ordinances that when passed the city staff can effectively intervene when painters ignore safe practices they have agreed to uphold in removing lead paint from structures built before 1978. Ayes: Simmons, Varnhagen, Ticconi, and Goldhaber, Lim. Noes: None. Absent: Kapla, Gould. Abstained: Hetzel

BACKGROUND:

In 1991, Berkeley voters enacted a parcel-fee to be paid to joint Powers Authority in the County, now known Healthy Homes. There had been considerable confusion about the powers of Healthy Homes. **We restate once again: Because what was enacted to pay for this organization is a fee and not a tax, by State Law, Healthy Homes may investigate and even remediate but may not enforce laws.** In a previous resolution and in previous appearances before the City Council, CEAC has emphasized the need for City enforcement of lead-paint safety. **Only the City of Berkeley is in a position to enforce against violations that occur within its boundaries, except when CAL-OSHA choose to enforce unsafe labor practices.** Unfortunately, until July, CEAC was unaware that the city needs to update its own codes in the way described above.

ENVIRONMENTAL SUSTAINABILITY:

As we have reported previously, lead from paint can be serious ground contaminant as well as very dangerous toxin for infants and young children—or, for that matter, young animals—whose brains are still developing. Lead-paint particles insufficiently contained that land on the ground can be washed into the Bay where marine life can be contaminated.

RATIONALE FOR RECOMMENDATION:

Repeated failure by City staff to crack down on violations of State Law and of agreements freely entered into by developers and contractors with the Planning Department indicate the need for new and clear steps to make sure enforcement occurs. This, we have now learned, is clearly within the scope of the City's powers. No alternative to passing new ordinances would clarify the abilities and powers of city staff to carry out necessary enforcement of vital laws.

ALTERNATIVE ACTIONS CONSIDERED:

No alternative to passing new ordinances would clarify the abilities and powers of city staff to carry out necessary enforcement of vital rules. However, additional steps, such as better citizen education, while no substitute for adequate enforcement, would help ensure that even more violations are reported and nipped in the bud.

CITY MANAGER

See companion report.

CONTACT PERSON

Michael Goldhaber, Chair, Community Environmental Advisory Commission  
Viviana Garcia, Commission Secretary, 981-7460

## Attachments:

1. Proposed Emeryville ordinance as modified by CEAC
2. Excerpt of *California League of Cities Proceedings* from 2014

Attachment 1, PROPOSED EMERYVILLE ORDINANCE WITH OUR MODIFICATION:

“Lead-Safe Renovation, Repair and Painting Certification Required. No renovation of a building, facility or other structure shall be initiated within the city if such renovation is regulated under 40 CFR §745.82, unless the applicant for the renovation complies with all of the following:

(1) submits and complies with a sworn written statement, on a form prescribed by the Building Code Inspector, stating that:

a. individuals performing the renovation are properly trained in accordance with 40 CFR Part 745, Subpart E;

b. renovators and firms performing the renovation are certified in accordance with 40 CFR Part 745, Subpart E; and

c. the work practices in 40 CFR 745.85 will be followed during the renovation; and

(2) submits a copy of the certifications issued to renovators and firms performing renovations pursuant to 40 CFR Part 745, Subpart E.”

We recommend adding: “Violations are subject to fine” as authorized by California Government Code section 53069.4(a)(1).

Attachment 2, from a *California League of Cities Proceedings* from 2014:

“State law authorizes cities to recover much of the costs of enforcement as long as the city has adopted a proper ordinance. If done correctly, in many types of code enforcement cases, the city will have the right to recover all costs involved, from abatement costs to staff costs, attorney’s fees and incidental expenses. This can include those costs incurred in the administrative, civil, warrant and even appellate processes, among others.

“In addition, State law contains numerous provisions, some cited above, for recovery of enforcement costs when abatement action is taken pursuant to those statutes.(See, e.g., Gov. Code §§ 38772–38773.7)

“In addition, cities are authorized to enact ordinances for the recovery of attorney’s fees in “any action” to abate a nuisance, as well as abatement and administrative costs. Gov. Code § 38773.5.(See, e.g., Health & Safety. Code, § 17980.7(d)(1) [State Housing law provision providing for recovery of all costs, including investigation and enforcement costs]; Civ. Code § 3496 [providing for cost recovery in certain public nuisance cases].)——Excerpts from *California League of Cities Proceedings of May , 2014 Meeting on Protecting Neighborhood Livability....*]







Rent Stabilization Board

## ACTION CALENDAR

April 2, 2019

To: Honorable Mayor and Members of City Council

From: Jay Kelekian, Rent Board Executive Director

Subject: Implementation of Resolution 68,132 (Council Funding for Additional Services Amending Contracts with Eviction Defense Center (“EDC”) and East Bay Community Law Center (“EBCLC”) For The Period Ending June 30, 2018)

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### BACKGROUND

On July 25, 2017 Council passed Resolution 68,132 providing a transfer of \$300,000 per year to the Rent Board for fiscal years 2018 and 2019 to amend the Rent Board’s long-standing contracts with the Eviction Defense Center (“EDC”) and the East Bay Community Law Center (“EBCLC”). The additional funding was authorized for the purpose of assisting Berkeley tenants via advocacy and counseling so as to prevent displacement. The funding was earmarked for assistance to tenants categorized with extremely low, very low, low and moderate income.

Council also requested that the Rent Board administer the contract and provide updates on how the additional funding was being utilized and what additional services were being provided to Berkeley residents. This report quantitatively and qualitatively describes the changes in services provided during FY 2018.

### HISTORY

With the passage of the Costa-Hawkins Rental Housing Act in 1995, rents began to rise dramatically in Berkeley and neighboring communities as landlords were now given the right to set new tenancies at full market rate. Due to these substantial rent increases,

and the allure of market-rate rents, Council members received numerous reports from constituents that many rent-controlled tenants in Berkeley found themselves being coerced and harassed out of their long-term homes, often through technical and/or “pretextual” evictions.

Starting in 1996 with the East Bay Community Law Center and 2001 for the Eviction Defense Center, the Berkeley Rent Board has been contracting with these two non-profits for the dual purpose of preserving the integrity of the Rent Control Ordinance and preventing unlawful evictions of Berkeley’s most vulnerable low-income tenants. These tenants otherwise would generally not have access to legal services.

In FY 2018, the Rent Board awarded \$142,500 for the EBCLC and \$140,000 for the EDC. The scope of services for the providers as it relates to their contracts with the Rent Board is to provide assistance to low-income tenants in the following manner; eviction defense legal representation, representation at Rent Board proceedings, in-depth legal counseling on local law, and clinics informing tenants of their rights under the rent ordinance.

With the passage of Measure U1, City Council has been able to prioritize measures seeking to preserve affordable housing, prevent homelessness and tackle the displacement of long-term, low and moderate income tenants throughout the city. Resolution 68,132 was passed in furtherance of these goals.

### CHANGES IN SERVICES

Prior to the passage of the resolution, Rent Board and city staff met with the contract providers to identify issues and areas of concern that tenants were experiencing when in conflict with their landlords. It was determined that, under the contract with the Rent Board, while the EBCLC and EDC were providing core services in the way of counseling and legal assistance, there was a need for more in-depth, targeted assistance. Outreach to non-English speaking tenants was also identified as a need as was the expansion of the level of full-scale representation for tenants that were either subject to eviction or subject to harassment and/or coercion by their landlord. After extensive consultation with the providers it was determined that while there was benefit in increasing the number of residents served, there was also benefit in greatly expanding the scope and depth of the services provided. It is the offering of this greater depth of assistance that explains why the total of low and moderate income has increased but not doubled.

With the increase in funding, the EDC and EBCLC have now expanded both the breadth of services and the volume of assistance provided to Berkeley tenants. The added funding has also allowed the providers to serve the additional clientele of moderate income tenants and tenants who live in units that are partially exempt from

the Rent Ordinance (i.e. Section Eight, Shelter Plus). As shown below, each provider has not only increased the number of tenants served, but has substantially expanded the level of services provided.

Under the City-funded components of the contract, the EBCLC is now representing tenants in Berkeley Housing Authority and Shelter Plus administrative proceedings, providing assistance to and direct representation of tenants with issues pertaining to the buyout provisions of the Tenant Protection Ordinance (B.M.C. §13.79 et seq.) and assistance and representation for tenants impacted by the Short-term Rental Ordinance (B.M.C. §23C.22.050). As a result of the additional City funding, the EBCLC has increased its staffing for Berkeley tenants by adding one Full-Time Equivalent (1 FTE) staff attorney and roughly .25 FTE for additional administrative and clerical support.

The additional City funding has enabled the EDC to hire one new full-time attorney as well as establish a Berkeley satellite office that now provides instant mobile access and a Berkeley hotline phone number. They have also increased their already robust bi-lingual assistance. The two charts below reflect the services to be provided under the original contract (Rent Board funding) and the revised/expanded contract (City funding).

The numbers in the charts below reflect both the original and revised minimum deliverables for each agency. For ease of comparison, we have revised the categories of services so that the same terms are used when describing each agency's deliverables (actual contract language varies slightly). It should be noted that the charts on the following page have services listed by least labor (*pre-litigation services*) intensive to more/most labor intensive (*L'td scope assistance and full direct representation*). Service providers have reported that cases often flow from a less labor intensive category to a higher category as the case progresses. When this occurs, cases are not double counted and the service agency gets credit in only one reporting category (the most labor-intensive level). The two organizations collaborate very well together and sometimes refer clients to each other in an effort to serve as many meritorious clients as possible. During our monthly review and site visits, we look for overlap of service. If a client is reflected in the same level of service for both agency (generally for *pre-litigation services*), we only count that individual once. If however, a client is reflected in different level of service categories (*pre-litigation services* for Agency A and *L'td scope assistance* for Agency B), we will count it once for each agency because it generally reflects a referral or transfer between agencies.

|                               | <b><u>Original Services With Rent Board Funding</u></b>         | <b><u>Expanded Services With City Funding (supplemental services/added)</u></b>                                                                        |
|-------------------------------|-----------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b><u>EBCLC</u></b>           | limited to low-income tenants covered by Rent Control Ordinance | *expanded to include moderate-income tenants and covers Tenant Protection Ordinance/Tenant Buyout Ordinance/Short-Term Rental Ordinance/Hoarding Cases |
| Funding                       | \$142,500                                                       | \$292,500                                                                                                                                              |
| Pre-litigation services       | 300 clients per year                                            | 320 clients per year                                                                                                                                   |
| Lt'd Scope/Pro-per Assistance | 36 cases                                                        | 156 cases                                                                                                                                              |
| Direct Representation         | 18 cases                                                        | 58 cases                                                                                                                                               |

|                                                      | <b><u>Original Services With Rent Board Funding</u></b>         | <b><u>Expanded Services With City Funding (supplemental services/added)</u></b>                                                                        |
|------------------------------------------------------|-----------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b><u>EDC</u></b>                                    | limited to low-income tenants covered by Rent Control Ordinance | *expanded to include moderate-income tenants and covers Tenant Protection Ordinance/Tenant Buyout Ordinance/Short-Term Rental Ordinance/Hoarding Cases |
| Funding                                              | \$140,000                                                       | \$290,000                                                                                                                                              |
| Pre-litigation services                              | 50 clients per year                                             | 50 clients per year                                                                                                                                    |
| Lt'd Scope/Pro-per Assistance                        | 250 cases                                                       | 430 cases                                                                                                                                              |
| Direct Representation                                | 60 cases                                                        | 60 cases                                                                                                                                               |
| In depth/Resource intensive/ Short of representation |                                                                 | 15 (ongoing) cases<br>In-depth services/resource intensive                                                                                             |
|                                                      |                                                                 | **Berkeley satellite office/ Hot-line/increased outreach to non-<br>**English speaking community                                                       |

TRACKING AND AUDITING OF PROVIDERS

Prior to the additional City funding provided to the EDC and EBCLC, the Rent Board had been monitoring these contracts since their inception. During the course of FY 2018, Rent Board staff monitored the contracts to ensure that the providers were meeting their newly targeted and contracted service levels. The EDC provides monthly reports and the EBCLC provides quarterly reports, both of which provide detailed activity of actual services provided. Prior to payment, the Rent Board reviews these reports for accuracy and to ensure that contract goals are being met. In addition, the Board reviews the invoices and detailed reports to ensure that there is no duplication of services between the providers. Rent Board staff conducts site visits to review case files to ensure contract compliance and validate the accuracy of the reported services. Both the EBCLC and the EDC met their service deliverable goals for FY 2018 and are continuing their reporting into FY 2019.

DEMOGRAPHICS FOR FY 2017/18

Below are demographics showing the diversity of the population that has been served under the contracts during FY 2017/18.

|                    | <b>EDC</b> | <b>EBCLC</b> |
|--------------------|------------|--------------|
| African-American   | 42%        | 39%          |
| Latino             | 16%        | 8%           |
| Asian              | 9%         | 4%           |
| Elderly            | 25%        | 29%          |
| Disabled           | 38%        | 15%          |
| Minor in Household | 27%        | not reported |
| Long-term Tenant   | 54%        | not reported |

Several councilmembers have asked for examples of the types of services provided under the contracts. The following is a small sample of some of the cases where the EDC and EBCLC reported having provided representation/assistance.

**EDC #1: Mr. B. (81) and Ms. W (75)**

In one case, the Eviction Defense Center [EDC] received an urgent phone call from a Berkeley public health care provider. The woman was alarmed after seeing a very disabled 75 year old woman with an 81 year old partner in her clinic. She believed that the very elderly and frail couple was being evicted from their home of 16 years for hoarding, and the Berkeley Fire Department was inspecting the premises in three days.

The EDC immediately dispatched an attorney and caseworker to meet with the clients. After gaining the trust of the clients they were able to see the apartment, which was in an extremely dangerous and unhealthy condition. All pathways, windows, doors, and heaters were blocked. Neighboring tenants expressed their concern about the extreme fire hazard and their sympathy for the elderly and disabled tenants. They also explained that the landlord had tried everything to get the premises under control, but was at his wits' end.

After intense counseling sessions, the EDC was able to get the clients' permission to do a full clean-up operation starting the next morning and within 48 hours, three dumpsters were filled and carted off the premises. The neighboring tenants and the landlord were extremely relieved when the premises passed the Fire Department Inspection the next day.

The EDC conducted regular home visits and mini-clean ups at the premises to ensure the health and safety of all tenants in the building. Most importantly, the efforts of the EDC have helped keep two very elderly and disabled long term tenants in their home.

#### EDC #2: **Ms. G.**

Ms. G came to the EDC with an eviction notice for nuisance. After over an hour meeting with an EDC attorney, it became apparent that she was suffering from PTSD. The attorney was able to gain her trust and confidence enough to discover that she was a rape and domestic violence survivor. The nuisance behavior appeared to be related to her PTSD symptoms.

The EDC immediately reached out to the attorney representing the landlord and made a written reasonable accommodation request. The landlord's attorney admitted that they did not want to evict Ms. G because they could tell she was suffering from mental illness, but her behavior was leaving them no choice.

Because of an excellent working relationship with this particular landlord and their attorney, the EDC was able to obtain additional time to resolve this case. During this time, the EDC was able to foster a strong client relationship, by having consultations with Ms. G a minimum of three times each week regarding legal issues pertaining to her housing.

Within a week, the attorney for the landlord reached out and said "I don't know what you are doing...but keep doing it! Since your agency got involved, she has not been bothering anyone! We are rescinding the eviction notice."

For the next several months, EDC staff worked with Ms. G with routine check-ins. As a result, her housing is no longer in jeopardy. The staffing needed to provide this type of

ongoing support to one of the most vulnerable members of the Berkeley community, is made possible by the City Council grant.

**EDC #3: Mr. R.**

Mr. R was a long-term tenant paying \$760.00 per month and who was being evicted for non-payment of rent. His management company was well known in Berkeley for engaging in predatory practices, especially directed towards vulnerable and long-term tenants.

Mr. R., who was in his late 70's, had just finished treatments for cancer and during this time, fell behind in rent. The treatments had left him weak and easily confused.

The EDC immediately reached out to EBCLC for a rent grant and reached out to the attorney for the other side and offered to pay all of the rent. The attorney for the landlord responded that the only settlement option would be if Mr. R vacated.

After extensive litigation which lasted several months, EBCLC had the rent grant approved, but the landlord refused to accept it and kept insisting that Mr. R leave his home. After the 3<sup>rd</sup> court appearance and on the eve of jury trial and after almost 100 attorney hours, the landlord finally agreed to let Mr. R. stay in his home. A stipulation was drafted, rent was paid, and the case was dismissed. The EDC still keeps in touch with Mr. R on a regular basis to make sure that he is doing well.

The following is a sample of some of the cases where the EBCLC has assisted and represented tenants:

**EBCLC #1: Ms. A.**

Ms. A is a 75-year-old disabled woman who has been living in her apartment for 18 years. Her only source of income is social security and she would be homeless if she lost her affordable housing. In September 2017 she was removed from the property by the police and involuntarily hospitalized due to erratic behavior that was disturbing the neighbors. While she was in the hospital, the landlord filed an eviction lawsuit against her and took a default judgment, obtaining a writ of eviction to be executed by the sheriff. After being notified of the case, EBCLC was able to locate Ms. A at a hospital in Hayward. EBCLC filed an application to stay (delay) the eviction to give them time to investigate. After considerable collaboration with the tenant's medical providers, EBCLC discovered that the tenant's disturbing conduct was related to a change in her medications. EBCLC successfully moved the court to set aside the default judgment and then negotiated a settlement allowing Ms. A to return to her home and continue her tenancy after she was stabilized and released from the hospital.

**EBCLC #2: Ms. D.**

Ms. D is an 81-year-old African American woman who has lived in her apartment for more than 30 years. Her landlord served her with a notice of lease violation and threatened her with eviction due to excessive clutter in her rental unit allegedly causing a fire hazard. EBCLC staff visited the property and found that the tenant's personal property, accumulated over the course of 30 years, had filled the small apartment nearly to the ceiling in every room. EBCLC attorneys negotiated with the landlord for an extension of time to remedy the situation and assigned a social worker to work with the tenant. The social worker and EBCLC staff have been helping Ms. D. over the course of several weeks to sort her possessions and bring the apartment into compliance with applicable codes. They are also working with her to secure continuing appropriate services to allow this senior to remain in her home and continue to live independently. The eviction lawsuit has been averted and the tenancy has been preserved.

**EBCLC #3: Mr. H.**

Mr. H is a 69 year old disabled veteran living in a single room occupancy hotel. His only source of income is veterans' benefits and he is at high risk of homelessness if he were evicted from his home. His landlord filed an eviction lawsuit against him claiming he was making too much noise but never served him with the summons and complaint. Because he was never served with the lawsuit, he did not legally respond and the landlord obtained a default judgment and writ of eviction.

The first notice that he received of the eviction was the notice posted on his door by the Alameda County Sheriff's office, stating that they would be removing him from the premises in eleven days. EBCLC helped him file a motion to delay the sheriff's lockout by 40 days. This allowed the EBCLC to file another motion to overturn the default judgment. After prevailing on that motion, EBCLC filed an answer on the tenant's behalf. Finally, EBCLC filed a motion which resulted in the landlord dismissing the case, thus preserving his tenancy.

**CONCLUSION**

With the passage of Resolution 68,132, the City has not only made necessary legal



services more available to tenants but has expanded the breadth and scope of those services so as to enable those who are most at risk of losing their relatively affordable housing maintain their homes.

The funding provided by the City covers fiscal years 2017/18 and 2018/19. While this report only covers the period through June 30, 2018, both agencies have met their targeted service goals for last fiscal year. The Rent Board's Eviction Committee met with the service providers last spring to discuss how the changes to the contract worked in FY 2018 and if any modifications were desired for the current fiscal year. The committee, staff and both of the service providers agreed to continue with no modifications in FY 2019. The Rent Board will continue to monitor the contract and services and provide additional updates as appropriate.





Office of the Mayor

CONSENT CALENDAR

April 2, 2019

To: Honorable Mayor and Members of the City Council

From: Mayor Jesse Arreguín

Subject: Sponsorship and Funding for the 2019 Bay Area Book Festival

RECOMMENDATION

- 1) Adopt a resolution approving city co-sponsorship of the nonprofit Bay Area Book Festival to be held from May 4-5, 2019 in Downtown Berkeley.
  
- 2) Reaffirm Berkeley's commitment to provide \$50,000 to the Bay Area Book Festival as a regular line item in the City Budget

BACKGROUND

The fifth annual Bay Area Book Festival will take place on Saturday, May 4 through Sunday, May 5 in downtown Berkeley. This annual literary event, free to the public, combines a street fair with diverse author panels and conversations on stages in downtown auditoriums. The festival will present over 200 top local, national, and international authors of all genres. Approximately 50,000 residents and visitors over the weekend are expected to attend, including low-income people who typically do not attend premium literary events.

To be held in the quadrant between Oxford and MLK (keeping Shattuck open) and between Addison and Kittredge, the festival will draw significant traffic to local restaurants, hotels, retail businesses, and arts/culture venues downtown and beyond. Over seventy exhibitors will include independent bookstores, publishers, literary nonprofits and other literary/arts endeavors.

As with last year, this year's festival continues to build partnerships with UC Berkeley by having the festival take place during the school year. Previous years have contributed towards town-gown collaboration with UC Berkeley faculty involved and has selected campus venues used for additional author panels.

This annual, world-class, legacy event can enrich the lives of residents, draw visitors, raise revenues, and enhance the city's reputation regionally and worldwide. Summary of benefits:

- Diverse cultural and literary riches brought to our residents
- Increased tax revenues from restaurant, retail stores, and exhibitor sales from 50,000 visitors during festival hours all day Saturday, Saturday night and Sunday, plus from large Authors/VIP party Friday night
- Increased hotel tax revenues
- Increased parking revenue
- Increased theatre/music venue attendance through co-promoted festival specials
- Focus on Berkeley by the entire Bay Area, thanks to promotions by the SF Chronicle, KQED and other radio coverage, TV coverage, Twitter and more
- International attention to the City of Berkeley; a third of festival authors to come from other countries
- Closer connection between town and gown
- Very low cost for the city relative to the benefits because the vast majority of costs are borne by the nonprofit festival organization

Recently, the City has changed the way festivals are funded. In 2016, then Mayor Tom Bates introduced an item to refer to the budget process \$50,000 for the Festival, and to have it be a regular line item in the budget<sup>1</sup>. This allocation has been in the budget and approved for the past three years.

#### RATIONALE FOR RECOMMENDATION

The Bay Area Book Festival has quickly become one of Berkeley's premier annual festivals. The financial benefits to the City far outweigh the \$50,000 contribution and cost of fee waivers. The City will receive funding for various sources, including hotel taxes, parking revenue, and sales tax from increased sales at local businesses. Providing a contribution also shows Berkeley's commitment to the Book Festival, ensuring that they continue to host the festival here for years to come.

#### FINANCIAL IMPLICATIONS

Continuation of providing \$50,000 from the general fund to the event.  
Various fees associated with the event will be waived.

#### ENVIRONMENTAL SUSTAINABILITY

No environmental effects.

#### CONTACT PERSON

Mayor Jesse Arreguin      510-981-7100

#### Attachments:

1: Resolution

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<sup>1</sup> [http://records.cityofberkeley.info/Agenda/Documents/DownloadFile/5\\_31\\_2016%3b%20CLK%20-%20Report%20\(Public\)%3b%20MAYOR%3b%20%3b%20REGULAR%3b%20BUDGET%20REFERRAL%20B.pdf?documentType=1&meetingId=186&itemId=2294&publishId=7575&isSection=False&isAttachment=True](http://records.cityofberkeley.info/Agenda/Documents/DownloadFile/5_31_2016%3b%20CLK%20-%20Report%20(Public)%3b%20MAYOR%3b%20%3b%20REGULAR%3b%20BUDGET%20REFERRAL%20B.pdf?documentType=1&meetingId=186&itemId=2294&publishId=7575&isSection=False&isAttachment=True)

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

CO-SPONSORING THE FIFTH ANNUAL BAY AREA BOOK FESTIVAL

WHEREAS, the Bay Area Book Festival will be held this year from May 4-5, 2019 in downtown Berkeley; and

WHEREAS, this annual, nonprofit literary event, free to the public, will combine a street fair with diverse author panels and conversations on stages in downtown auditoriums; and

WHEREAS, the festival will present over 200 top authors of all genres and expects to attract at least 50,000 residents and visitors over the weekend, including low-income people who typically unable to such literary events; and

WHEREAS, Bay Area Book Festival is a legacy event that can enrich the lives of residents, draw visitors, raise revenues, and enhance the city's reputation regionally and worldwide.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City of Berkeley hereby co-sponsors the Bay Area Book Festival and that it has permission to use the City's name and logo in the event's promotional materials and signage naming the City of Berkeley as a co-sponsor solely for the purpose of the City indicating its policy endorsement of the event.

BE IT FURTHER RESOLVED that this co-sponsorship does not: (1) constitute the acceptance of any liability, management, or control on the part of the City for or over the Bay Area Book Festival; or (2) constitute regulatory approval of the Bay Area Book Festival.





Office of the Mayor

ACTION CALENDAR

April 2, 2019

To: Members of the City Council

From: Mayor Jesse Arreguín

Subject: Draft Supplemental Environmental Impact Report for Upper Hearst Development and Amendment to 2020 Long Range Development Plan

RECOMMENDATION

Discuss the draft Supplemental Environmental Impact Report (SEIR) for the Upper Hearst Development and Minor Amendment to the 2020 Long Range Development Plan.

Provide direction to the City Manager on formal comments to the Upper Hearst SEIR. Comments to be submitted to UC Berkeley by the April 8, 2019 deadline.

FINANCIAL IMPLICATIONS

Staff time involved in preparing comments on the Upper Hearst Development SEIR.

BACKGROUND

The University of California, Berkeley has recently released a Draft Supplemental Environmental Impact Report (SEIR) on the proposed Upper Hearst Development for the Goldman School of Public Policy and a Minor Amendment to the 2020 Long Range Development Plan.

**Project Description:**

The project site is an approximately 44,900-square-foot (just over one acre) portion of a University owned property on the northwest corner of La Loma Avenue and Hearst Avenue, immediately west of 2607 Hearst Avenue across from the northeastern region of the UC Berkeley Campus Park. The project site is located within the area of campus designated in the 2020 LRDP as the "City Environs," and within the City Environs' Adjacent Blocks North subarea.

The project comprises two separate buildings – an academic building and a residential building on top of a rebuilt parking structure – that would be built concurrently by the project developer. The residential building would be up to six-stories constructed on top of a three-story partially subterranean parking structure where the Upper Hearst parking structure and adjacent at-grade Ridge parking lot are now located on La Loma Avenue between Hearst Avenue and Ridge Road. The residential component would consist of up to 150 residential units in a mixture of studio and one- and two-bedroom apartments

for campus. The project would reduce the total number of parking spaces on-site from 346 to approximately 175. The building, including the residential units and parking, would be approximately 220,000 gross square feet.

A separate academic building would be constructed immediately east of the existing GSPP building located at 2607 Hearst Avenue. The approximately 37,000 gross square feet of office, classroom, and event space in the academic building would serve several GSPP programs. The academic building would be four stories in height over one subterranean level. The fourth level would provide access to a rooftop terrace and include an event space with a seating capacity of 300 that could accommodate up to 450 people at maximum capacity.

The SEIR also studies the potential impacts of a 33.7% increase in student enrollment beyond the baseline population studies in the 2005 Long Range Development Plan. The SEIR points out that student enrollment has increased by 11,285 beyond the baseline in the 2020 LRDP.

The deadline to submit comments on the Upper Hearst SEIR is April 8, 2019. The Landmarks Preservation Commission will be discussing and approving comments at their March 7, 2019 meeting. City staff are preparing formal comments with the goal of presenting them to the Council on April 2, 2019 for discussion and adoption.

You can read the Upper Hearst SEIR here:

<https://capitalstrategies.berkeley.edu/sites/default/files/draft-supplemental-eir-2020lrpd.pdf>

CONTACT PERSON

Mayor Jesse Arreguin      510-981-7100

Attachments:

1: Notice of Availability of the UC Upper Hearst Development SEIR



## UNIVERSITY OF CALIFORNIA, BERKELEY

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SANTA BARBARA • SANTA CRUZ

PHYSICAL & ENVIRONMENTAL PLANNING  
A & E BUILDING, # 1382

BERKELEY, CALIFORNIA 94720-1382

## NOTICE OF AVAILABILITY OF A DRAFT SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT

|                          |                                                                                                                                                                                                                                                       |
|--------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Project Title:</b>    | Upper Hearst Development for the Goldman School of Public Policy and Minor Amendment to the 2020 Long Range Development Plan                                                                                                                          |
| <b>Lead Agency:</b>      | The Regents of the University of California                                                                                                                                                                                                           |
| <b>Project Sponsor:</b>  | University of California, Berkeley                                                                                                                                                                                                                    |
| <b>Project Location:</b> | University of California, Berkeley: adjacent to 2607 Hearst Avenue at La Loma Avenue, Berkeley, California 94720; Assessor's Parcel Number 58-2201-9-1                                                                                                |
| <b>County:</b>           | Alameda County, California                                                                                                                                                                                                                            |
| <b>Program EIR:</b>      | UC Berkeley 2020 Long Range Development Plan EIR, certified by The Regents January 2005, State Clearinghouse No. 2003082131; as updated by Amendment #1 to the 2020 LRDP to address Climate Change and accompanying Addendum #5 to the 2020 LRDP EIR. |

In accordance with the California Environmental Quality Act (CEQA), the University of California has completed a Draft Supplemental Environmental Impact Report (Draft SEIR) addressing the potential environmental impacts associated with the proposed development of two buildings located on the UC Berkeley campus. This notice is to inform interested agencies and the public of the availability of the Draft SEIR and the start and end dates of the review period, within which comments on the Draft SEIR can be submitted to UC Berkeley.

**Project Location and Description:** The project site is an approximately 44,900-square-foot (just over one acre) portion of a University owned property on the northwest corner of La Loma Avenue and Hearst Avenue, immediately west of 2607 Hearst Avenue across from the northeastern region of the UC Berkeley Campus Park. The site is bordered on the north by Ridge Road and the Cloyne Court Student Cooperative; on the east by La Loma Avenue; on the south by Hearst Avenue; and on the west by the Goldman School of Public Policy and the Cloyne Court Student Cooperative. The project site is located within the area of campus designated in the 2020 LRDP as the "City Environs," and within the City Environs' Adjacent Blocks North subarea.

The project comprises two separate buildings – an academic building and a residential building on top of a rebuilt parking structure – that would be built concurrently by the project developer. The residential building would be up to six-stories constructed on top of a three-story partially subterranean parking structure where the Upper Hearst parking structure and adjacent at-grade Ridge parking lot are now located on La Loma Avenue between Hearst Avenue and Ridge Road. The residential component would consist of up to 150 residential units in a mixture of studio and one- and two-bedroom apartments for campus. The project would reduce the total number of parking spaces on-site from 346 to approximately 175. The building, including the residential units and parking, would be approximately 220,000 gross square feet.

A separate academic building would be constructed immediately east of the existing GSPP building located at 2607 Hearst Avenue. The approximately 37,000 gross square feet of office, classroom, and event space in the academic building would serve several GSPP programs. The academic building would be four stories in height over one subterranean level. The fourth level would provide access to a rooftop terrace and include an event space with a seating capacity of 300 that could accommodate up to 450 people at maximum capacity.

**Environmental Review and Impacts of the Project:** UC Berkeley has prepared a Draft SEIR, tiered from its 2020 LRDP EIR to evaluate the environmental effects of the proposed project. UC Berkeley has been approving development projects based upon environmental documents that tier off the 2020 LRDP EIR approved in 2005. The campus population has now increased beyond 2020 LRDP projections that were analyzed in the 2020 LRDP EIR. The Draft SEIR analyzes the impacts of the Upper Hearst Development project and any change in environmental impacts from increased enrollment that has led to a new baseline for the overall campus population to those identified in the 2020 LRDP EIR. The Draft SEIR provides a project-level analysis of the Upper Hearst Development, including an LRDP text amendment for change in land use, and a program-level environmental analysis of development anticipated to accommodate current and projected enrollment at the UC Berkeley campus.

The preliminary conclusions of the Draft SEIR indicate that the proposed project would result in new significant and unavoidable impacts that were not identified in the 2020 LRDP EIR in aesthetics and land use compatibility.

**Public Review and Document Availability:** The Draft SEIR will be circulated for a 45-day review and comment period by agencies and the public. The comment period begins on February 20, 2019 and ends on April 8, 2019.

**Written responses to the Draft SEIR must be received by 5:00 PM on Monday, April 8, 2019.** A public hearing to receive oral comments will be held on the UC Berkeley campus the evening of Tuesday March 12, 2019. The public meeting will be held from 6:30 PM to 8:00 PM at the Alumni House.

UC Berkeley will prepare a Final SEIR that responds to comments received during the comment period. The Final SEIR, along with a mitigation monitoring and reporting program, will then be submitted to The Regents of the University of California for consideration and approval, anticipated in May 2019.

Links to electronic versions of this [Notice of Availability](#) and [Draft SEIR](#) are available on-line on the UC Berkeley Capital Strategies website at: <https://capitalstrategies.berkeley.edu/resources-notices/public-notices>

Draft SEIR hard copies are also available for review in the following locations:

Berkeley Main Library  
Reference Desk  
2090 Kittredge Street  
Berkeley, CA 94704

DOE Main Library  
Reference Desk  
South Hall Road  
Berkeley, CA 94704

A&E Building  
Physical & Environmental Planning  
Berkeley, CA 94720  
Call 510-643-7384 to arrange a visit

**Opportunities for Commenting:** UC Berkeley invites comments on Draft SEIR. Please send written comments on the Draft SEIR by April 8, 2019, to be considered in the Final SEIR. Comments should be addressed to:

Raphael Breines, Senior Planner  
Physical & Environmental Planning  
University of California, Berkeley  
300 A&E Building, Berkeley, CA 94720-1382

You may also send written comments via email to: [planning@berkeley.edu](mailto:planning@berkeley.edu). Please include a subject line indicating Public Comments: Upper Hearst Development Project.

In addition, comments may be presented orally at the public hearing to be held on Tuesday, March 12, 2019, beginning at 6:30 PM at the following address:

Alumni House  
Spieker Plaza  
Berkeley, CA 94720

UC Berkeley appreciates your interest in this project and looks forward to your involvement with the environmental review process.



Councilmember  
Cheryl Davila  
District 2

ACTION CALENDAR  
April 2, 2019

**To:** Honorable Mayor and Members of the City Council  
**From:** Councilmembers Cheryl Davila and Kate Harrison  
**Subject:** Short-term referral to City Manager and budget referral for creation of a “vehicle dweller program” in Berkeley, including a permitting program.

RECOMMENDATION

Create a comprehensive program to support ~~those a given number of people~~ living in their vehicles, including but not limited to RVs, ~~to stay in Berkeley without fear of being criminalized, harassed, displaced, fined or having their vehicles confiscated,~~ and include the support needed to have minimal impact on the neighborhoods in which they reside.

The program could include:

- Issue 3-6 month permits for registered vehicles in running order with an option to renew providing there have been no validated complaints filed against the permitted vehicle within the timeframe of the permit.
- Create an affordable sliding scale permit fee structure based on size of vehicle, weight, number of wheels and number of axles.
- Create a registration process where vehicular dwellers have an option to choose additional support services.
- Distribute permits equally throughout all districts and identify restrictions on parking (i.e. near schools, bus stops, etc.), ~~include including the~~ number of vehicles allowed per a block face.
- Create a consistent, clear and transparent process for investigating complaints to determine validity, provide documentation and issue warnings.
- Provide pump-out services, waste disposal and other support as needed.
- Create **a new revenue source**: a pump-out station for use by RVs within the City of Berkeley (possibly the in the transfer station rebuild), including a pump-out fee structure
- Create a program for up to \$3,000 per permitted vehicle for maintenance, mechanical and sanitation repairs, and registration. Offer a grace period length of time for vehicles to come into compliance in order to purchase a permit.

- Pilot a Safe Parking Program pilot modeled after Oakland's Safe Parking Program pilot: host sites for RVs and vehicle dwellers at business, community or faith-based site parking lots that includes support and sanitation services.

Vehicles with permits are exempt from Berkeley Municipal Code (BMC) Chapter 12.76.010 and BMC Section 14.40.120.

#### FISCAL IMPACTS OF RECOMMENDATION

\$300,000 for vehicle maintenance and registration; \$11,000 for a pump out services; \$300,000 to pilot a Safe Parking Program; \$100,000 annually for outreach, waste pick-up and disposal services, \$711,000 annually. Measure P revenue or the one time funding from HEAP could be utilized for the pilot. The Measure P revenue could sustain and/or expand the program, if successful.

#### ENVIRONMENTAL SUSTAINABILITY

Reduces the stress, criminalization and discrimination of vehicular dwellers. Reduces public health hazards, environmental pollutants and litter due to the lack of sanitation services.

#### BACKGROUND

City Council and City staff receive consistent requests from housed residents, berthers and businesses to identify a place for people to live in their vehicles that does not block city streets and for which services are provided to reduce garbage or sanitation issues. Many Berkeleyans seek to find a solution without gentrification or criminalizing **or abandoning** those living in vehicles but would like to see a place for them where support is provided. Living in a vehicle is often safer than living on the street. Without truly affordable housing to offer those without shelter, providing vehicle dweller safe parking is a relatively low-cost, low-impact solution.

Furthermore, Robert Wilson Inc. vs. the City of Boise asserts that until a City can offer alternative housing, it cannot criminalize people for their attempts to shelter themselves and their children. Vehicles and RVs are the affordable option for those who live and work in Berkeley, where they call home. Among those living in vehicles in Berkeley are: senior citizens, families with young children (many under age 5), Berkeley Unified School District (BUSD) K-12 students, University of California at Berkeley (UCB) and Berkeley City College (BCC) students, and people who are employed but cannot afford Berkeley's market rate rents. Those living in vehicles are diverse in ethnicity, age, ability, some are employed, and some suffer from chronic or acute illness, including mental health illness. Vehicle dwellers reflect the same diversity of our housed community and deserve to be treated with equal care and respect. Vehicular dwellers pay taxes in Berkeley, visit our restaurants, theatres, businesses and contribute to our economy.

According to an [update given by City of Berkeley staff at the February 26, 2019 City Council meeting](#), on any given night in Berkeley, there are nearly 1,000 people experiencing homelessness. While the City has implemented a number of programs to respond to this crisis, data from the homeless point-in-time count indicate that, for the

past several years, homelessness has nonetheless steadily increased. Furthermore, over the course of a year in Berkeley, nearly 2,000 people experience homelessness of some duration. This number has been steadily growing at an average rate of 10% every 2 years.

Moreover, the February 26<sup>th</sup> update revealed, the growth of homelessness is highly disproportionate in its racial disparities: since 2006, 65% of homeless service users in Berkeley identify as Black or African American, compared to a general population of less than 10%. Similar disproportionalities arise for the representation of American Indians (.4% general, 4% homeless) and people identifying with two or more races (6.2% general, 17% homeless). Consistently, there are disproportionate outcomes for African Americans who are more likely to be unsheltered in Berkeley (48% of the unsheltered population) than any other race—and are more than twice as likely to be unsheltered as white people (23%). This racial injustice is a direct result of decades of housing policy choices that have limited new affordable housing supply and constrained housing access for people of color in Berkeley and the greater Bay Area.

Despite this growing population, Berkeley's homeless services beds have been serving fewer unique households over time—even after accounting for the change in system bed capacity over time. The average number of unique individuals served per system bed has dropped from a high in 2011 of over 5 to under 3 by 2017.

[According to the January 30, 2017 point-in-time count](#) conducted by the City of Berkeley, a majority of Berkeley's homeless population (664 people, or 68%) is unsheltered (living in cars, on the streets, or other places not meant for human habitation). The most recent count placed those living in their vehicles at approximately 200. The rate of long-term homelessness in Berkeley underscores the difficulty in the local housing market. Berkeley has a large chronically homeless population (long-term homelessness with a disability), with a rate (27%) almost double the national average (roughly 15%).

Among those who are experiencing their first episode of homelessness, more than a third (35%) had been homeless for a year or more; research has estimated this rate to be only about 20% nationally. And more than half (52%) reported they had become homeless because of “money issues”—the top response. Since 97% of homeless Berkeleyans reported they would be interested in permanent, affordable housing if it were available, these data collectively demonstrate that homelessness is not a “choice” in Berkeley, but rather the direct result of a competitive, expensive, supply-constrained housing market: once people lose housing in Berkeley, gaining new housing on their own is more difficult here than in other parts of the country.

In response to an item brought by Mayor Jesse Arreguin and Councilmembers Cheryl Davila and Kate Harrison on June 26, 2018 Berkeley City Council Item – Budget Referral for creation of a “vehicle dweller park” in Berkeley, City Council passed a recommendation for the Mayor to lead an informal task force to work with staff on finding a location for vehicle dweller parking. Then, on September 25, 2018, Mayor Jesse Arreguin and Councilmembers Linda Maio and Sophie Hahn introduced an item that passed, referring the City Manager to look into how other cities use permitting to

manage RV parking and suggest a permit process that Council can consider to enable RV parking but place some sensible limits. City staff then proposed 14-days as a “sensible limit”<sup>7</sup>; this is an alternative to that proposal.

### **Program Components:**

**Permit Program:** Register RVs or vehicles for 3-6 month permits at an affordable sliding scale permit fee structure based on vehicle size, weight and number of wheels and axles. Parking permits for vehicular residents should be distributed equally throughout the districts. The City should identify streets or locations not available for vehicular resident, and any other restrictions on parking, including number of vehicles per any block. Permitted vehicular resident should sign a good neighbor policy contract that outlines responsibilities and expectations for the permit holder and City of Berkeley. Vehicular resident permit holders should be able to renew their permit, as long as the permit holder has not violated the contract and no validated complaints have been filed against them. Complaints should be made through 311 service request (or similar process) or calling the Berkeley Police Department. A record for all complaints should be documented in a clear, consistent, transparent and well-documented process for validating or invalidating complaints. An issued warning should be given prior to any other enforcement occurs, which includes reasonable time to comply.

**Pump-out, Sanitation, Mechanical & Registration and Support Services:** Create a pump-out station for use by RVs and/or contract with mobile pump-out services for Safe Parking Program (see below). In addition, sanitation services should be provided at Safe Parking Program sites picked up at permitted RVs per the waste disposal schedule for the permit location. The permit registration process should include support options for permit applicants to select. The City should provide up to \$3,000 per a vehicle, not to exceed \$300,000 annually, should be made available for mechanical and sanitation repairs as well as registration and a time period to get vehicles in working order and registered in order to apply for a permit should be offered.

**Safe Parking Program:** The City of Oakland and Alameda County are piloting a Safe Parking program similar to those operating in Palo Alto and Santa Barbara. The program is coordinated by the Interfaith Council of Alameda County (ICAC) who has identified four sites to house 10 vehicles each from 7:30PM to 7:30AM and has sub-contracted Project WeHOPE to provide mobile showers, toilets, laundry and case management. Case managers then coordinate with local programs for integrated services.

Berkeley should follow Oakland, Palo Alto and Santa Barbara’s lead and implement a Safe Parking Program. Prior to implementation, the City of Berkeley should reach out to business, faith-based or community-based sites to pilot a similar program here. The City could look into incentives for those that offer their lots for the Safe Parking program.

### **CONTACTS:**

Cheryl Davila, Councilmember, District 2

510.981.7120

**Links:**

- [June 26, 2018 Berkeley City Council Item: Budget Referral for creation of a “vehicle dweller park” in Berkeley](#)
- [Safe Parking Program – Oakland](#)
- [Safe Parking Program – Santa Barbara](#)
- [Safe Parking Program – Palo Alto](#)
- ~~[Good Neighbor Agreement – sample from Berkeley Friends on Wheels](#)~~
- ~~[Code of Conduct Contract – sample from Berkeley Friends on Wheels](#)~~







Kate Harrison  
Councilmember District 4

CONSENT CALENDAR

April 2, 2019

To: Honorable Mayor and Members of the City Council  
 From: Councilmembers Harrison, Davila, and Robinson  
 Subject: Referral to the Energy Commission to Hold a Series of Public Outreach and Educational Meetings Regarding Electrification

RECOMMENDATION

Refer to Berkeley's Energy Commission to hold four separate special public outreach and educational meetings regarding electrification in new buildings:

1. A meeting with community members;
2. A meeting with building professionals and labor (buildings trades, contractors, architects, engineers etc.);
3. A meeting with affordable housing developers;
4. A meeting with market-rate developers.

BACKGROUND

On February 19, 2019, Councilmember Harrison and cosponsors Councilmembers Davila, Bartlett and Hahn submitted to the Agenda Committee an *Ordinance adding a new Chapter 19.84 to the Berkeley Municipal Code Prohibiting Natural Gas Infrastructure in New Buildings*. The Agenda Committee referred the item to the Facilities, Infrastructure, Transportation, Environment & Sustainability Policy Committee (FITES) on February 25, 2019.

Subsequently, at the first meeting of the FITES on March 7, 2019, the Committee members voted to submit an item to the Council referring to the Energy Commission to "conduct community outreach and education events regarding the proposed ordinance" and electrification more broadly. This referral fulfills the Committee's directive.

The proposed ordinance is intended to only apply to new buildings and therefore will not affect already existing homes and businesses. This ordinance would change the way buildings are designed and built; if passed, builders will be encouraged to pursue all-electric designs. It is in the public interest to conduct outreach and education to key

stakeholders who are impacted by electrification and may be impacted by the proposed ordinance.

The Energy Commission, which specializes in climate and energy issues is well equipped to conduct the outreach and education meetings. On January 23, 2019, the Energy Commission voted to “approve recommendation to the City Council to refer to the City Manager the implementation of the recommendations to aggressively reduce greenhouse gas emissions in the revised Fossil Free Berkeley Report,” including the recommendation to phase out natural gas in new buildings.

#### FISCAL IMPACTS

The only added cost of the referral is potential staffing of four community meetings to obtain stakeholder and other public input.

#### ENVIRONMENTAL SUSTAINABILITY

Electrification will prevent the release of significant additional natural gas-related greenhouse gasses from new buildings.

#### CONTACT PERSON

Kate Harrison, Berkeley City Councilmember, (510) 981-7140

#### Attachments:

1. Proposed Ordinance (as updated on March 7, 2019)
2. FITES Annotated Agenda, Thursday, January 23, 2019



Kate Harrison  
Councilmember District 4

ACTION CALENDAR  
[ ], 2019

To: Honorable Mayor and Members of the City Council  
From: Councilmembers Harrison, Davila, Bartlett and Hahn  
Subject: Adopt an Ordinance adding a new Chapter 19.84 to the Berkeley Municipal Code Prohibiting Natural Gas Infrastructure in New Buildings

RECOMMENDATION

Adopt an ordinance adding a new Chapter 19.84 to the Berkeley Municipal Code (BMC) prohibiting natural gas infrastructure in new buildings with an effective date of [ ].

POLICY COMMITTEE TRACK

Facilities, Infrastructure, Transportation, Environment & Sustainability Policy Committee

BACKGROUND

The Community Environmental Advisory Commission (CEAC) unanimously recommended in 2016 that the Council consider phasing out new natural gas infrastructure in buildings.<sup>1</sup> That year, Council endorsed the recommendation and directed the CEAC and the Energy Commission to “develop and evaluate a proposal for requiring installations of new cooking, water heating, and/or building heating systems to use technologies which do not burn natural gas.”<sup>2</sup>

The Berkeley Energy Commission subsequently investigated adopting a ‘reach’ building ordinance mandating use of more efficient electric heat-pump water heaters in new construction, which would have the effect of phasing out natural gas for that purpose, but concluded that California Energy Commission (CEC) policies at the time precluded doing so because of the difficulty of proving that the proposed new requirement will be both cost-effective and at least as efficient as the existing state and federal standards.<sup>3</sup>

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<sup>1</sup> Phasing Out Natural Gas for Heating and Cooking, Community Environmental Advisory Commission, November 1, 2016, [https://www.cityofberkeley.info/Clerk/City\\_Council/2016/11\\_Nov/Documents/2016-11-01\\_Item\\_10\\_Phasing\\_Out\\_Natural\\_Gas.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2016/11_Nov/Documents/2016-11-01_Item_10_Phasing_Out_Natural_Gas.aspx).

<sup>2</sup> Annotated Agenda Berkeley City Council Meeting, City Clerk’s Office, November 1, 2016, [http://www.cityofberkeley.info/Clerk/City\\_Council/2016/11\\_Nov/Documents/11-01\\_Annotated.aspx](http://www.cityofberkeley.info/Clerk/City_Council/2016/11_Nov/Documents/11-01_Annotated.aspx).

<sup>3</sup> Response to Referral to Community Environmental Advisory Committee (CEAC) and the Berkeley Energy Commission to Evaluate Phasing-out Natural Gas, Berkeley Energy Commission, December 19, 2017, [https://www.cityofberkeley.info/Clerk/City\\_Council/2017/12\\_Dec/Documents/2017-12-19\\_Item\\_17\\_Response\\_to\\_Referral\\_to\\_CEAC\\_and\\_BEC.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2017/12_Dec/Documents/2017-12-19_Item_17_Response_to_Referral_to_CEAC_and_BEC.aspx); See also, Local Ordinances Exceeding the 2016 Building Energy Efficiency Standards, California Energy Commission, <https://www.energy.ca.gov/title24/2016standards/ordinances/>; See also, CA Public Resources Code

Berkeley's Energy Commission found that a reach heat pump code did not pass the meet restrictive state requirements. Consequently, at the time it was determined infeasible to adopt such a reach code under Title 24 Part 6 of the 2016 state Energy Code. Since then, Berkeley's Office of Energy and Sustainable Development (OESD) has been actively working to present energy code amendments to state authorities that facilitate electric designs, and signed on in support of comments before the California Public Utilities Commission (CPUC) regarding utility incentives for fuel-switching in existing buildings.<sup>4</sup>

This ordinance differs in its approach by acting within the City's authority to prohibit installation of harmful gas infrastructure when issuing building permits for new buildings, and as a result avoids CEC regulations associated with asking to amend efficiency standards. With respect to the CPUC's jurisdiction, although the legislature empowered the Commission to "require each gas corporation to provide bundled basic gas service to all core customers in its service territory," it did not require customers to install fuel gas piping in or in connection with a building, structure or within the property lines of premises behind the gas meter.<sup>5</sup>

This new approach also has the endorsement of the present Berkeley Energy Commission. In December 2018, the Energy Commission presented a draft response to the Council's June 2018 Fossil Free Resolution. As part of a broader strategy to eschew fossil fuels from Berkeley, it recommended that the Council "[p]rohibit gas cooktops and dryers in new residences or a moratorium on new gas hook ups if possible."<sup>6</sup> Adoption of this ordinance would fulfil this recommendation.

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Section 25402.1(h)2,

[http://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=PRC&sectionNum=25402.1](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PRC&sectionNum=25402.1;); CA Building Energy Efficiency Standards Section 10-106

<https://www.energy.ca.gov/2015publications/CEC-400-2015-037/CEC-400-2015-037-CMF.pdf>

<sup>4</sup> "Berkeley Support to Phase Out Fossil Fuels with Clean Electrification," OESD, CEC Docket 18-IEPR-09, June 28, 2018,

[https://www.cityofberkeley.info/uploadedFiles/Planning\\_and\\_Development/Level\\_3\\_-\\_Commissions/Commission\\_for\\_Energy/EC2018-07-25\\_Item%207c-Combined\\_Comments%20to%20CEC%20and%20CPUC.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Energy/EC2018-07-25_Item%207c-Combined_Comments%20to%20CEC%20and%20CPUC.pdf). See also, "Comments of The Natural Resources Defense Council (NRDC) and Sierra Club On The Administrative Law Judge's Ruling Seeking Comments On The Three-Prong Test,"

<sup>5</sup> California Code, Public Utilities Code - PUC § 963,

[https://leginfo.legislature.ca.gov/faces/codes\\_displayText.xhtml?lawCode=PUC&division=1.&title=&part=1.&chapter=4.5.&article=2](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=PUC&division=1.&title=&part=1.&chapter=4.5.&article=2).

<sup>6</sup> Fossil Free Berkeley Subcommittee Draft Report for 12/5/2018 Commission Meeting, Berkeley Energy Commission, December, 5, 2018,

[https://www.cityofberkeley.info/uploadedFiles/Planning\\_and\\_Development/Level\\_3\\_-\\_Commissions/Commission\\_for\\_Energy/FFB%20Draft%20report%20for%20Dec%205%202018%20Commission%20Meeting%20Final.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Energy/FFB%20Draft%20report%20for%20Dec%205%202018%20Commission%20Meeting%20Final.pdf)

In June 2018 the Berkeley City Council declared a city-wide Climate Emergency (Resolution No. 68,486-N.S.), aimed at reviewing the City's greenhouse gas emission reduction strategies, commitments and progress in light of recent political, scientific and climatic developments.<sup>7</sup> A 2018 U.N. Intergovernmental Panel on Climate Change (IPCC) report suggested that in order to keep warming under 1.5 degrees Celsius, governments must initiate a dramatic 45% cut in global carbon emissions from 2010 levels by 2030 and reach global 'net zero' around 2050. The time for incremental emissions reduction strategies is over—policymakers must begin implementing “far-reaching and unprecedented changes in all aspects of society.”<sup>8</sup>

Berkeley became a climate leader when voters overwhelmingly passed Measure G (Resolution No. 63,518-N.S.) in 2006, calling for the City to reduce greenhouse gas emissions by 33% below 2000 levels by 2020, and 80% by 2050.<sup>9</sup> Measure G resulted in the City Council adopting the 2009 Berkeley Climate Action Plan (Resolution No. 64,480-N.S.), which was written through a community-wide process.<sup>10</sup> The plan identified buildings as major contributors to greenhouse gas emissions, representing 26% of community-wide emissions, and recommended the implementation of aggressive building codes favoring low carbon space and water heating appliances/infrastructure in new buildings.<sup>11</sup> A 2018 Climate Action Plan progress update presented by Berkeley's OESD reported that “[c]ombustion of natural gas within Berkeley buildings accounted for 27% of total GHG emissions in 2016 and 73% of building sector GHG emissions.”<sup>12</sup>

According to OESD, the latest and best available data suggest that Berkeley's 2016 community-wide GHG emissions, including emissions from transportation, building

<sup>7</sup> Resolution Endorsing a Climate Emergency, Berkeley City Council, June 12, 2018, [https://www.cityofberkeley.info/uploadedFiles/Council\\_2/Level\\_3\\_-\\_General/Climate%20Emergency%20Declaration%20-%20Adopted%2012%20June%202018%20-%20BCC.pdf](https://www.cityofberkeley.info/uploadedFiles/Council_2/Level_3_-_General/Climate%20Emergency%20Declaration%20-%20Adopted%2012%20June%202018%20-%20BCC.pdf)

<sup>8</sup> IPCC Press Release, Summary for Policymakers of IPCC Special Report on Global Warming of 1.5°C approved by Governments, 8 October 2018, [http://www.ipcc.ch/pdf/session48/pr\\_181008\\_P48\\_spm\\_en.pdf](http://www.ipcc.ch/pdf/session48/pr_181008_P48_spm_en.pdf)

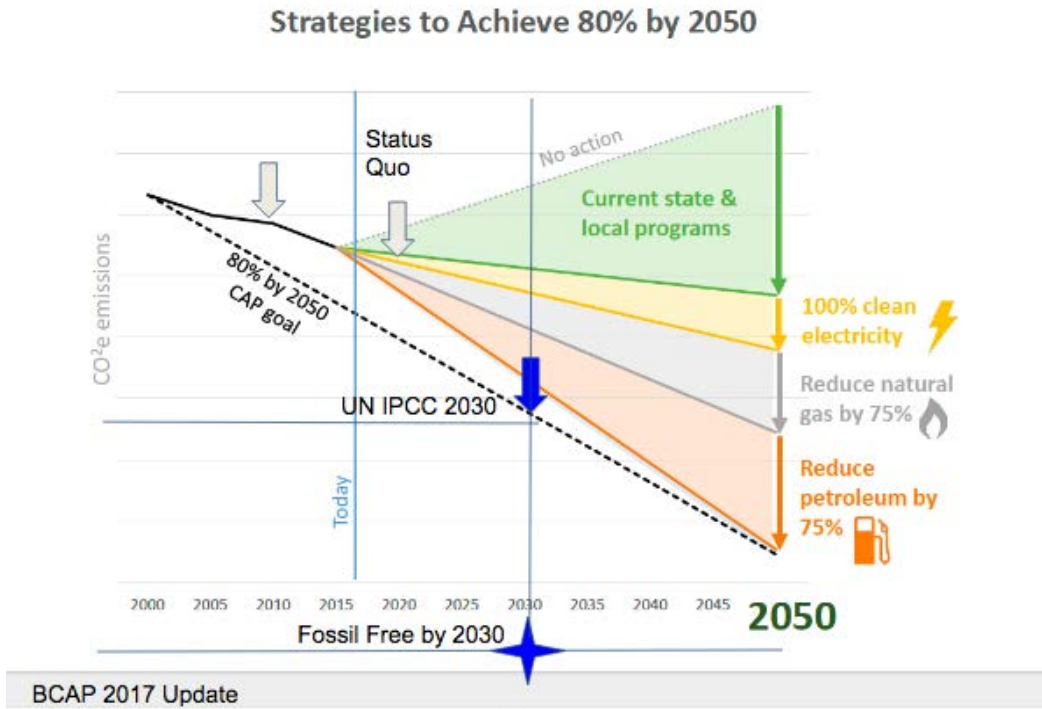
<sup>9</sup> Resolution Submitting Measure G, Berkeley City Council, July 18, 2006, <https://www.cityofberkeley.info/citycouncil/resos/2006/63396.pdf>; Ballotpedia, Berkeley Greenhouse Gas Emissions, Measure G (November 2006), November 7, 2006, [https://ballotpedia.org/Berkeley\\_Greenhouse\\_Gas\\_Emissions,\\_Measure\\_G\\_\(November\\_2006\)#cite\\_note-quotedisclaimer-1](https://ballotpedia.org/Berkeley_Greenhouse_Gas_Emissions,_Measure_G_(November_2006)#cite_note-quotedisclaimer-1)

<sup>10</sup> Office of Energy & Sustainable Development, Berkeley Climate Action Plan Information Page, <https://www.cityofberkeley.info/climate/>.

<sup>11</sup> City of Berkeley, Berkeley Climate Action Plan, June 2009, [https://www.cityofberkeley.info/uploadedFiles/Planning\\_and\\_Development/Level\\_3\\_-\\_Energy\\_and\\_Sustainable\\_Development/Berkeley%20Climate%20Action%20Plan.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Energy_and_Sustainable_Development/Berkeley%20Climate%20Action%20Plan.pdf), p. 59.

<sup>12</sup> 2018 Berkeley Climate Action Plan Update, Office of Energy and Sustainable Development, December 6, 2018, [https://www.cityofberkeley.info/Clerk/City\\_Council/2018/12\\_Dec/Documents/2018-12-06\\_WS\\_Item\\_01\\_Climate\\_Action\\_Plan\\_Update\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2018/12_Dec/Documents/2018-12-06_WS_Item_01_Climate_Action_Plan_Update_pdf.aspx), p. 10.

energy use, and solid waste disposal, are approximately 15% below 2000 baseline levels, despite a population increase of approximately 18% in that same time period. Therefore, according to 2016 data, the City is approximately 18% behind its 2020 goal.<sup>13</sup>



Specifically, progress towards lowering emissions in new buildings has been encouraging but incremental. To date, the federal, state and local approach to energy use in new buildings has largely been to mandate greater building efficiency and energy conservation, which indirectly results in lower emissions, but does not directly phase out fossil fuel consumption in new buildings. With regard to energy efficiency, Berkeley is in the process of adopting the ambitious, but voluntary, Green Building Standards. In short, while this initiative facilitates the electrification and energy efficiency in new buildings, it does not explicitly and directly prohibit builders from constructing buildings with natural gas infrastructure, a potent and persistent source of greenhouse gas pollution.<sup>14</sup>

According to the November 2017 Planning Department Bi-Annual Housing Pipeline Report, the City approved building permits for 525 residential units between January 1, 2014 and November 2017. An additional 952 units received their certificate of

<sup>13</sup> *Id.*, p. 2.

<sup>14</sup> The forthcoming 2019 California Energy Code allows for significant natural gas usage.

occupancy during the same period.<sup>15</sup> Presumably, the vast majority of these units feature natural gas infrastructure. This gas-related emissions problem has been compounded by regional population and job growth coinciding with a considerable 18% rise in Berkeley's population since 2000 as well as the multi-decade useful life of natural gas appliances.<sup>16</sup> As a result, the city has 'locked in' decades of additional carbon pollution, and stands to continue doing so with each new building permit application. The persistence of fossil fuel industry marketing, the regional housing affordability crisis and the associated effort to expand the housing stock will continue to drive local and regional increases in natural gas infrastructure and consumption unless we act now.

This ordinance recognizes that all-electric heating technologies are cost-competitive substitutes to their natural gas counterparts (especially when installed during new construction) and seeks to halt the expansion of natural gas into new buildings in order to stave off the risk of locking in significant additional greenhouse emissions. In the interim between adoption and the effective date, City staff can continue to design and seek approval of all-electric codes to help guide home builders in constructing new buildings with emissions and efficiency best practices.<sup>17</sup>

This approach is borne out by recent economic analysis. For example, the Rocky Mountain Institute's 2018 report entitled *The Economics of Electrifying Buildings: How Electric Space and Water Heating Supports Decarbonization of Residential Buildings* considered the carbon emissions reduction opportunities and cost-effectiveness associated with all-electric space and water heating in new single-family construction in Oakland.<sup>18</sup> As a direct neighbor, the Oakland study is a useful reference point as Berkeley shares many of its characteristics, including its climate, architecture, the electric and natural gas utility, the Pacific Gas and Electric Company, and membership in East Bay Community Energy.

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<sup>15</sup> Referral Response: Bi-Annual Housing Pipeline Report, Planning Department, November 11, 2017, [https://www.cityofberkeley.info/Clerk/City\\_Council/2017/11\\_Nov/Documents/2017-11-28\\_Item\\_21\\_Referral\\_Response\\_Bi-Annual.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2017/11_Nov/Documents/2017-11-28_Item_21_Referral_Response_Bi-Annual.aspx)

<sup>16</sup> 2018 Berkeley Climate Action Plan Update, p. 1.

<sup>17</sup> OESD reported in December 2018 that "Berkeley has worked with other local governments to create a joint cost-effectiveness study request for the California Codes and Standards Program, seeking the maximum cost-effective efficiency for mixed-fuel and all-electric new construction over a representative sample of building sizes and uses...The findings from this cost-effectiveness study request are expected in early 2019 and will be shared with the Energy Commission and other stakeholders, to evaluate options and opportunities for local amendments to promote deep energy savings and electrification." See, 2018 Berkeley Climate Action Plan Update, p. 12.

<sup>18</sup> Sherri Billimoria, Mike Hennen, Leia Guccione, and Leah Louis-Prescott, "The Economics of Electrifying Buildings: How Electric Space and Water Heating Supports Decarbonization of Residential Buildings," Rocky Mountain Institute, June 14, 2018, [https://rmi.org/wp-content/uploads/2018/06/RMI\\_Economics\\_of\\_Electrifying\\_Buildings\\_2018.pdf](https://rmi.org/wp-content/uploads/2018/06/RMI_Economics_of_Electrifying_Buildings_2018.pdf)

The report found that “[i]n Oakland, [electric] heat pumps produce universally less carbon emissions compared to natural gas systems.”<sup>19</sup> Heat pumps are functionally air conditioners that operate in reverse; they capture ambient heat from the air and transfer it inside the building where it can be used to heat water and space. They generate renewable solar energy from the air, and they are so efficient that the Rocky Mountain Institute argues that heat pumps are superior to natural gas appliances on all electric grids except those with the highest coal power content.<sup>20</sup> Fortunately, the California grid does not run on coal and features relatively low greenhouse gas emissions.<sup>21</sup> Therefore, heat pumps offer exponential emissions reduction potential in both new and existing buildings, and they are poised to result in additional benefits overtime as tomorrow’s electricity becomes substantially less carbon intensive due to market forces, implementation of California State Senate Bill 100 and wider adoption of Community Choice Aggregator renewable electricity services.

The report also found that for new single-family buildings in Oakland, “[electric] heat pumps are universally more cost-effective” than natural gas space and water heaters due to their superior energy efficiency, cost-competitiveness, built-in air conditioning capability, and the avoided cost of connecting to the Pacific Gas & Electric Company’s procurement and natural gas distribution system.<sup>22</sup> Specifically, the report found that new single-family developments avoiding gas could “save \$1,000 to more than \$24,000 per single-family home, with a median value of \$8,800.”<sup>23</sup> Similarly, in 2017 Stone Energy Associates and Redwood Energy submitted letters to the CEC advising the commission of the significant net cost savings per unit in multi-family projects due to avoiding costly trenching and gas infrastructure.<sup>24</sup> In addition, a 2018 Natural Resources Defense Council-commissioned report found that all-electric new multi-family construction “sees upfront capital savings, partly [as] a result of not piping for gas.”<sup>25</sup>

Berkeley’s Office of Energy and Sustainable Development (OESD) appears to share the Rocky Mountain Institute’s general outlook on heat pump technology, having

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<sup>19</sup> *Id.*, p. 29.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*, p. 9.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*, p. 47.

<sup>24</sup> CEC Docket No. 17-BSTD-01, Letter from Sean Armstrong, Redwood Energy, to CEC Re: 2019 Building Energy Efficiency Standards Pre-Rulemaking, October 11, 2017, <https://efiling.energy.ca.gov/GetDocument.aspx?tn=221464&DocumentContentId=27248>; CEC Docket No. 16-BSTD-06, Letter from Nehemiah Stone, Stone Energy Associates, to CEC Re: 2019 Building Energy Efficiency Standards Development, April 4, 2017.

<sup>25</sup> Asa S. Hopkins, PhD, Kenji Takahashi, Devi Glick, Melissa Whited, “Decarbonization of Heating Energy Use in California Buildings: Technology, Markets, Impacts, and Policy Solutions,” Synapse Energy Economics, Inc., October 16, 2018, <http://www.synapse-energy.com/sites/default/files/Decarbonization-Heating-CA-Buildings-17-092-1.pdf>.



recommended it as a critical means of meeting the goals of envisioned by city's climate action plan.<sup>26</sup>

The Environmental Protection Agency, Rocky Mountain Institute, and Berkeley's OESD staff also emphasize the carbon emissions associated with natural gas stemming from methane leaks. For example, methane gas is released into the atmosphere through hydraulic fracking and other drilling methods.<sup>27</sup> Transporting and distributing natural gas through pipelines also can lead to additional leaks, explosions and fires.<sup>28</sup> According to the EPA, "[p]ound for pound, the comparative impact of CH<sub>4</sub> [methane] is more than 25 times greater than CO<sub>2</sub> over a 100-year period."<sup>29</sup> In addition, according to the Environmental Defense Fund (EDF), "[i]n the first two decades after its release, methane is 84 times more potent than carbon dioxide." Methane's enhanced potency, particularly in the short term, results in more immediate warming and thus warrants greater urgency. EDF estimates that "[a]bout 25% of the manmade global warming we're experiencing is caused by methane emissions."<sup>30</sup> Consequently, the Rocky Mountain Institute report called upon cities to immediately "[s]top supporting the expansion of the natural gas distribution system, including for new homes." Furthermore, the report cautioned that natural gas "infrastructure will be obsolete in a highly electrified future, and gas ratepayers face significant stranded asset [financial] risk" by staying on natural gas.<sup>31</sup>

The proposed ordinance prohibits builders from applying for building permits that include establishing new or connecting to existing gas utility service for heat water, space, food etc. This legislation will have the effect of ushering in all-electric new buildings in the City of Berkeley, avoiding significant new greenhouse emissions and diverting City attention and resources to other critical sources of emissions.

<sup>26</sup> 2017 Berkeley Climate Action Plan Update, Office of Energy and Sustainable Development, December 7, 2017, [https://www.cityofberkeley.info/Clerk/City\\_Council/2017/12\\_Dec/Documents/2017-12-07\\_WS\\_Item\\_01\\_Climate\\_Action\\_Plan\\_Update.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2017/12_Dec/Documents/2017-12-07_WS_Item_01_Climate_Action_Plan_Update.aspx); See also, Residential Heat Pump Water Heaters: Replacing a Gas Water Heater, OESD, <https://www.cityofberkeley.info/HPWH/>. According to OESD, heat pumps "use electricity instead of gas and therefore have the potential to use renewable energy...[and] work like a refrigerator in reverse — they use electricity and a refrigerant to take heat from the air and transfer" it to the hot water tank or heating ducts.

<sup>27</sup> The Economics of Electrifying Buildings, p. 26.

<sup>28</sup> See e.g., Rebecca Bowe, Lisa Pickoff-White, Five Years After Deadly San Bruno Explosion: Are We Safer?, KQED, September 8, 2015, <https://www.kqed.org/news/10667274/five-years-after-deadly-san-bruno-explosion-are-we-safer>; See also, David Siders, Jerry Brown declares emergency around Southern California gas leak, January 6, 2016, <https://www.sacbee.com/news/politics-government/capitol-alert/article53353615.html>.

<sup>29</sup> "Overview of Greenhouse Gases," U.S. Environmental Protection Agency, <https://www.epa.gov/ghgemissions/overview-greenhouse-gases#methane>

<sup>30</sup> "Methane: The other important greenhouse gas," Environmental Defense Fund, <https://www.edf.org/climate/methane-other-important-greenhouse-gas>.

<sup>31</sup> The Economics of Electrifying Buildings, p. 10.

The ordinance will help prevent deadly home fires that start from an open flame and are fueled by gas lines. For example, the City of Santa Rosa is actively reconsidering the role of natural gas in new buildings because of the destructive 2017 Tubbs firestorm.<sup>32</sup> In 2017 the U.S. Geological Survey conducted the *HayWired Scenario* simulating “a 7.0 quake on the Hayward fault line with the epicenter in Oakland.” The agency’s report predicted that “about 450 large fires could result in a loss of residential and commercial building floor area equivalent to more than 52,000 single-family homes and cause property (building and content) losses approaching \$30 billion.”<sup>33</sup> The report identified ruptured gas lines as a key fire risk factor. This finding mirrors the gas fires resulting from the Loma Prieta (1989) and Northridge (1994) earthquakes.

The ordinance will also improve indoor and outdoor air quality by eliminating toxic byproducts of natural gas. A 2013 Lawrence Berkeley National Laboratory study found that “60 percent of homes in the state that cook at least once a week with a gas stove” produce toxic levels of nitrogen dioxide, formaldehyde and carbon monoxide exceeding federal standards for outdoor air quality. Although electric stoves generate toxic particulate matter resulting from the cooking process and dust volatilization, researchers found that gas stoves are more detrimental to indoor air quality because they produce significant toxic fossil fuel combustion byproducts not associated with electric stoves.<sup>34</sup> This issue is compounded by state efficiency standards, which are designed to trap air indoors.

Rapid improvements in electric cooktop technology suggest that the City of Berkeley can simultaneously maintain its rich culinary culture while taking action to reduce fossil fuel emissions in new buildings.<sup>35</sup>

<sup>32</sup> Will Schmitt, Santa Rosa council considers requirement for new homes to be independent of natural gas, Press Democrat, November 10, 2018, <https://www.pressdemocrat.com/news/8899687-181/santa-rosa-council-considers-requirement>.

<sup>33</sup> “The HayWired earthquake scenario—Engineering implications,” U.S. Geological Survey, April 18, 2018, <https://pubs.er.usgs.gov/publication/sir20175013v2>.

<sup>34</sup> “Pollution in the Home: Kitchens Can Produce Hazardous Levels of Indoor Pollutants,” Julie Chao, Lawrence Berkeley National Laboratory, July 23, 2013, <https://newscenter.lbl.gov/2013/07/23/kitchens-can-produce-hazardous-levels-of-indoor-pollutants/>.

<sup>35</sup> While natural gas ranges are often regarded by home cooks as superior to electric ranges, modern induction range technology offers a cooking experience that arguably provides faster heat response, easier clean up and more temperature precision than gas. See e.g., Cooktop Showdown – Gas vs. Electric vs. Induction, A Finer Touch Construction, <https://aftconstruction.com/cooktop-showdown-electric-vs-gas-vs-induction/>. Appliance manufacturer Samsung introduced a new induction cooktop featuring a “virtual” LED flame that mimics the visual response of a gas flame. See also, 36" Induction Cooktop with Virtual Flame™, Samsung US, <https://www.samsung.com/us/home-appliances/cooktops-and-hoods/induction-cooktops/36--built-in-induction-cooktop-with-flex-cookzone-nz36k7880ug-aa/>.

Emergency action and leadership is needed to prevent the locking in of additional natural gas greenhouse gasses from new buildings. By adopting this ordinance, the City of Berkeley has an opportunity to make further progress towards delivering upon its responsibilities under Measure G, the 2009 Climate Action Plan, Fossil Fuel Berkeley Resolution (as referred), and the Climate Emergency Declaration.

#### FINANCIAL IMPLICATIONS

Staff time will be necessary to implement the new building permit regulations.

#### ENVIRONMENTAL SUSTAINABILITY

Prohibiting natural gas infrastructure in new buildings will prevent the release of significant additional natural gas-related greenhouse gasses from new buildings.

#### CONTACT PERSON

Councilmember Kate Harrison, Council District 4, (510) 981-7140

#### Attachments:

1. Proposed Ordinance Adding BMC Chapter 19.84

ORDINANCE NO. –N.S.

ADDING A NEW CHAPTER 19.84 TO THE BERKELEY MUNICIPAL CODE  
PROHIBITING NATURAL GAS INFRASTRUCTURE IN NEW BUILDINGS EFFECTIVE



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

Section 1. That Chapter 19.84 of the Berkeley Municipal Code is added to read as follows:

**Chapter 19.84**

**PROHIBITION OF NATURAL GAS INFRASTRUCTURE IN NEW BUILDINGS**

**Sections:**

**19.84.010 Findings and Purpose.**

**19.84.020 Applicability.**

**19.84.030 Definitions.**

**19.84.040 Prohibited Natural Gas Infrastructure in New Buildings**

**19.81.050 Exception.**

**19.81.060 Severability.**

**19.81.070 Effective Date.**

**19.84.010 Findings and Purpose.**

The Council finds and expressly declares as follows:

- A. Available scientific evidence suggests that natural gas combustion, procurement and transportation produce significant greenhouse gas emissions that contribute to global warming and climate change.
- B. The following addition to the Berkeley Municipal Code is reasonably necessary because of local climatic, geologic and health and safety conditions as listed below:
  - (1) As a coastal city located on the San Francisco Bay, Berkeley is vulnerable to sea level rise, and human activities releasing greenhouse gases into the atmosphere cause increases in worldwide average temperature, which contribute to melting of glaciers and thermal expansion of ocean water – resulting in rising sea levels.
  - (2) Berkeley is already experiencing the repercussions of excessive greenhouse gas emissions as rising sea levels threaten the City’s shoreline and infrastructure, have caused significant erosion, have increased impacts to infrastructure during extreme tides, and have caused the City to expend funds to modify the sewer system.
  - (3) Berkeley is situated along a wildland-urban interface and is extremely vulnerable to wildfires and firestorms, and human activities releasing greenhouse gases into the atmosphere cause increases in worldwide average temperature, drought conditions, vegetative fuel, and length of fire seasons—all of which contribute to the likelihood and consequences of fire.
  - (4) Berkeley’s natural gas building infrastructure, a potentially significant source of fire during earthquakes and other fire events, is precariously situated along or near the Hayward fault, which is likely to produce a large earthquake in the Bay Area.
  - (5) Some subpopulations of Berkeley residents are especially vulnerable to heat events.
  - (6) Berkeley residents suffer from asthma and other health conditions associated with poor indoor and outdoor air quality exacerbated by the combustion of natural gas.
- C. The people of Berkeley, as codified through Measure G (Resolution No. 63,518-N.S.), the City of Berkeley Climate Action Plan (Resolution No. 64,480-N.S.), and Berkeley Climate Emergency Declaration (Resolution No. 68,486-N.S.) all recognize that rapid, far-reaching and unprecedented changes in all aspects of society are required to limit global warming and the resulting environmental threat posed by climate change, including the prompt phasing out of natural gas as a fuel for heating and cooling infrastructure in new buildings.
- D. Substitute electric heating and cooling infrastructure in new buildings fueled by less greenhouse gas intensive electricity is linked to significantly lower greenhouse gas emissions and is cost competitive because of the cost savings associated with all-electric designs that avoid new gas infrastructure.
- E. All-electric building design benefits the health, welfare, and resiliency of Berkeley and its residents.
- F. The most cost-effective time to integrate electrical infrastructure is during building construction because workers are already on-site, utility service upgrade costs are

lower, permitting and administrative costs are lower, natural gas piping costs are avoided, and it is more cost-effective to include such systems in construction financing.

- G. It is the intent of the council to eliminate obsolete natural gas infrastructure and associated greenhouse gas emissions in new buildings where all-electric infrastructure can be most practicably integrated, thereby reducing the environmental and health hazards produced by the consumption and transportation of natural gas.

**19.84.020 Applicability.**

- A. The requirements of this Chapter shall apply to all building permit applications for New Buildings proposed to be located in whole or in part within the City. However, it shall not apply to agencies that are not subject to City authority.
- B. The requirements of this Chapter shall not apply to the use of portable propane appliances for outdoor cooking and heating.

**19.84.030 Definitions.**

- A. "Accessory Dwelling Unit" shall have the same meaning as specified in Section 65852.2 of the Government Code.
- B. "Greenhouse Gas Emissions" mean gases that trap heat in the atmosphere.
- C. "Natural Gas" shall have the same meaning as "Fuel Gas" as defined in section 208.0 of the 2016 California Plumbing Code.
- D. "Natural Gas Infrastructure" shall be defined as fuel gas piping, other than service pipe, in or in connection with a building, structure or within the property lines of premises, extending from the point of delivery at the gas meter as specified in sections 1301.0 and 1302.1 of the 2016 California Mechanical Code..
- E. "New Building" shall be defined as new buildings or accessory buildings associated with a valid building permit application on or after the effective date of this chapter.

**19.84.040 Prohibited Natural Gas- Infrastructure in New Buildings**

No building permit shall be issued for the construction of a New Building featuring the installation of Natural Gas Infrastructure.

**19.84.050 Exception.**

- A. The requirements of this Chapter shall not apply to Accessory Dwelling Units.
- B. Notwithstanding the requirements of this chapter and the Greenhouse Gas Emissions associated with Natural Gas Infrastructure, the City Manager or their authorized representative may issue a building permit provided that a majority of the Mayor and Council finds that the permit serves the public interest.

**19.84.060 Severability.**

If any word, phrase, sentence, part, section, subsection, or other portion of this Chapter, or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this Chapter, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and

effect. The City Council hereby declares that it would have passed this title, and each section, subsection, sentence, clause and phrase of this Chapter, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases is declared invalid or unconstitutional.

**19.84.070 Effective date.**

The provisions of this chapter shall become effective on [ ] .



Berkeley Energy Commission

## **Approved ENERGY COMMISSION MINUTES Wednesday, January 23, 2019**

1. Call to Order and Roll Call  
The meeting was called to order by Chair Bell at 6:40 p.m.  
Commissioners Present: Bell, Leger, Weems, Stromberg, Patel, Paulos  
Commissioner Leave of Absence: Luce  
Commissioner Absent: Schlachter  
Staff Present: Billi Romain
  
2. Public Comments and Announcements:  
7 members of the Public  
1 Comment
  
3. Approval of Minutes from Previous Meeting (December 05, 2018)  
Motion/second to approve minutes (Stromberg, Leger). The motion carried 4-0-2-2; Ayes: Bell, Leger, Weems, Stromberg. Noes: None. Abstain: Patel, Paulos None. Absent: Schlachte, Luce.
  
4. Electrification Expo Update (Commissioner Leger)  
Commissioner Leger gave an update on the Electrification Expo, February 7, 2019 from 3 to 8 pm at the Ed Roberts Campus, 3075 Adeline St.
  
5. Discussion and consideration of recommendation of the Fossil Fuel Free Subcommittee  
Commission discussed revisions to the report.  
Public Comment: 3  
Motion/second approve recommendation to the City Council to refer to the City Manager the implementation of the recommendations to aggressively reduce greenhouse gas emissions in the revised Fossil Free Berkeley Report. (Weems, Patel). The motion carried 6-0-0-2; Ayes: Bell, Leger, Weems, Paulos, Patel, Stromberg. Noes: None. Abstain: None. Absent: Schlachter, Luce.
  
6. Presentation and discussion of 2019 Local Hazard Mitigation Plan (LHMP) Update  
Staff provided overview of 2019 LHMP Update. Commissioner Paulos to draft comments including consideration of mitigating hazards caused by de-energization for review and consideration at next meeting.  
Public Comment: 1
  
7. Discussion and consideration of T1 recommendations  
Motion/second to send a report to council highlighting need to integration GHG reduction goals in to the T1 funding priorities, as stated in the recommendation in the Fossil Free Berkeley Report. (Paulos, Bell) The motion carried 6-0-0-2; Ayes: Bell, Leger, Weems, Paulos, Patel Stromberg. Noes: None. Abstain: None. Absent: Schlachter, Luce.



8. Nomination for Commission Chair and Vice Chair

Motion/second to nominate Commission Leger as Chair and Commissioner Stromberg as Vice Chair. (Bell, Stromberg) The motion carried 6-0-0-2; Ayes: Bell, Leger, Weems, Paulos, Patel Stromberg. Noes: None. Abstain: None. Absent: Schlachter, Luce.

9. Items for future meetings

- Consideration of Hazard Mitigation Plan comments
- 2019 Work Plan
- Deep Green Reach Code Update
- EV Roadmap Update
- BESO Evaluation and Pathway to Clean Energy Update

Adjournment

Motion/second to adjourn meeting at 9:15 pm (Weems, Patel). The motion carried 6-0-0-2; Ayes: Bell, Leger, Weems, Paulos, Patel Stromberg. Noes: None. Abstain: None. Absent: Schlachter, Luce.

Approved: \_\_\_\_\_

Billi Romain  
Berkeley Energy Commission Secretary

February 27, 2019: Motion/second to approve minutes with amendment of removing former Commission Bernhardt's name (Bell, Stromberg). The motion carried 6-0-0-2; Ayes: Bell, Leger, Luce, Paulos, Patel Stromberg. Noes: None. Abstain: None. Absent: Schlachter, Weems.





ACTION CALENDAR  
April 2, 2019

To: Honorable Mayor and Members of the City Council  
 From: Councilmember Rigel Robinson  
 Subject: Referral: Fee on New Non-Residential Development to Contribute to the Revolving Loan Fund

RECOMMENDATION

Refer to the City Manager to develop a new fee on non-residential development to contribute to the City of Berkeley's Revolving Loan Fund (RLF) for small business financing.

BACKGROUND

Small businesses play a critical part in Berkeley's identity, community, and economy. In the City's Economic Development Worksession on Small Business Support, the Office of Economic Development (OED) found that Berkeley is comprised of 5,000 small businesses.<sup>1</sup> These small businesses are diverse by sector, type, and ownership demographics and contribute to the substantial overall fiscal impact of businesses to the City of Berkeley. 25% of the City's general fund revenues are generated by business-related taxes.

The OED's Revolving Loan Fund (RLF) offers loans directly to businesses with interest rates and terms that are below market. Small businesses can take advantage of the RLF monies to fund fixed assets, equipment, working capital, and real estate.<sup>2</sup>

In order to encourage and support local small businesses, we must continue to provide low-interest loans by expanding and strengthening the RLF. Levying a new fee on non-residential development would provide support for small businesses and nonprofits impacted by these construction and development projects.

Cities such as Toronto and Seattle have acknowledged the direct impact of construction on nearby local businesses and as a result considered financial assistance.<sup>3 4</sup> In the presence of construction, vehicle, bus, and foot traffic can plummet. This makes it difficult for a family-owned business to sustain itself during this time. While grants or tax

<sup>1</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2018/01\\_Jan/Documents/2017-01-16\\_WS\\_Item\\_01\\_Economic\\_Development\\_Worksession.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2018/01_Jan/Documents/2017-01-16_WS_Item_01_Economic_Development_Worksession.aspx)

<sup>2</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2019/02\\_Feb/Documents/2019-02-05\\_WS\\_Item\\_02\\_Referral\\_Response\\_Small\\_Business\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/02_Feb/Documents/2019-02-05_WS_Item_02_Referral_Response_Small_Business_pdf.aspx)

<sup>3</sup> <https://www.toronto.ca/legdocs/2000/agendas/council/cc/cc000509/wks8rpt/cl002.pdf>

<sup>4</sup> <https://nextcity.org/daily/entry/seattle-complete-streets-project-small-business-impact>

reliefs for affected businesses are prohibited, expanding the RLF would be a measure in support of small businesses.

New commercial developments with established retailers can also contribute to gentrification, pushing out potential local businesses. In addition, some retailers also mentioned the competition posed by bigger stores or chains with greater economies of scale.<sup>5</sup> The RLF supports small businesses to navigate these challenges.

Construction costs in Berkeley continue to rise by the day. In drafting their recommendation, staff should consider the impact of the potential fee on project viability, especially as it relates to mixed use developments which include both residential and non-residential uses.

#### FINANCIAL IMPLICATIONS

Potential revenue increases to the RLF from higher fees on non-residential development.

#### ENVIRONMENTAL SUSTAINABILITY

None.

#### CONTACT PERSON

Councilmember Rigel Robinson, (510) 981-7170  
David Lin, Intern

#### Attachments:

- 1: City Council Report - Economic Development Worksession: Small Business Report ([https://www.cityofberkeley.info/Clerk/City\\_Council/2018/01\\_Jan/Documents/2017-01-16\\_WS\\_Item\\_01\\_Economic\\_Development\\_Worksession.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2018/01_Jan/Documents/2017-01-16_WS_Item_01_Economic_Development_Worksession.aspx))
- 2: City Council Report - Referral Response: Small Business Support ([https://www.cityofberkeley.info/Clerk/City\\_Council/2019/02\\_Feb/Documents/2019-02-05\\_WS\\_Item\\_02\\_Referral\\_Response\\_Small\\_Business\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/02_Feb/Documents/2019-02-05_WS_Item_02_Referral_Response_Small_Business_pdf.aspx))
- 3: City of Toronto - Construction Effects on Small Businesses (<https://www.toronto.ca/legdocs/2000/agendas/council/cc/cc000509/wks8rpt/cl002.pdf>)

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<sup>5</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2018/01\\_Jan/Documents/2017-01-16\\_WS\\_Item\\_01\\_Economic\\_Development\\_Worksession.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2018/01_Jan/Documents/2017-01-16_WS_Item_01_Economic_Development_Worksession.aspx)



Lori Droste  
Councilmember, District 8

**Consent Calendar**

April 2, 2019

To: Honorable Mayor and Members of City Council

From: Councilmember Lori Droste and Councilmember Rashi Kesarwani

Subject: Adopt a Spot Initiative

**Recommendation**

Refer to the Public Works Commission and Parks and Waterfront Commission to develop an Adopt A Spot initiative; specifically outlining potential environmental benefits, program costs, staffing.

*Rationale:*

- *Adopt a Spot programs enable a network of volunteer residents to assist in city maintenance and clean up efforts which have great impact using minimal City staff/funding.*
- *Vision 2050 will include stormwater and watershed management goals, both of which this program would support.*

**Background**

The City of Berkeley currently maintains an Adopt A Drain program. An Adopt A Spot program would utilize volunteers to assist with activities including, but not limited to, storm drain maintenance, street beautification, trash cleanup, gardening initiatives, etc.

*The City of Oakland Adopt a Spot Program*

The City of Oakland coordinates hundreds of volunteers to clean, green, maintain, and beautify public spaces (such as parks, libraries, creeks) and infrastructure (such as signs, storm drains, litter containers, utility boxes and poles, street tree wells, and

trees). Managed by the Environmental Stewardship Team within the Oakland Public Works Department, this volunteer program has been active throughout the city for over thirty years. The volunteer program supports community cleanups throughout the year, annual city-wide cleanups for Earth Day, Creek to Bay Day, MLK Day of Service, and “Adopt a Spot,” an ongoing volunteer stewardship program that includes a growing list of over 2,000 Oakland “spots.”

Volunteers contribute over 100,000 hours each year, contributing to a wide range of environmental sustainability impacts such as pollution cleanup and prevention; wildlife habitat protection, enhancement, and restoration; and stormwater management. Volunteerism also strengthens communities by connecting people to each other, to their neighborhoods, and to their environment. These benefits enhance Oakland’s economy, safety, and livability,

The City of Oakland Public Works’ *Adopt a Drain* program supports volunteer efforts to keep storm drain inlets clean and clear of trash and debris. Clear and clean inlets keep water flowing and ensure “only rain down the drain,” which is especially helpful during storm events when blocked storm drains can back up and cause flooding. Year-round storm drain maintenance helps intercept trash before it enters the storm drains and connecting creeks and water bodies.

The City of Oakland provides support for Adopt a Drain volunteers through instruction, tools and supplies, assistance with debris pickups, and notification of impending storm events.

Over 1,000 of Oakland’s approximately 12,000 storm drains have been adopted. The more than 800 Adopt a Drain volunteers greatly supplement the capacity of the twenty City staff servicing the storm drain system, with its more than 1,200 storm drains, 370 miles of drain pipe, seven pump stations and 40 miles of creeks. Volunteers can quickly and preemptively provide basic maintenance on drains and can have a far more extensive and immediate reach across the city than staff during storm and flooding emergencies.

Oakland uses a map interface at [www.AdoptaDrainOakland.com](http://www.AdoptaDrainOakland.com) for depicting the City’s storm drain inlets to the public for possible adoption. This easy to use interface has helped spur new volunteer registrations. Social media, word-of-mouth, and timely news coverage prior to and during storm events has also contributed to volunteer registrations. More information is available at [www.oaklandadoptaspot.org](http://www.oaklandadoptaspot.org).

## **Environmental Sustainability**

Helps Berkeley fulfill Watershed and Stormwater Management Plan goals.

**Financial Implications**

Staff time to coordinate volunteers and provide technical assistance.

**Contact**

Councilmember Lori Droste 510-981-7180





| Upcoming Workshops – <i>start time is 6:00 p.m. unless otherwise noted</i> |                                                                                                                                                                       |
|----------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Scheduled Dates                                                            |                                                                                                                                                                       |
| March 19                                                                   | <ol style="list-style-type: none"> <li>1. FY 2020 – FY 2021 Budget Update</li> <li>2. Crime Report</li> <li>3. Qualified Opportunity Zones</li> </ol>                 |
| May 7                                                                      | <ol style="list-style-type: none"> <li>1. Proposed FY 2020 – FY 2021 Budget</li> <li>2. Zero Waste Rate Review</li> <li>3. Bond Disclosure Training</li> </ol>        |
| June 18                                                                    | <ol style="list-style-type: none"> <li>1. Transfer Station Feasibility Study</li> <li>2. Green Stormwater Infrastructure</li> <li>3. Arts and Culture Plan</li> </ol> |
| Sept. 17                                                                   | <ol style="list-style-type: none"> <li>1. Vision Zero Action Plan</li> <li>2. UC Berkeley Student Housing Plan</li> </ol>                                             |

| Unscheduled Workshops                                                               |
|-------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> <li>1. Cannabis Health Considerations</li> </ol> |

| Unscheduled Presentations (City Manager)                                                                                                                                                                                                                                                                                                                                                                                            |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> <li>1. Measure T1 Project Prioritization (Action Calendar)</li> <li>2. Parks, Recreation, and Waterfront CIP Update (Budget Presentation)</li> <li>3. Public Works CIP Update (Budget Presentation)</li> <li>4. AC Mosquito Abatement District (presentation by the District, TBD)</li> <li>5. East Bay Municipal Utility District (presentation by the District, May 28 - tentative)</li> </ol> |

|    | <b>City Council Referrals to the Agenda Committee and Unfinished Business for Scheduling</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. | <p><b>61a. Use of U1 Funds for Property Acquisition at 1001, 1007, and 1011 University Avenue and 1925 Ninth Street, Berkeley</b> <i>(Referred from the July 24, 2018 agenda)</i><br/> <b>From: Housing Advisory Commission</b><br/> <b>Recommendation:</b> That the City Council not use U1 funds to backfill the Workers' Compensation Fund for the acquisition of the properties located at 1001, 1007, and 1011 University Avenue, and 1925 Ninth Street, City of Berkeley.<br/> <b>Financial Implications:</b> See report<br/> Contact: Amy Davidson, Commission Secretary, 981-5400</p> <p><b>61b. Companion Report: Use of U1 Funds for Property Acquisition at 1001, 1007, and 1011 University Avenue and 1925 Ninth Street, Berkeley</b> <i>(Referred from the July 24, 2018 agenda)</i><br/> <b>From: City Manager</b><br/> <b>Recommendation:</b> Accept staff's recommendation to use \$4,730,815 of Measure U1 revenue over a 5 year period (\$946,163 annually) to repay the Workers' Compensation Fund for the acquisition of the properties located at 1001, 1007, and 1011 University Avenue and 1925 Ninth Street, Berkeley.<br/> <b>Financial Implications:</b> See report<br/> Contact: Dee Williams-Ridley, City Manager, 981-7000</p> |
| 2. | <p><b>68. Revisions to Ordinance No. 7,521--N.S. in the Berkeley Municipal Code to increase compliance with the city's short-term rental ordinance</b> <i>(Referred from the July 24, 2018 agenda. Agenda Committee to revisit in April 2019.)</i><br/> <b>From: Councilmember Worthington</b><br/> <b>Recommendation:</b> Refer the City Manager to look into adopting revisions to Ordinance No. 7,521--N.S by modeling after the Home-Sharing Ordinance of the City of Santa Monica and the Residential Unit Conversion Ordinance of the City of San Francisco in order to increase compliance with city regulations on short-term rentals of unlicensed properties.<br/> <b>Financial Implications:</b> Minimal<br/> Contact: Kriss Worthington, Councilmember, District 7, 981-7170</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 3. | <p><b>4. Disposition of City-Owned, Former Redevelopment Agency Properties at 1631 Fifth Street and 1654 Fifth Street</b> <i>(Referred from the September 25, 2018 agenda)</i><br/> <b>From: City Manager</b><br/> <b>Recommendation:</b><br/> 1. Adopt first reading of an Ordinance authorizing the sale of two City-owned, former Redevelopment Agency properties at 1631 Fifth Street and 1654 Fifth Street at market rate and deposit the proceeds in the City's Housing Trust Fund (HTF).<br/> 2. Direct the City Manager to issue a Request for Proposals to select a real estate broker to manage the sale.<br/> <b>Financial Implications:</b> See report<br/> Contact: Kelly Wallace, Housing and Community Services, 981-5400</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |

| <b>CITY CLERK DEPARTMENT</b>                                                               |                              |                               |                                                  |                           |
|--------------------------------------------------------------------------------------------|------------------------------|-------------------------------|--------------------------------------------------|---------------------------|
| <b>WORKING CALENDAR FOR SCHEDULING LAND USE MATTERS</b>                                    |                              |                               |                                                  |                           |
| <b>BEFORE THE CITY COUNCIL</b>                                                             |                              |                               |                                                  |                           |
| <b>Address</b>                                                                             | <b>Board/<br/>Commission</b> | <b>Appeal Period<br/>Ends</b> | <b>Determination<br/>on Appeal<br/>Submitted</b> | <b>Public<br/>Hearing</b> |
| <b>NOD – Notices of Decision</b>                                                           |                              |                               |                                                  |                           |
|                                                                                            |                              |                               |                                                  |                           |
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|                                                                                            |                              |                               |                                                  |                           |
| <b>Public Hearings Scheduled</b>                                                           |                              |                               |                                                  |                           |
| 1722 Walnut St (permit a ninth dwelling unit)                                              | ZAB                          |                               |                                                  | 3/26/2019                 |
| 1050 Parker St (Medical Office Building/Initial Study-Mitigated<br>Negative Declaration)   | ZAB                          |                               |                                                  | 4/30/2019                 |
| 2700 Tenth St (Pardee Parking Lot)                                                         | ZAB                          |                               |                                                  | 4/30/2019                 |
| 1444 Fifth St (construct four single-family dwellings)                                     | ZAB                          |                               |                                                  | 5/14/2019                 |
| <b>Remanded to ZAB or LPC</b>                                                              |                              |                               |                                                  |                           |
| 1155-73 Hearst Ave (develop two parcels)<br>90-Day Deadline: May 19, 2019                  | ZAB                          |                               |                                                  |                           |
| 2701 Shattuck Ave (construct 5-story mixed-use building)<br>90-Day Deadline: June 30, 2019 | ZAB                          |                               |                                                  |                           |
| <b>Notes</b>                                                                               |                              |                               |                                                  |                           |
|                                                                                            |                              |                               |                                                  |                           |
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Last Updated: 3/14/19

