



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

MONDAY, JULY 10, 2023

2:30 P.M.

2180 Milvia Street, 6th Floor, Berkeley, CA 94704 – Redwood Room

1404 Le Roy Ave, Berkeley, CA 94708 – Teleconference Location

Committee Members:

Mayor Jesse Arreguin, Councilmembers Sophie Hahn and Susan Wengraf

Alternate: Councilmember Ben Bartlett

This meeting will be conducted in a hybrid model with both in-person attendance and virtual participation. For in-person attendees, face coverings or masks that cover both the nose and the mouth are encouraged. If you are feeling sick, please do not attend the meeting in person.

Remote participation by the public is available through Zoom. To access the meeting remotely using the internet: Join from a PC, Mac, iPad, iPhone, or Android device: Use URL - <https://cityofberkeley-info.zoomgov.com/j/1604824574>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon on the screen. To join by phone: Dial **1-669-254-5252** or **1-833-568-8864 (Toll Free)** and Enter Meeting ID: **160 482 4574**. If you wish to comment during the public comment portion of the agenda, press *9 and wait to be recognized by the Chair.

To submit a written communication for the Committee's consideration and inclusion in the public record, email policycommittee@cityofberkeley.info.

Written communications submitted by mail or e-mail to the Agenda & Rules Committee by 5:00 p.m. the Friday before the Committee meeting will be distributed to the members of the Committee in advance of the meeting and retained as part of the official record.

AGENDA

Roll Call

Public Comment

Review of Agendas

- 1. Approval of Minutes: June 26, 2023**
- 2. Review and Approve Draft Agenda:**
 - a. 7/25/23 – 6:00 p.m. Regular City Council Meeting
- 3. Selection of Item for the Berkeley Considers Online Engagement Portal**
- 4. Adjournments In Memory**

Scheduling

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

Referred Items for Review

- None

Unscheduled Items

- 8a. Discussion of Potential Changes and Enhancements to the City Council Legislative Process including the concepts referred by Council at the March 14, 2023 meeting**
- 8b. Discussion Regarding Design and Strengthening of Policy Committee Process and Structure (Including Budget Referrals)**
- 9. Modifications or Improvements to City Council Meeting Procedures (referred by Council at the March 14, 2023 meeting)**
- 10. Strengthening and Supporting City Commissions: Guidance on the Development of Legislative Proposals**
- 11. Discussion and Recommendations on the Continued Use of the Berkeley Considers Online Engagement Portal**

Items for Future Agendas

- **Requests by Committee Members to add items to the next agenda**

Adjournment – Next Meeting Monday, July 17, 2023

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#### **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.*

*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.*

*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.*

*This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953 and applicable Executive Orders as issued by the Governor that are currently in effect. Members of the City Council who are not members of the standing committee may attend a standing committee meeting even if it results in a quorum being present, provided that the non-members only act as observers and do not participate in the meeting. If only one member of the Council who is not a member of the committee is present for the meeting, the member may participate in the meeting because less than a quorum of the full Council is present. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 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 (510) 981-6418 (V) or (510) 981-6347 (TDD) at least three business days before the meeting date. Attendees at public meetings are reminded that other attendees may be sensitive to various scents, whether natural or manufactured, in products and materials. Please help the City respect these needs.

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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 Thursday, July 6, 2023.

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, and are available upon request by contacting the City Clerk Department at (510) 981-6908 or policycommittee@cityofberkeley.info.

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

MONDAY, JUNE 26, 2023

2:30 P.M.

2180 Milvia Street, 6th Floor, Berkeley, CA 94704 – Redwood Room

1404 Le Roy Ave, Berkeley, CA 94708 – Teleconference Location

Committee Members:

Mayor Jesse Arreguin, Councilmembers Sophie Hahn and Susan Wengraf

Alternate: Councilmember Ben Bartlett

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Written communications submitted by mail or e-mail to the Agenda & Rules Committee by 5:00 p.m. the Friday before the Committee meeting will be distributed to the members of the Committee in advance of the meeting and retained as part of the official record.

Roll Call: 2:32 p.m. All present.

Public Comment – 8 speakers

Review of Agendas

1. Approval of Minutes: June 12, 2023

Action: M/S/C (Wengraf/Hahn) to approve the minutes of 6/12/23.

Vote: All Ayes.

2. Review and Approve Draft Agenda:

a. 7/11/23 – 6:00 p.m. Regular City Council Meeting

Action: M/S/C (Arreguin/Hahn) to approve the agenda of 7/11/23 with the changes noted below.

- *Item 5 Harriet Tubman Terrace (City Manager) – removed from the agenda*
- *Item 12 Unrepresented Employees (City Manager) – revised recommendation*
- *Item 18 Audit Report (City Auditor) – moved to Action Calendar*
- *Item 20 Rooftop Solar (Arreguin) – Councilmember Hahn added as a co-sponsor*
- *Item 21 Chavez/Huerta Tribute (Arreguin) – Councilmember Hahn added as a co-sponsor*
- *Item 22 Bark & Meow (Taplin) – Councilmembers Hahn and Humbert added as co-sponsors; revision in recommendation*
- *Item 23 All Class Reunion (Taplin) – Councilmember Hahn added as a co-sponsor*
- *Item 24 REI Employees (Bartlett) – Mayor Arreguin and Councilmember Kesarwani added as co-sponsors*
- *Item 25 Huerta Tribute (Harrison) – Councilmember Hahn added as a co-sponsor*
- *Item 31 Excused Absence for Vice-Mayor (Arreguin) – moved to Consent Calendar*
- *Item 32 Animal Ordinance (Harrison) – referred to the Health, Life Enrichment, Equity & Community Committee*
- *Item 33 Public Comment for Unions (Hahn) – Mayor Arreguin added as a co-sponsor; revised item submitted; further amendments made at Committee; scheduled for July 11 Action Calendar*

Order of Action Items

Item 27 Zoning Ordinance

Item 18 Audit Report

Item 28 Housing Preference

Item 29 Civic Center Design

Item 33 Public Comment for Unions

Item 30 Entheogenic Plants

Vote: All Ayes.

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

- None selected

4. Adjournments In Memory – 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

- 8a. **Discussion of Potential Changes and Enhancements to the City Council Legislative Process including the concepts referred by Council at the March 14, 2023 meeting**
- 8b. **Discussion Regarding Design and Strengthening of Policy Committee Process and Structure (Including Budget Referrals)**

Action: 2 speakers. Discussion held. Special meeting of the Agenda & Rules Committee called for July 17, 2023 at 3:00pm to consider Items 8a and 8b.

Unscheduled Items

9. **Modifications or Improvements to City Council Meeting Procedures (referred by Council at the March 14, 2023 meeting)**
10. **Strengthening and Supporting City Commissions: Guidance on the Development of Legislative Proposals**
11. **Discussion and Recommendations on the Continued Use of the Berkeley Considers Online Engagement Portal**

Items for Future Agendas

- None

Adjournment

Action: M/S/C (Arreguin/Hahn) to adjourn the meeting.

Vote: All Ayes.

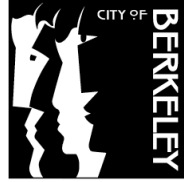
Adjourned at 3:51 p.m.

I hereby certify that the forgoing is a true and correct record of the Agenda & Rules Committee meeting held on June 26, 2023.

Mark Numainville, City Clerk

Communications

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DRAFT AGENDA
BERKELEY CITY COUNCIL MEETING
Tuesday, July 25, 2023
6:00 PM

SCHOOL DISTRICT BOARD ROOM - 1231 ADDISON STREET, BERKELEY, CA 94702
 TELECONFERENCE LOCATION - 1404 LE ROY AVE, BERKELEY 94708

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI
 DISTRICT 2 – TERRY TAPLIN
 DISTRICT 3 – BEN BARTLETT
 DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN
 DISTRICT 6 – SUSAN WENGRAF
 DISTRICT 7 – RIGEL ROBINSON
 DISTRICT 8 – MARK HUMBERT

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Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33) and via internet accessible video stream at http://berkeley.granicus.com/MediaPlayer.php?publish_id=1244.

*Remote participation by the public is available through Zoom. To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL: <<INSERT ZOOM for GOV URL HERE>>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen. To join by phone: Dial 1-669-254-5252 or 1-833-568-8864 (Toll Free) and enter Meeting ID: <<INSERT MEETING ID HERE>>. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.*

Please be mindful that the meeting will be recorded and all rules of procedure and decorum apply for in-person attendees and those participating by teleconference or videoconference.

To submit a written communication for the City Council's consideration and inclusion in the public record, email council@cityofberkeley.info.

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

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

Ceremonial Matters: *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 to address matters not on the Council agenda. If five or fewer persons wish to speak, each person selected will be allotted two minutes each. If more than five persons wish to speak, 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 attending the meeting in-person and 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.*

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." Three members of the City Council must agree to pull an item from the Consent Calendar or Information Calendar for it to move 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.

Consent 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. Minutes for Approval

From: City Manager

Recommendation: Approve the minutes for the Council meetings of June 6 (regular), June 13 (regular), June 20 (special closed and special) and June 27 (regular)

Financial Implications: None

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

2. Contract: Berkeley Convention and Visitor's Bureau, d.b.a. Visit Berkeley

From: City Manager

Recommendation: Adopt a Resolution allowing the City Manager to execute a sole source contract and any amendments with the Berkeley Convention and Visitors' Bureau, d.b.a. Visit Berkeley, to distribute one-twelfth of annual Berkeley Transient Occupancy Tax funds to support tourism marketing and promotion for the period from July 1, 2023 through June 30, 2027 for a not to exceed amount of \$3,500,000.

Financial Implications: See report

Contact: Eleanor Hollander, Economic Development, (510) 981-7530

3. Contracts: Turtle Island Monument, Scott Parsons and Artworks Foundry LLC

From: City Manager

Recommendation: Adopt two Resolutions authorizing the City Manager to execute the following artwork contracts and any amendments for the City of Berkeley's Turtle Island Monument at Martin Luther King Jr. Civic Center Park with contract periods of July 1, 2023 through March 30, 2025:

1. Scott Parsons - for fabrication of three new stone medallions, purchase of twelve selected boulders into which seven existing art medallions will be installed, purchase of granite base stone material for mounting of five bronze turtles for an amount not to exceed \$236,000.

2. Artworks Foundry - for fabrication of a large central bronze turtle sculpture for Turtle Island Monument for an amount not to exceed \$350,000.

Financial Implications:

Contact: Eleanor Hollander, Economic Development, (510) 981-7530

Consent Calendar

4. Amendment to Contract No. 117596-1: Animal Fix Clinic (formerly Fix Our Ferals) for Spay and Neuter Services

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any necessary amendments with Animal Fix Clinic (formerly Fix Our Ferals) to provide no-cost spay and neuter surgeries to eligible pet owners for FY 2024, increasing the contract amount by \$35,000 for a new total contract amount not to exceed \$102,218 and extending the terms of the contract to July 25, 2026.

Financial Implications: See report

Contact: Peter Radu, City Manager's Office, (510) 981-7000

5. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on July 25, 2023

From: City Manager

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

Financial Implications: Various Funds - \$885,000

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

6. Contract Amendment: Cooke and Associates for Applicant Background Investigations

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract amendment with Cooke and Associates to expand capacity to perform background investigation services from \$50,000 to an amount not to exceed \$300,000 from August 1, 2023 through July 31, 2026.

Financial Implications: See report

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

Consent Calendar

7. **Contract Amendments: Mental Health Services Act Community Services and Supports, and Prevention and Early Intervention**

From: City Manager

Recommendation: Adopt ten Resolutions authorizing the City Manager or her designee to execute the following contracts, which are funded through Mental Health Services Act (MHSA) Community Services and Supports (CSS) and Prevention and Early Intervention (PEI), increasing the contract amounts as outlined below, and extending the contracts through June 30, 2026:

1. Increasing CSS Contract No. 108800-1 with Bay Area Hearing Voices Network by \$46,941 per year from Mental Health Services Act (Fund #315) for a total contract amount not to exceed \$325,678 for hearing voices support groups;
2. Increasing CSS Contract No. 31900132 with Building Opportunities for Self-Sufficiency by \$100,000 per year from Mental Health Services Act (Fund #315), for a total contract amount not to exceed \$700,000 for representative payee services;
3. Increasing CSS Contract No. 32200130 with Alameda County Behavioral Health Care Services by \$491,933 per year from Mental Health Services Act (Fund #315) for a total contract amount not to exceed \$2,459,665 for Wellness Center operations;
4. Increasing CSS Contract No. 32000117 with Insight Housing (formerly Berkeley Food and Housing Project) for \$626,616 per year for three years from Mental Health Services Act (Fund #315), for a total contract amount not to exceed \$5,286,488 for supportive housing services;
5. Increasing CSS Contract No. 32000094 with Youth Spirit Artworks by \$132,046 per year for three years for Transition Age Youth case management and trauma support services from Mental Health Services Act (Fund #315), and \$78,000 for Fiscal Year 2024 for Tiny House Village housing services from Measure P (Fund #011), for a total contract amount not to exceed \$1,211,230;
6. Increasing PEI Contract No. 32000240 with Berkeley Unified School District by \$401,389 per year from Mental Health Services Act (Fund #315), for a total contract amount not to exceed \$2,598,334 for services to support Berkeley students;
7. Increasing PEI Contract No. 088999-1 with Center for Independent Living by \$32,046 per year from Mental Health Services Act (Fund #315) for a total contract amount not to exceed \$448,860 for services to support older adults;
8. Increasing PEI Contract No. 052129-1 with Pacific Center for Human Growth by \$100,000 per year from Mental Health Services Act (Fund #315) for a total contract amount not to exceed \$815,150 for services to support the Lesbian, Gay, Bisexual, Transgender, Queer/Questioning, Agender, Plus (LGBTQIA+) population;
9. Increasing PEI Contract No. 32200146 with ONTRACK Program Resources by \$100,000 per year from Mental Health Services Act (Fund #315) for a total contract amount not to exceed \$475,000 for services to support African Americans;
10. Increasing PEI Contract No. 3200111 with East Bay Sanctuary Covenant by \$100,000 per year from Mental Health Services Act (Fund #315) for a total contract amount not to exceed \$500,000 for services to support the Latinx, Latina, Latino population.

Financial Implications: See report

Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400

Consent Calendar

- 8. Contract No. 32300138 Amendment: Prevention and Early Intervention Statewide Project - California Mental Health Services Authority**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to execute an amendment to Contract No. 32300138 with the California Mental Health Services Authority (CalMHSA) to execute a Participation Agreement for Fiscal Year 2024 for the Prevention and Early Intervention (PEI) Statewide Project and allocate Mental Health Services Act (MHSA) funds in the amount of \$93,027, for a total amount not to exceed \$163,934 through June 30, 2024.
Financial Implications: See report
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
- 9. Contract: 2 Plus 1 Housing Resolution Services for Harriet Tubman Terrace Tenant Advocate**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to execute a contract for professional services with the vendor 2 Plus 1 Housing Resolution Services for a Harriet Tubman Terrace Tenant Advocate for the Department of Health, Housing, and Community Services (HHCS) from July 15, 2023 to July 15, 2024 in an amount not to exceed \$100,000.
Financial Implications: See report.
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
- 10. Mental Health Services Act (MHSA) Fiscal Years 2024-2026 Three Year Program and Expenditure Plan**
From: City Manager
Recommendation: Adopt a Resolution approving the Mental Health Services Act Fiscal Years 2024-2026 Three Year Program and Expenditure Plan (MHSA Three Year Plan), which provides information on current and proposed uses of funds for mental health programming, and forwarding the MHSA Three Year Plan to appropriate state officials.
Financial Implications: See report.
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
- 11. Reserving Predevelopment Funds BRIDGE Housing Corporation to Support the Development of Affordable Housing at the North Berkeley BART Site**
From: City Manager
Recommendation: Adopt a Resolution: 1. Reserving \$1,500,000 in Affordable Housing Mitigation Fee funds to BRIDGE Housing Corporation (BRIDGE) or its affiliate to support master planning and predevelopment activities related to the development of affordable housing at the North Berkeley BART site. 2. Authorizing the City Manager or her designee to execute all original or amended documents or agreements to effectuate this action.
Financial Implications: See report.
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400

Consent Calendar

- 12. Establish Classification and Salary Range – Deputy Police Chief**
From: City Manager
Recommendation: Adopt a Resolution establishing the unrepresented classification of Deputy Police Chief with an hourly salary range of \$96.1538 - \$125.0000, and an annual salary range of \$200,000.0000 - \$260,000.0000.
Financial Implications: See report
Contact: Aram Kouyoumdjian, Human Resources, (510) 981-6800
- 13. Salary Range Adjustments: Senior Building Maintenance Supervisor, Senior Equipment Supervisor, Senior Public Works Supervisor, and Senior Solid Waste Supervisor**
From: City Manager
Recommendation: Adopt a Resolution amending Resolution No. 69,997-N.S., Salary Resolution for Public Employees Union (PEU) – Local 1, to increase the salary range of the Senior Building Maintenance Supervisor by 9.30%; Senior Equipment Supervisor by 13.00%; Senior Public Works Supervisor by 8.53%; and Senior Solid Waste Supervisor by 8.53%, effective January 1, 2023.
This Resolution follows Council consideration of this item in Closed Session on May 1, 2023.
Financial Implications: See report
Contact: Aram Kouyoumdjian, Human Resources, (510) 981-6800
- 14. Piggyback Contract – SmartWave for City Facility Managed Wi-Fi**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract which aligns with the City of Tucson, AZ existing contract and amendments, to provide managed Wi-Fi throughout City of Berkeley facilities in an amount of \$325,000 with an option to extend ongoing Operations and Maintenance (O&M) for an additional year for a total contract value not to exceed \$370,000 through FY2025.
Financial Implications: IT's Cost Allocation Fund - \$370,000
Contact: Kevin Fong, Information Technology, (510) 981-6500
- 15. Side Letter Agreement: Hornblower Sublease**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute and implement a Side Letter Agreement with 200 Marina Boulevard, Berkeley, LLC to memorialize the terms and amount of Hornblower sublease rent payments and the City's consent to the Hornblower sublease at the Doubletree Hotel at the Berkeley Waterfront.
Financial Implications: See report
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

Consent Calendar

- 16. Contract No. 32200183 Amendment: Western Water Features Inc. for Renovations at King Swim Center**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32200183 with Western Water Features, Inc. for renovations at King Swim Center, increasing the contract amount by \$79,000 for a total not to exceed amount of \$1,179,000.
Financial Implications: \$1,179,000
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
- 17. Accept Grant Funds from the Governor's Office of Planning and Research to Create a New Environmental Justice Element, Update the General Plan Disaster Preparedness & Safety Element, and Develop Community-Driven Climate and Resilience Metrics**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or their designee to accept the California Governor's Office of Planning and Research (OPR) Adaptation Planning Grant Program (APGP) grant in the amount of \$497,042, and to execute any resulting grant agreement, for the duration of August 31, 2023 through January 31, 2026.
Financial Implications: See report
Contact: Jordan Klein, Planning and Development, (510) 981-7400
- 18. Authorize an Agreement with AC Transit to Provide Funding for Transit Shelter Maintenance**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to enter into a funding agreement between the City of Berkeley and the Alameda-Contra Costa Transit District (AC Transit) to provide an amount not to exceed \$110,000 over five years to support transit shelter and bench maintenance.
Financial Implications: See report.
Contact: Liam Garland, Public Works, (510) 981-6300
- 19. Contract No. 32100127 Amendment: Benefit Resource, Inc. for Third-Party Administrator of the Employee Commute Benefit Program**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract amendment with Benefit Resource, Inc., (BRI) to provide third-party administrator services for the City of Berkeley's Employee Commute Benefit Program for an amount not to exceed \$50,000 for a total contract not to exceed of \$100,000 and extending the term through February 28, 2025.
Financial Implications: See report
Contact: Liam Garland, Public Works, (510) 981-6300

Consent Calendar

20. **Contract No. 32000128 Amendment: WSP USA Environment & Infrastructure Inc. (formerly Wood Environment & Infrastructure Solutions, Inc.) for On-Call Environmental Consulting Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32000128 with WSP USA Environment & Infrastructure Inc. (formerly Wood Environment & Infrastructure Solutions, Inc.) to increase the contract for on-call environmental consulting services by \$500,000 for a new not to exceed amount of \$1,200,000 and extend the contract term through December 30, 2026.
Financial Implications: See report.
Contact: Liam Garland, Public Works, (510) 981-6300
21. **Contract No. 32000145 Amendment: Zonar Systems, Inc. for Global Positioning System Telematics Program**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32000145 with Zonar Systems, Inc. for global positioning system telematics program, increasing the amount by \$200,000 for a total amount not to exceed \$478,698 and extending the term through June 30, 2026.
Financial Implications: See report.
Contact: Liam Garland, Public Works, (510) 981-6300
22. **Contract No. 32100070 Amendment: Urban Ore, Inc. for Salvage Operations at the City of Berkeley Transfer Station**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32100070 with Urban Ore, Inc. for salvage operations of reusable materials at the City's Transfer Station increasing the not to exceed amount by \$75,272 for a new not to exceed amount of \$189,848 and extending the term through June 30, 2025.
Financial Implications: See report.
Contact: Liam Garland, Public Works, (510) 981-6300
23. **Contract: R & S Erection of Richmond, Inc. for On-Call Roll Up Door and Gate Maintenance and Replacement**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or their designee to award a contract and execute any amendments and extensions, with R & S Erection of Richmond, Inc. for the ongoing maintenance, urgent repairs and replacement of roll up doors in an amount not to exceed \$300,000 for the period of August 1, 2023 through July 31, 2026.
Financial Implications: See report.
Contact: Liam Garland, Public Works, (510) 981-6300

Consent Calendar

- 24. Contract: Wood Rodgers, Inc. for Stormwater Master Plan**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a professional services contract with Wood Rodgers, Inc. in an amount not to exceed \$1,900,000 for the development of a comprehensive Stormwater Master Plan (SWMP). A comprehensive SWMP would identify key deficiencies in the stormwater system, prioritize capital improvement projects, identify funding needs, develop City specific drainage design standards, and update maintenance and inspection plan for stormwater facilities.
Financial Implications: See report.
Contact: Liam Garland, Public Works, (510) 981-6300
- 25. Contract: Disability Access Consultants for On-Call American with Disabilities Act Consulting Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract with Disability Access Consultants (DAC) for on-call American with Disabilities Act consulting services to provide support to the City of Berkeley's Disability Compliance Program, for up to three years in an amount not to exceed \$300,000.
Financial Implications: See report
Contact: Liam Garland, Public Works, (510) 981-6300
- 26. Audit Status Report: Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress towards the Year 2020 Zero Waste Goal** *(Reviewed by the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee)*
From: City Manager
Recommendation: See policy committee recommendation.
Policy Committee Recommendation: Send the item to Council with a positive recommendation.
Financial Implications: None
Contact: Liam Garland, Public Works, (510) 981-6300
- 27. Audit Status Report: Unified Vision of Zero Waste Activities Will Help Align Service Levels with Billing and Ensure Customer Equity** *(Reviewed by the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee)*
From: City Manager
Recommendation: See policy committee recommendation.
Policy Committee Recommendation: Send the item to Council with a positive recommendation.
Financial Implications: None
Contact: Liam Garland, Public Works, (510) 981-6300

Consent Calendar

28. Resolution to Adopt a City-Wide “Care First, Jails Last” Policy

From: Mental Health Commission

Recommendation: Adopt a city-wide “Care First, Jails Last” policy that prioritizes the use and/or development of a continuum of care for individuals with mental illness, substance use, or co-occurring disorders rather than incarceration. Require City departments that have contact with the public to revise policies, procedures, and practices to reflect this priority and policy resolution. Require City Council to use this priority and policy resolution to inform budgetary priorities.

Financial Implications: See report.

Contact: Jamie Works-Wright, Commission Secretary, (510) 981-5400

Council Consent Items

29. City Sponsorship of Peace Lantern Ceremony

From: Mayor Arreguin (Author)

Recommendation: Adopt a Resolution sponsoring the annual Peace Lantern Ceremony at Aquatic Park on August 5, 2023.

Financial Implications: \$314

Contact: Jesse Arreguin, Mayor, (510) 981-7100

30. Resolution to Initiate Berkeley Farmers’ Market Week

From: Councilmember Bartlett (Author), Mayor Arreguin (Co-Sponsor), Councilmember Hahn (Co-Sponsor), Councilmember Harrison (Co-Sponsor)

Recommendation: Adopt a resolution to officially proclaim the first week of August as Berkeley Farmers’ Market Week.

Financial Implications: None

Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130

31. Commemoration of the 100th Anniversary of the 1923 Berkeley Fire: Relinquishment of Council Office Budget Funds from General Funds and Grant Such Funds

From: Councilmember Wengraf (Author), Councilmember Harrison (Co-Sponsor)

Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed \$500 per Councilmember or Mayor, including \$500 from Councilmembers Wengraf and Harrison, to support the City’s Commemoration of the 100th Anniversary of the 1923 Berkeley Fire with funds relinquished to the City’s general fund. The relinquishment of funds from Councilmembers Wengraf and Harrison’s discretionary Council Office Budgets and all other Councilmembers and Mayor who would like to contribute will support a community fair with family friendly activities, including historical and educational displays and activities for the 1923 Fire Commemoration on September 17, 2023.

Financial Implications: Councilmembers' Discretionary Funds - \$500

Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160

Council Consent Items

- 32. Resolution Supporting the Unionization of Peet's Coffee Workers**
From: Councilmember Robinson (Author), Councilmember Hahn (Co-Sponsor), Councilmember Humbert (Co-Sponsor)
Recommendation: Adopt a Resolution in support of workers at Peet's Coffee unionizing under the Industrial Workers of the World IU 460
Financial Implications: None
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170

Action Calendar

The public may comment on each item listed on the agenda for action. 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 during one of the Action Calendar public comment periods on the item. Public comment will occur for each Action item (excluding public hearings, appeals, and/or quasi-judicial matters) in one of two comment periods, either 1) before the Action Calendar is discussed; or 2) when the item is taken up by the Council.

A member of the public may only speak at one of the two public comment periods for any single Action item.

The Presiding Officer will request that persons wishing to speak line up at the podium, or use the "raise hand" function in Zoom, 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 – Scheduled Public Comment Period

During this public comment period, the Presiding Officer will open and close a comment period for each Action item on this agenda (excluding any public hearings, appeals, and/or quasi-judicial matters). The public may speak on each item. Those who speak on an item during this comment period may not speak a second time when the item is taken up by Council.

Action Calendar – Public Hearings

Staff shall introduce the public hearing item and present their comments. For certain hearings, 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, or use the "raise hand" function in Zoom, 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.

When applicable, 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

- 33. Amendments to Title 23 Relating to Accessory Dwelling Units (ADUs) and Repeal of Chapter 12.99 to Conform to State Law and Respond to Guidance from the California Department of Housing and Community Development**
From: City Manager
Recommendation: Conduct a public hearing and, upon conclusion, adopt the first reading of an ordinance amending Berkeley Municipal Code (BMC) Title 23, and repealing BMC Chapter 12.99, relating to Accessory Dwelling Units and Junior Accessory Dwelling Units.
Financial Implications: See report.
Contact: Jordan Klein, Planning and Development, (510) 981-7400

Action Calendar – New Business

- 34. Voting Delegates – League of California Cities Annual Conference**
From: City Manager
Recommendation: Designate, by motion, a voting delegate and alternate for the business meeting of the Annual League of California Cities conference to be held on Friday, September 22, 2023, in Sacramento.
Financial Implications: See report
Contact: Mark Numainville, City Clerk, (510) 981-6900
- 35. Adopting the Affordable Housing Framework for Development at the North Berkeley BART Station Area**
From: City Manager
Recommendation: Adopt a Resolution:
1. Adopting the framework for City subsidy of affordable housing at the North Berkeley BART station area.
2. Authorizing the City Manager or her designee to execute all original or amended documents or agreements to effectuate this action.
Financial Implications: See report
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
- 36. \$5.5M Loan for D and E Dock Project In Berkeley Marina**
From: City Manager
Recommendation: Adopt 1 of 5 resolutions authorizing the City Manager to: (1) execute an Amendment to the existing \$5.5M Loan Agreement with the State Division of Boating And Waterways, based on one of four proposed alternatives; or (2) adopt a resolution authorizing the City Manager to implement an internal loan of \$5.5M from the Workers Compensation Fund and/or the Stability Reserve Fund and/or Catastrophic Reserve Fund as determined by the City Manager, and repay this loan from the Transient Occupancy Tax revenue and/or the Marina Fund with the terms to be determined by the City Manager.
Financial Implications: See report
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

Action Calendar – New Business

37. **Assembly Bill 481, 2022 Annual Military Equipment Report**
From: City Manager
Recommendation: Adopt a Resolution approving the 2022 Annual Military Equipment Report.
Financial Implications: See report
Contact: Jennifer Louis, Police, (510) 981-5900
38. **Surveillance Ordinance items related to Fixed Automated License Plate Readers (ALPRs)**
From: City Manager
Recommendation: Adopt a Resolution accepting the proposed policies and acquisition report for the use of fixed automated license plate readers (ALPRs).
Financial Implications: See report
Contact: Jennifer Louis, Police, (510) 981-5900

Action Calendar – Policy Committee Track Items

39. **Waivers for Woolsey Gardens Affordable Housing Project**
From: Mayor Arreguin (Author)
Recommendation: Pursuant to Berkeley Municipal Code (BMC) Section 22.20.070 and/or 22.20.080, adopt a Resolution approving the following requests from Northern California Land Trust for the Woolsey Gardens affordable housing project at 3120-3130 Shattuck: 1. Waive the requirement in BMC Section 23C.12.070(C)(4) in force at the time of entitlement that subsequent purchasers of inclusionary units in limited equity housing cooperatives have a yearly gross income of no more than 44 percent of the cost of a unit at the time of sale. 2. Approve the provision of an additional inclusionary unit instead of paying the in-lieu fee equivalent of .44 units as required by BMC Section 23.C.12.040(E) in force at the time of entitlement.
Financial Implications: See report
Contact: Jesse Arreguin, Mayor, (510) 981-7100

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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<https://berkeleyca.gov/your-government/city-council/city-council-agendas>.

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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 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 <https://berkeleyca.gov/>.

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City Clerk Department - 2180 Milvia Street, First Floor
Tel: 510-981-6900, TDD: 510-981-6903, Fax: 510-981-6901
Email: clerk@cityofberkeley.info

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

COMMUNICATION ACCESS INFORMATION:

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To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at (510) 981-6418 (V) or (510) 981-6347 (TDD) at least three business days before the meeting date.

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



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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Mental Health Commission

To: Honorable Mayor and Members of the City Council  
 From: Mental Health Commission  
 Submitted by: Monica Jones, Chairperson  
 Subject: Resolution to Adopt a City-Wide “Care First, Jails Last” Policy

### RECOMMENDATION

Adopt a city-wide “Care First, Jails Last” policy that prioritizes the use and/or development of a continuum of care for individuals with mental illness, substance use, or co-occurring disorders rather than incarceration. Require City departments that have contact with the public to revise policies, procedures, and practices to reflect this priority and policy resolution. Require City Council to use this priority and policy resolution to inform budgetary priorities.

### SUMMARY

Care First, Jails Last is a policy that is used nationwide – prioritizing the care of persons with mental illness and/or substance use disorders who allegedly commit crimes over their incarceration. In fact, in 2021, the Board of Supervisors for Alameda County adopted a similar “Care First, Jails Last” resolution, establishing a taskforce to create policies, procedures, and practices consistent with the resolution. The City of Berkeley needs to join Alameda County and other jurisdictions nationwide (like Los Angeles) in adopting a “Care First, Jails Last” policy resolution because (1) not all of the City’s Mental Health funding comes from the County so having its own resolution will ensure that the City will also follow a Care First, Jails Last resolution like the County of Alameda regardless of funding sources; (2) a Care First, Jails Last resolution is necessary for the success of other programs already under way such as the Specialized Care Unit (which will treat those in mental health and/or substance use crises without police); and (3) following Care First, Jails Last policy will lead to more cost-effective and overall successful outcomes than incarceration.

(<https://www.apa.org/monitor/julaug03/alternatives>; <https://www.nami.org/Blogs/NAMI-Blog/March-2021/The-Cost-of-Criminalizing-Serious-Mental-Illness> )

### FISCAL IMPACTS OF RECOMMENDATION

There will be minimal fiscal impacts to the City of Berkeley in choosing to provide “care” over “jails.” Indeed, the cost of the care for an individual in a crisis care center or other facility associated with care will not be billed to the City of Berkeley, but rather to Medi-Cal who finances treatment and services to our vulnerable and marginalized people. It is true that some of these care facilities only accept Medi-Cal (not private insurance);

however, there are usually private insurance options available at other comparable facilities should this be needed. There may be minimal costs to the City in the form of staffing time so as to revise existing policies and procedures or to create new policies and procedures consistent with this resolution.

### CURRENT SITUATION AND ITS EFFECTS

At this time, the City of Berkeley does not have its own established diversion program (or a plan for one) that provides care (non-incarceration) options for those who have allegedly committed crimes and are experiencing mental health and/or substance use crises. People who have mental illness and/or substance use disorders and who allegedly commit crimes are taken to Santa Rita Jail. Making things worse, Santa Rita has recent history of Americans with Disabilities Act (ADA) violations resulting from their treatment of people with mental health disabilities.

<https://www.justice.gov/opa/pr/justice-department-finds-alameda-county-california-violates-americans-disabilities-act-and-us> (finding that those with mental illness at Santa Rita Jail would be better served by community-based alternatives). Likewise given the significantly higher suicide rate at Santa Rita Jail than most jails, based on the Department of Justice investigation into Santa Rita Jail, the City of Berkeley should consider the potential risks of placing people at these facilities when there is opportunity to offer alternatives. <https://www.justice.gov/crt/case-document/file/1388891/download> p. 25 (noting that from 2015 through 2019, there were at least 14 suicides in the Santa Rita Jail, which equates to a rate of suicides that is more than twice the national average in other jails).

A diversion program might, for example, allow those with misdemeanors committed while in the midst of a mental illness and/or substance use crisis to be placed in a care facility instead of in the County Jail. Currently, the City of Berkeley has no established arrangements with local crisis stabilization, detox, and withdrawal management centers or other care facilities that could serve in this diversion role. However, there are such options. The Mental Health Commission has been conducting site visits to some of these options, including Amber House, located in Oakland (close to the Berkeley border and 12 minutes from downtown Berkeley). The Mental Health Commission believes Amber House (and other facilities like it) have the potential of being an excellent alternative to jail if an agreement could be reached between the City and Amber House.

### BACKGROUND

Alameda County's "Care First, Jails Last" resolution has been effective since May 25, 2021, calling for a "just and equitable transformation of criminal justice, behavioral health, and wraparound services to reduce incarceration of people with mental illness, substance use, and co-occurring disorders in Santa Rita Jail." Its 25-member body "charged with developing a county-wide implementation plan" has been meeting monthly for almost a year and a half. There is no clear "program" in place. There are budgetary priorities and draft plans. The approach uses that "Sequential Intercept Model" (SIM) approach which has been adopted by both the U.S. Department of

Veterans Affairs and the Substance Abuse and Mental Health Services Administration (SAMHSA). This model is designed to look at various intercepts where “care” should be offered before or instead of “jail.” They include everything from arrest to sentencing to release in which mental health and/or substance use disorder supports could be offered to persons in need—thus placing care first when possible.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

None

#### RATIONALE FOR RECOMMENDATION

The City of Berkeley has not historically aimed to provide care as an alternative to incarceration. By reimagining public safety, Berkeley can embrace care for our vulnerable and marginalized populations. Additionally, we must recognize that these types of contemporary approaches are designed to improve well-being and bring our city closer to achieving equity among diverse groups. This recommendation is not a radical approach; it is a humane and common-sense goal that has been adopted by cities such as Los Angeles and counties such as Alameda County.

Additionally, this proposed recommendation will assist Berkeley’s Specialized Care Unit (SCU), when it goes into operation, by providing options for the teams who will offer non-police responses to those having mental health and/or substance use crises. One of the obstacles the SCU will face in helping those who have experienced mental health and/or substance use crises is to find the services to support them in the long-run. This resolution will commit Berkeley to focus on services over enforcement and care over jails. It is essential to making our SCU successful.

Finally, this proposed recommendation will highlight that there is a spectrum of mental health and/or substance use crises responses beyond either a 72-hour involuntary commitment to a hospital (5150) or being left on the streets, which is too often the choice our officers face. Hopefully, even in non-criminal situations our officers will recognize there are multiple care options to assist all who need help, no matter what degree of treatment required.

#### ALTERNATIVE ACTIONS CONSIDERED

Initially, the Mental Health Commission reviewed one particular County program: the CARES Navigation Center that is designed to address those with mental illness and/or substance use disorder who commit misdemeanors. In this situation, we would have our police officers bring persons from the City of Berkeley, who meet these criteria for the CARES Navigation Center, to this destination and they would receive care as opposed to jail. However, there have been concerns raised with the efficacy of the CARES Navigation Center (including the distance to travel there from Berkeley). More importantly, though, the Mental Health Commission believes we must serve all of those with mental illness and/or substance use disorders – not just those committing misdemeanors pre-booking. Rather we must provide care at all stages of the

Resolution to Adopt a City-Wide "Care First, Jails Last" Policy

incarceration process, including pre-detention all the way to post-release support. This is how the benefits of care will truly be felt in our society.

CITY MANAGER

The City Manager has no objections with the content and recommendations of the Commission's Report. Given staffing and data challenges, it will be preferable if the impacted departments (HHCS and BPD) work collaboratively with the Mental Health Commission to identify the most relevant data sources, as well appropriate reporting frequency and start time for implementation.

CONTACT PERSON

Jamie Works-Wright, MHC Secretary, HHCS, 510-981-7721  
Monica Jones, Chairperson  
Mary-Lee Kimber Smith, Vice Chairperson

Attachments:

1: Resolution to adopt a city-wide "Care First-Jail Last" Policy

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

RESOLUTION TO ADOPT A CITY WIDE "CARE FIRST, JAIL LAST" POLICY

WHEREAS the City Council of the City of Berkeley acknowledges the need to reduce the number of people with mental illness, substance use and co-occurring disorders in our jails; and

WHEREAS the City Council of the City of Berkeley acknowledges that it is critical that we provide quality, affordable, accessible, and compassionate community-based mental health and substance use treatment options in order to reduce the number of people with mental illness, substance use and co-occurring disorders in our jails; and

WHEREAS the fundamental goal of a "Care First, Jails Last" policy is to develop a continuum of care that includes a full spectrum of treatment and housing, including preventative and outpatient services, inpatient acute and subacute facilities, licensed board and care homes, and other wraparound support services so that people with mental illness, substance use, and co-occurring disorders have a full opportunity to receive and live stable lives; and

WHEREAS the City Council of the City of Berkeley, recognizes the importance of responding to unprecedented and sustained calls from community members and behavioral health and criminal justice reform advocates to end law enforcement responses to health and social services' needs; and

WHEREAS the Care First, Jails Last policy is consistent with the goals and mission of our Reimagining Public Safety and the resulting Specialized Care Unit; and

WHEREAS the Mental Health Commission, established pursuant to California Welfare and Institutions Code 5604 et seq, is composed of 10 to 15 members. Fifty percent of the board membership shall be consumers or the parents, spouses, siblings, or adult children of consumers, who are receiving or have received mental health services. At least 20 percent of the total membership shall be consumers, and at least 20 percent shall be families of consumers. Pursuant to Berkeley City Council Resolution No. 65,945-N.S.: "The Commission shall...Review and evaluate the community's mental health needs, services, facilities, and special problems...Advise the governing body and the local mental health director as to any aspect of the local mental health program"; and

WHEREAS the COVID-19 public health and financial crisis has further highlighted the need to move away from criminalization, and to reduce our jail population and provide people with mental illness, substance use and co-occurring disorders with safe and community-based services; and

WHEREAS reducing the number of people with mental illness, substance use and co-occurring disorders and providing a quality, affordable, accessible, and compassionate community-based behavioral health continuum of care are racial justice issues; and

WHEREAS incarceration and insufficient mental health and substance use disorder services disproportionately impact Black residents in Berkeley; and

WHEREAS individuals with serious mental illness, substance use and co-occurring disorders are more likely to return to jail, experience deteriorated health, and cycle through the criminal justice system than those without serious mental illness; and

WHEREAS community-based behavioral health and substance use services have been proven to reduce crime and recidivism; and

WHEREAS jails spend two to three times more money on adults with mental illness who require intervention than on those without the same needs, with little or no improvement to public safety or individuals' health; and

WHEREAS community-based care for mental illness and/or substance use disorder is less expensive and more effective than treatment offered in a jail setting; and

WHEREAS both incarceration and insufficient quality, accessible behavioral health care services are linked to shortened life spans for people with mental illness, substance use, and co-occurring disorders; and

WHEREAS the Care First, Jails Last policy has demonstrated success in other jurisdictions, including Los Angeles County, in reducing incarceration and poor health outcomes of people with mental illness, substance use, and co-occurring disorders; and

WHEREAS it is critical to ensure that implementing a Care First, Jails Last policy allows those with lived experiences with the criminal justice system to meaningfully inform the recommendations for what a new system can look like.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Berkeley, does hereby adopt a "Care First, Jails Last Policy" for just and equitable behavioral health care services and alternatives to incarceration that transform the city's systems of criminal justice, behavioral healthcare, and wraparound services including public benefits, social services, and housing to prioritize preventative, rehabilitative, health-focused programs; and

BE IT FURTHER RESOLVED that the work advancing the Care First, Jails Last policy must prioritize equity and inclusion frameworks in addressing racial, economic, and other disparities in the City of Berkeley's criminal justice, behavioral health, and wraparound support services systems; and

BE IT FURTHER RESOLVED that all the City of Berkeley's departments that have contact with the public, in particular Public Safety, Division of Mental Health and any other supportive services, shall revise existing policies and procedures and/or create new policies and procedures, to the extent necessary, so as to advance a Care First, Jails Last policy within one (1) year of the passage of this resolution and that these policies and procedures be publicly available online; and

BE IT FURTHER RESOLVED that the Division of Mental Health and the Berkeley Police Department take the recommendations of the Mental Health Commission into consideration with regard to facilities (such as the use of Amber House as a care facility) and other strategies for diversion; and

BE IT FURTHER RESOLVED that the work advancing the Care First, Jails Last policy shall be grounded in shared data from across the criminal justice, behavioral health, and other supportive services systems to the extent allowable by law; and

BE IT FURTHER RESOLVED that the Chief of Berkeley Police Department (BPD) shall publicly provide updates every three months for at least three (3) years (or longer if implementation is not complete) to the City Council as to (1) the revision of existing policies, procedures and practices and/or creation of new policies, procedures and practices to implement and advance the Care First, Jails Last policy; (2) the implementation of those policies, procedures and practices; and (3) aggregate data as to the number of transports to diversion locations, number of transports to jail, number of 5150s, and a listing of the services/places utilized for diversion, in an effort to uplift systemwide transparency and coordination; and

BE IT FURTHER RESOLVED that the Manager of the Division of Mental Health shall provide updates every three months for at least three (3) years (or longer if implementation is not complete) to the City Council as to the implementation progress of a Care First, Jails Last policy, specifically, (1) the revision of existing policies, procedures and practices and/or creation of new policies, procedures and practices to implement and advance the Care First, Jails Last policy; (2) the implementation of those policies, procedures and practices; and (3) any work being done to increase the number of or scope of providers in the City of Berkeley so as to increase the services available; and (4) any proposed new services and/or upgrades to existing services and the estimated costs to the City; and

BE IT FURTHER RESOLVED that in conjunction with adopting this "Care First, Jails Last" resolution, the City Council of the City of Berkeley directs a member of the Division of Mental Health to attend all the meetings of the Alameda County "Care First, Jails Last Task Force" and to report back to the Division of Mental Health on any opportunities or ideas about diversion from jails to care.







Office of the Mayor

CONSENT CALENDAR  
July 25, 2023

To: Honorable Members of the City Council  
From: Mayor Jesse Arreguín  
Subject: City Sponsorship of Peace Lantern Ceremony

RECOMMENDATION

Adopt a Resolution sponsoring the annual Peace Lantern Ceremony at Aquatic Park on August 5, 2023.

BACKGROUND

Peace lantern ceremonies are held in the United States and throughout the world each August to commemorate the anniversaries of the only two times nuclear weapons were used against populations, and to remember and honor all victims of war. In a centuries-old Japanese tradition, lanterns are floated on water to honor the souls of departed loved ones. After 1945, the ceremony was adapted in many communities to focus on the desire to build a more peaceful world.

A peace lantern ceremony has taken place annually at the Aquatic Park lagoon since 2002, but this year marks the return to an in-person event after a several-year hiatus during the COVID-19 pandemic. Because the previous organization behind this event is no longer able to host it, the Berkeley-Sakai Association is taking over these responsibilities. The Berkeley-Sakai Association is a volunteer sister city non-profit 501(c)(3) charitable organization that promotes friendship and goodwill between Berkeley, California and Sakai, Japan. The Berkeley-Sakai Association was formed in 1967, the same year that Berkeley and Sakai established a Sister City relationship.

In 2009, the City Council passed Resolution No. #64,574 – N.S. which provided City sponsorship to that year's event "and future peace lantern ceremonies". This Resolution reaffirms sponsorship, in addition to the waiver of fees associated with this event.

FINANCIAL IMPLICATIONS

\$314 in special event fees waived.

ENVIRONMENTAL SUSTAINABILITY

Not applicable.

[2023 Peace Lantern Ceremony](#)

CONSENT CALENDAR  
July 25, 2023

CONTACT PERSON

Mayor Jesse Arreguín 510-981-7100

Attachments:

1: Resolution

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

CITY OF BERKELEY SPONSORSHIP FOR THE 8TH ANNUAL PEACE LANTERN CEREMONIES

WHEREAS, the Annual Peace Lantern Ceremony will be held at the Aquatic Park on Saturday August 5, 2023.

WHEREAS, the ceremony promotes international peace, while creating a fun activity for children and adults.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City of Berkeley hereby sponsors the Peace Lantern Ceremony, 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 endorsement of the event.

BE IT FURTHER RESOLVED that fees associated with the event totaling \$314 are hereby waived.



**BEN BARTLETT**

VICE MAYOR

CONSENT CALENDAR

July 25, 2023

To: Honorable Mayor and Members of the City Council  
 From: Vice Mayor Ben Bartlett (Author), Mayor Jesse Arreguin, Councilmember Kate Harrison (Co-Sponsor), and Councilmember Sophie Hahn (Co-Sponsor)  
 Subject: Resolution to Initiate Berkeley Farmers' Market Week

RECOMMENDATION

Adopt a resolution to officially proclaim the first week of August as Berkeley Farmers' Market Week.

CURRENT SITUATION

The community based farmers' markets, operated with the highest standards by the Ecology Center in Berkeley since 1989, are deeply ingrained in the city's culture, providing access to fresh fruits and vegetables for shoppers of all incomes, while advancing beginning farmers, veteran and women-owned farms, and supporting farmworkers in becoming farm owners. Furthermore, farmers' markets contribute to the economic vitality of the community by supporting a direct marketing system in which local and regional family farmers receive 90 cents of every dollar spent.

BACKGROUND

The City of Berkeley has long been on the forefront of the farm-to-table movement by recognizing the importance of local farmers' markets in promoting sustainable agriculture, fostering community connections, and supporting healthy, resilient food systems. In fact, the City of Berkeley passed one of the nations first "Food and Nutrition Policies" in 2001 and has worked to overcome food insecurity and health inequity while supporting California's most forward thinking farmers.

Farmers' markets have been a fundamental part of the cultural landscape within the City of Berkeley Community for several reasons. Farmers' markets serve as community gathering spaces: a space where neighbors can meet, share stories, learn about agriculture, and foster a strong sense of belonging and connectedness.

Additionally, farmers' markets have long served as an incubator and platform for food entrepreneurs and small businesses such as Blue Bottle Coffee, Cowgirl Creamery, Hodo Soy, the Fatted Calf, Red Bay Coffee and so many others, bolstering the regional and national economy.

Moreover, farmers' markets play a crucial role in supporting innovative family farmers to lead the way in sustainable, regenerative, biodiverse, organic, and biodynamic agriculture, by way of mitigating contributing to our global climate crisis and reducing the toxic impacts of pesticides on farmworkers, pollinators, ecosystems and drinking water.

RATIONALE FOR RECOMMENDATION

National Farmers' Market Week, celebrated annually during the first week of August, highlights the vital contributions of farmers' markets across the nation.

FISCAL IMPACTS

No impact on the general fund.

CONTACT PERSON

Vice Mayor Ben Bartlett  
James Chang  
Nina (Wenxin) Li  
Tina Posner

[bbartlett@cityofberkeley.info](mailto:bbartlett@cityofberkeley.info)  
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510-981-7130

BERKELEY FARMERS' MARKET WEEK

**WHEREAS**, the City of Berkeley has long been on the forefront of the farm-to-table movement by recognizing the importance of local farmers' markets in promoting sustainable agriculture, fostering community connections, and supporting healthy, resilient food systems; and

**WHEREAS**, the community based farmers' markets, operated with the highest standards by the Ecology Center in Berkeley since 1989, are deeply ingrained in the city's culture, providing access to fresh fruits and vegetables for shoppers of all incomes, while advancing beginning farmers, veteran and women-owned farms, and supporting farmworkers in becoming farm owners; and

**WHEREAS**, the City of Berkeley passed one of the nations first "Food and Nutrition Policies" in 2001 and has worked to overcome food insecurity and health inequity while supporting California's most forward thinking farmers; and

**WHEREAS**, Berkeley is committed to further fostering a healthy and resilient community, one that values access to nutritious, delicious, locally-sourced food for all its citizens; and

**WHEREAS**, farmers' markets contribute to the economic vitality of the community by supporting a direct marketing system in which local and regional family farmers receive 90 cents of every dollar spent; and

**WHEREAS**, farmers' markets have served as an incubator and platform for food entrepreneurs and small businesses such as Blue Bottle Coffee, Cowgirl Creamery, Hodo Soy, the Fatted Calf, Red Bay Coffee and so many others, bolstering the regional and national economy; and

**WHEREAS**, farmers' markets serve as community gathering spaces: a space were neighbors can meet, share stories, learn about agriculture, and foster a strong sense of belonging and connectedness; and

**WHEREAS**, farmers' markets play a crucial role in supporting innovative family farmers to lead the way in sustainable, regenerative, biodiverse, organic, and biodynamic agriculture, by way of mitigating contributing to our global climate crisis and reducing the toxic impacts of pesticides on farmworkers, pollinators, ecosystems and drinking water; and

**WHEREAS**, National Farmers' Market Week, celebrated annually during the first week of August, highlights the vital contributions of farmers' markets across the nation;

**NOW THEREFORE, BE IT RESOLVED** that, I, Jesse Arreguín, Mayor of the City of Berkeley, do hereby affirm Berkeley's commitment to healthy sustainable food systems and call upon all residents, businesses, and community organizations to join in celebrating the abundance, diversity, and sustainability of our local farmers' markets, do hereby proclaim August 6-12 2023 as

BERKELEY FARMERS' MARKET WEEK







Susan Wengraf  
Councilmember District 6

CONSENT CALENDAR  
July 25, 2023

To: Honorable Mayor and Members of the City Council  
From: Councilmember Wengraf (author), Councilmember Harrison (co-sponsor)  
Subject: Commemoration of the 100<sup>th</sup> Anniversary of the 1923 Berkeley Fire:  
Relinquishment of Council Office Budget Funds from General Funds and Grant  
Such Funds

RECOMMENDATION

Adopt a Resolution approving the expenditure of an amount not to exceed \$500 per Councilmember or Mayor, including \$500 from Councilmembers Wengraf and Harrison, to support the City’s Commemoration of the 100<sup>th</sup> Anniversary of the 1923 Berkeley Fire with funds relinquished to the City’s general fund. The relinquishment of funds from Councilmembers Wengraf and Harrison’s discretionary Council Office Budgets and all other Councilmembers and Mayor who would like to contribute will support a community fair with family friendly activities, including historical and educational displays and activities for the 1923 Fire Commemoration on September 17, 2023.

FINANCIAL IMPLICATIONS

No General Fund impact: up to \$500 is available from contributing Councilmember’s and the Mayor’s Office Budget discretionary accounts.

BACKGROUND

On September 23, 1923, a grass fire on the eastern slope of the Berkeley hills spread quickly as it was fueled by Diablo winds, destroying 640 structures, including 584 homes on the northside of the UC campus. When the winds finally calmed down the fire was contained at the corner of Shattuck and Hearst. Embers from the flames created smaller fires throughout the downtown and western area of Berkeley. As a result, thousands of residents became homeless including 1,000 UC Berkeley students.

To commemorate the 100<sup>th</sup> anniversary of this devastating fire, several COB departments and external grassroots organizations are working together to plan a day of activities and learning opportunities. The groups involved in planning the event include Councilmembers Hahn, Harrison and Wengraf, COB Fire, COB Parks, Berkeley Historical Society, BAHA and Berkeley Path Wanderers, FireWise groups and the Berkeley FireSafe Council.

The proposed community fair at Live Oak Park will include family friendly activities for children, an exhibit, a walking tour of homes that survived the fire, an evacuation exercise, interactive games with firefighters, exploring the paths in the burned area, and booths for organizations to distribute relevant information and educational materials. Fire trucks will be available for young children to sit on for photos.

The commemoration of the 100<sup>th</sup> year anniversary of the 1923 Fire is an important opportunity and sober reminder of the risks Berkeley faces, as well as an occasion to come together as a community and learn how to become a more resilient and fire safe city.

The fiscal sponsor for these donations will be The Hillside Association of Berkeley, a 501c3 non-profit in the State of California and affiliate of the Berkeley Fire Safe Council.

ENVIRONMENTAL SUSTAINABILITY

Wildfire is devastating to the environment, and one of the largest contributors of greenhouse gases. Work towards fire safety supports environmental sustainability.

CONTACT PERSON

Councilmember Wengraf

Council District 6

510-981-7160

Attachments:

1: Resolution

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

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

WHEREAS, Councilmember Wengraf and Councilmember Harrison have surplus funds in their office expenditure accounts and will each contribute \$500, and invite the Mayor and other Councilmembers to join them in contributing; and

WHEREAS, a California nonprofit tax-exempt corporation, The Hillside Association of Berkeley, affiliate of the Berkeley Fire Safe Council, will receive funds in an amount up to \$500 per contributing Councilmember's and the Mayor's discretionary accounts; and

WHEREAS, these funds will go towards Commemorating the 100<sup>th</sup> Anniversary of the 1923 Berkeley Fire, to include a community fair at Live Oak Park with family friendly activities, educational information and historical displays about the September 17, 1923 fire; and

WHEREAS, the provision of such funds would fulfill the municipal public purpose of honoring the devastation the community and city endured from the 1923 fire, and coming together as a community to learn how to become a more resilient and fire safe city.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that funds relinquished by the Mayor and Councilmembers from their Office Budgets, up to \$500 per office, shall be granted to the Hillside Association of Berkeley, affiliate of the Berkeley Fire Safe Council, to fund the Commemoration of the 100<sup>th</sup> Anniversary of the 1923 Berkeley Fire on September 17, 2023.





CITY COUNCILMEMBER  
**RIGEL ROBINSON**  
DISTRICT 7

CONSENT CALENDAR  
July 25, 2023

To: Honorable Mayor and Members of the City Council  
From: Councilmember Rigel Robinson (Author), Councilmember Sophie Hahn (Co-Sponsor), Councilmember Mark Humbert (Co-Sponsor)  
Subject: Resolution Supporting the Unionization of Peet’s Coffee Workers

RECOMMENDATION

Adopt a Resolution in support of workers at Peet’s Coffee unionizing under the Industrial Workers of the World IU 460

BACKGROUND

In June 2023, three East Bay Peet’s Coffee locations, including the Telegraph and Dwight location in Berkeley, joined a growing movement of union organizing in the food and beverage industry and filed petitions for union elections under the Industrial Workers of the World IU 460 with the National Labor Relations Board (NLRB).<sup>1</sup>

Peet’s Coffee workers have expressed frustration with wage stagnation, understaffing, and unsafe working conditions, and have filed for a union election to address these issues. Their demands include fair worker compensation, expanded and accessible worker benefits, safe workplace environments, and stringent accountability standards for management.<sup>2</sup>

Peet’s Coffee has been an integral part of Berkeley’s history and culture ever since it opened its first store on Vine Street in 1966. The City of Berkeley has long been a supporter of workers’ rights, including the right to organize and choose to join a union. The unionization efforts at Peet’s Coffee play an important role in furthering that support for workers at a company with such a rich history in Berkeley and the Bay Area.

FINANCIAL IMPLICATIONS

None.

ENVIRONMENTAL SUSTAINABILITY

None.

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<sup>1</sup><https://www.berkeleyside.org/2023/06/12/peets-coffee-union-efforts-oakland-berkeley>

<sup>2</sup> <https://www.peetslaborunion.org/our-demands>

CONTACT PERSON

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

Attachments:

1: Resolution

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

RESOLUTION SUPPORTING THE UNIONIZATION OF PEET'S COFFEE WORKERS

WHEREAS, workers at three Peet's Coffee locations in the East Bay, including the location at Dwight Way and Telegraph Avenue in Berkeley, have filed a petition for a union election under the Industrial Workers of the World IU 460 with the National Labor Relations Board (NLRB); and

WHEREAS, Peet's Coffee workers put their own health at risk by working tirelessly through the COVID-19 State of Emergency to serve Berkeley residents; and

WHEREAS, Peet's workers are demanding fair worker compensation, expanded and accessible worker benefits, safe workplace environments, and stringent accountability standards for management; and

WHEREAS, unionization allows frontline service workers — disproportionately women, Black and Latinx workers, and other disadvantaged groups — to fight for fair pay and working conditions when these conditions are not being met by management; and

WHEREAS, workers across the country at major chains including Starbucks, Trader Joe's and Amazon have recently won major union victories; and

WHEREAS, the first established Peet's Coffee location is located in Berkeley and Peet's Coffee is headquartered nearby in Emeryville; and

WHEREAS, it is incumbent upon Peet's Coffee management to strengthen its commitment to its workers and to the Berkeley community; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that Peet's Coffee management is urged to recognize the union representation petitions submitted by its employees seeking to unionize under the Industrial Workers of the World IU 460.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley supports the unionization efforts of the Peet's Labor Union and the unionization efforts of underpaid essential workers in Berkeley and across the country.







Office of the Mayor

CONSENT CALENDAR  
July 25, 2023

To: Honorable Mayor and Members of the City Council  
 From: Mayor Jesse Arreguín  
 Subject: Waivers for Woolsey Gardens Affordable Housing Project

RECOMMENDATION

Pursuant to Berkeley Municipal Code (BMC) Section 22.20.070 and/or 22.20.080, adopt a Resolution approving the following requests from Northern California Land Trust for the Woolsey Gardens affordable housing project at 3120-3130 Shattuck:

1. Waive the requirement in BMC Section 23C.12.070(C)(4) in force at the time of entitlement that subsequent purchasers of inclusionary units in limited equity housing cooperatives have a yearly gross income of no more than 44 percent of the cost of a unit at the time of sale.
2. Approve the provision of an additional inclusionary unit instead of paying the in-lieu fee equivalent of .44 units as required by BMC Section 23.C.12.040(E) in force at the time of entitlement.

FISCAL IMPACTS OF RECOMMENDATION

If Northern California Land Trust's (NCLT) request is granted, the organization would not pay the inclusionary fee otherwise required under the BMC for inclusionary unit fractions, which are deposited into the City's Housing Trust Fund. Instead, the project costs of producing approximately 65 units of affordable housing would be reduced, which will better leverage City funding for Woolsey Gardens.

CURRENT SITUATION AND ITS EFFECTS

NCLT requested a waiver pursuant to Berkeley Municipal Code (BMC) Sections 22.20.070 and 22.20.080 for Woolsey Gardens (3120-3130 Shattuck). NCLT proposes to develop a 100% affordable homeownership project with 41 residential condominiums and 24 units of shared cooperative housing for low- and moderate-income households.

NCLT submitted its SB 330 application on December 12, 2022, which makes the project subject to the inclusionary housing ordinance in place before City Council adopted updated affordable housing requirements in February 2023. While Woolsey Gardens meets the inclusionary requirements of the new ordinance, the former inclusionary housing ordinance includes two requirements that have since been eliminated. BMC Section 23C.12.070(C)(4) of the ordinance in force at the time of entitlement requires

that “subsequent purchasers of Inclusionary Units in Limited Equity Cooperatives shall be first time home buyers whose yearly Gross Income is no more than 44 percent of the cost of a unit at the time of sale, provided that such income shall be no more than 110 percent of the Oakland PMSA median.”

Due to State of California regulations restricting the initial sales prices for cooperative units, tying the affordability requirements of subsequent purchasers to forty-four percent of the initial sales price would restrict the majority of cooperative units to extremely low-incomes, which could negatively impact the project’s long-term financial feasibility and result in a loss of equity for owners. If this requirement were waived, all units at Woolsey Gardens would still be subject to affordability restrictions established by the inclusionary housing ordinance and the Housing Trust Fund Guidelines.

According to the inclusionary requirements established in the ordinance in force at the time of entitlement, Woolsey Gardens must set aside 12.24 cooperative units and 4.2 of the condominiums as inclusionary units. BMC Section 23C.12.040(E) also requires that in “projects where the calculation of the inclusionary requirement results in a fraction of a unit, such a fraction shall be paid in the form of an in-lieu fee to the City”. Since Woolsey Gardens is a 100% affordable project that will rely on public and philanthropic financing, NCLT proposes to restrict an additional inclusionary unit instead of paying the in-lieu fee equivalent to .44 units.

Supporting Woolsey Gardens is a Strategic Plan Priority Project, advancing our goal to create affordable housing and housing support service for our most vulnerable community members.

## BACKGROUND

On June 13, 2023, the Berkeley City Council awarded NCLT with \$1,000,000 in predevelopment funding from the Housing Trust Fund to redevelop the site of its current headquarters at 3120-3130 Shattuck Avenue into a multifamily homeownership project. The Woolsey Gardens site is owned by NCLT, who will continue to own the land after development for permanent stewardship.

NCLT proposes to develop a mixed-use green building with 65 units of limited equity housing at a range of affordability levels for households earning between 30% and 120% AMI. Woolsey Gardens will consist of studio, 1-bedroom, and 2-bedroom apartments. The building will also have ground floor commercial space for nonprofits and emerging entrepreneurs.

As a project aiming to repair historic and current harms of displacement, Woolsey Gardens is partnering with community organizations to provide opportunities for displaced households to return to South Berkeley as well as housing stability for low-income households that still remain.

**Enabling Provisions in the Berkeley Municipal Code**

BMC Section 22.20.070 establishes the following exception/limit where an applicant establishes inapplicability or unconstitutionality of general requirements:

A. *Notwithstanding any other provision of this chapter, the requirements of this chapter shall not apply or shall be limited as follows:*

1. *No mitigation and/or fees shall be imposed on any applicant or development project where the applicant establishes to the City's satisfaction that the proposed development project will not generate any additional need for affordable housing, child care and/or public facilities, adequate employment training and placement services or amenities or any other impact for which a mitigation and/or fee is otherwise required;*

2. *The amount and/or level of any mitigation and/or fee under this chapter shall not exceed the reasonable cost of either satisfying the additional demand for affordable housing, child care and/or public facilities, adequate employment training and placement services or amenities or of eliminating and/or reducing to an acceptable level any other impact which reasonably may be anticipated to be generated by or attributed to any individual development project;*

3. *The City shall not condition any permit in any manner which results in a deprivation of the applicant's constitutional rights.*

B. *The burden of establishing by satisfactory factual proof the applicability and elements of subsections (A)(1), (A)(2) and (A)(3) of this section shall be on the applicant*

C. *No exemption or limit shall be granted pursuant to this section unless a finding is made, based on satisfactory factual proof provided by the applicant, that at least one of the requirements set forth in subsection (A)(1), (A)(2) or (A)(3) of this section has been satisfied. (Ord. 6179-NS § 7, 1993)*

Furthermore, BMC Section 22.20.080 establishes the following hardship exception:

A. *Notwithstanding any other provision of this chapter, the requirements of this chapter in the discretion of the City may be waived or limited for a particular development project where both of the following findings are made:*

1. *The imposition of the mitigation and/or fees otherwise required by the City make the development of the particular project infeasible; and*

2. *The benefits to the City from the particular development project outweigh its burdens in terms of increased demand for affordable housing, child care and/or public facilities, adequate employment training and placement services and/or amenities and/or other impacts which reasonably may be anticipated to be generated by and/or attributable to the development project.*

*B. The burden of establishing by satisfactory factual proof the applicability and elements contained in subsections (A)(1) and (A)(2) of this section shall be on the applicant*

On June 23, 2023 NCLT submitted a memorandum requesting a waiver pursuant to BMC Sections 22.20.070 and 22.20.080 (**Attachment 2**), which establishes satisfactory factual proof that the Project will not generate any affordable housing impacts and that paying the in-lieu fee equivalent of .44 units is not feasible for the project.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Supporting this project will advance sustainability goals put forth in the Climate Action Plan. NCLT is aiming to make Woolsey Gardens a zero net energy building with LEED Platinum certification and extended grid outage resilience utilizing mass timber and cross laminated timber technology.

RATIONALE FOR RECOMMENDATION

As a 100% affordable Housing Trust Fund project, Woolsey Gardens addresses the City's need for affordable housing and approving NCLT's request will maximize the project's overall public benefit.

CONTACT PERSON

Mayor Jesse Arreguín (510) 981-7100

Attachments:

- 1: Resolution
- 2: Memo from Northern California Land Trust to Mayor Arreguín, June 23, 2023

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

WAIVERS FOR THE WOOLSEY GARDENS AFFORDABLE HOUSING PROJECT

WHEREAS, City Council established a Housing Trust Fund Program (HTF) to assist in the development and expansion of housing affordable to low- and moderate-income persons who either work or reside within the City of Berkeley, and authorized the City Manager to implement the Program; and

WHEREAS, on December 12, 2022, Northern California Loan Trust (NCLT) submitted an SB 330 application to construct a new 65-unit affordable housing development at 3120-3130 Shattuck Avenue (Woolsey Gardens); and

WHEREAS, Woolsey Gardens will be a 100 percent affordable housing project, with units affordable to households earning between 30 percent and 120 percent of the area median income; and

WHEREAS, at its June 13, 2023 meeting, City Council approved reserving \$1,000,000 from Housing Trust Fund program funds for a predevelopment loan for Woolsey Gardens; and

WHEREAS, Woolsey Gardens is subject to the inclusionary housing ordinance in effect at the time of its SB 330 application, and said ordinance includes provisions that would negatively impact the project's feasibility if applied; and

WHEREAS, on June 23, 2023, NCLT submitted a memorandum requesting a waiver pursuant to Berkeley Municipal Code (BMC) Sections 22.20.070 and 22.20.080.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that pursuant to Berkeley Municipal Code (BMC) Section 22.20.070 and/or 22.20.080, Council waives for the affordable housing project at 3120-3130 Shattuck the requirement in BMC Section 23C.12.070(C)(4) in force at the time of entitlement that subsequent purchasers of inclusionary units in limited equity housing cooperatives have a yearly gross income of no more than 44 percent of the cost of a unit at the time of sale.

BE IT FURTHER RESOLVED that pursuant to BMC Section 22.20.070 and/or 22.20.080, the affordable housing project at 3120-3130 Shattuck shall provide an additional inclusionary unit instead of paying an in-lieu fee equivalent to .44 units as required by BMC Section 23.C.12.040(E) in force at the time of entitlement.



**WOOLSEYGARDENS**

Reimagining Affordable Housing in a Carbon-Constrained Future

23 June 2023

Mayor Jesse Arreguín  
2180 Milvia Street  
Berkeley, CA 94704

**RE: BMC WAIVER + MODIFICATION REQUESTS FOR WOOLSEY GARDENS**

Dear Mayor Arreguín,

Thank you for your, the Berkeley City Council's, and the City of Berkeley Housing Advisory Commission's support for **Woolsey Gardens**, which aims to be the first-of-its-kind affordable housing project in the United States. Pursuant to Berkeley Municipal Code ("BMC") Sections 22.20.070 and 22.20.080, this letter is a formal request (1) to waive a certain provision, BMC Section 23.C.12.070 (C)(4), which restricts the resale price of limited equity cooperative units satisfying the inclusionary housing provision below their initial affordable price; and (2) to modify another provision, BMC Section 23.C.12.040 (E), so that the Northern California Land Trust ("NCLT") can provide an additional affordable inclusionary unit, versus paying an in-lieu fee, to address the resulting fractional inclusionary units calculated when applying the inclusionary unit formulas to Woolsey Gardens.

**City of Berkeley and City Council's Support for Woolsey Gardens**

On June 13, 2023, the Berkeley City Council voted to approve a \$1 million predevelopment loan request by NCLT to further predevelopment of Woolsey Gardens. This matches a ~\$1 million predevelopment grant previously awarded by the California Energy Commission ("CEC") to predevelop Woolsey Gardens. The City's loan will enable the project team to submit, by the September 2023 deadline, a competitive application to the CEC EPIC Build Phase Grant program. NCLT is one of three project developers invited to compete for the \$8 million CEC EPIC Build Phase Program's Northern California regional grant.

**About Woolsey Gardens: First-of-Its-Kind Affordable Housing Model**

The goal of Woolsey Gardens is to provide an opportunity for low- to moderate-income ("LMI") households to own energy efficient housing units and for existing nonprofit tenants to continue delivering critical services to the local community. Furthermore, the broader mission of Woolsey Gardens is to make the case for a viable, long-term alternative solution—one that is replicable, sustainable, and financeable—to the critical affordable housing shortage crisis facing Berkeley, the greater San Francisco Bay Area, and California.

Woolsey Gardens is a proposed mixed-use project to be sited at 3120-3130 Shattuck Avenue in South Berkeley, which is currently owned by NCLT. In addition to nonprofit office and micro-retail spaces, the project aims to offer 100% of the 65 affordable **ownership**, not rental, units to LMI households. Of the total 65 units offered at Woolsey Gardens, 24 will be limited equity cooperative housing units ("coop units" or "LEHCs") and 41 will be limited equity housing condominiums ("condos").



Key features of Woolsey Gardens include the following:

- 100% Permanently Affordable**

  - **100% Permanently Affordable Units**, targeting primarily extremely low- (30% AMI) to low-income (80% AMI) households;
- 100% Ownership Units**

  - **100% Ownership not Rental, Units**, offering up to 24 limited equity cooperative housing units and up to 41 limited equity housing condominiums;
- Sustainable / Zero Net Energy**

  - **Sustainable / Zero Net Energy (ZNE)**, featuring zero net energy, 100% solar energy generation, mass timber construction, extended grid outage capability, community resilience, enhanced passive house mechanical system, and LEED Platinum certification;
- Community Services + Spaces**

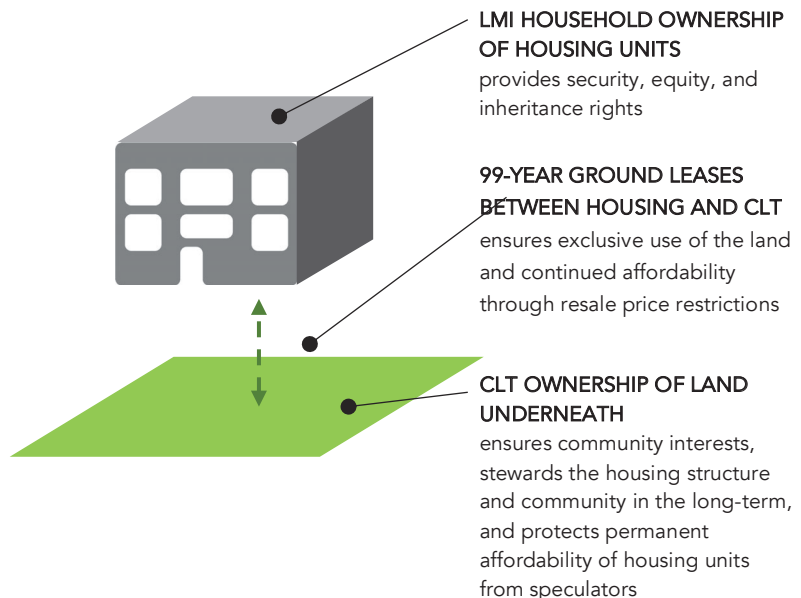
  - **Community Services + Spaces**, including ground floor, podium, and rooftop outdoor spaces and community spaces for current nonprofit tenants providing critical services to the surrounding community and retail spaces for local micro entrepreneurs; and
- Replicability**

  - **Replicability**, providing an alternative small parcel, infill development solution to urban renewal projects that have historically damaged neighborhoods and a viable and alternative strategy to meet California’s significant affordable housing shortage.

**Benefits of Ownership Housing and The Right to Return, The Right to Stay**

As a fifty-year-old nonprofit, NCLT has incubated, provided, and supported permanently affordable housing in the San Francisco Bay Area. While NCLT provides a gamut of permanently affordable housing types, ranging from rental to ownership units, NCLT believes that **ownership housing** is a viable, long-term alternative solution to the current affordable housing shortage crisis because it provides the stability and foundation that support both individuals and the communities around them for the long-term. Based on its long-history with ownership housing in the Bay Area, NCLT has found that community-based ownership and co-stewardship of land and homes help transform housing into a cornerstone for local community empowerment.

NCLT is one of the oldest **Community Land Trusts (“CLT”)** in the US. Under the CLT structure, NCLT owns the land under the project and ground leases that land to the individual owners. Ground leases serve as the vehicle by which NCLT restricts the resale prices of units and imposes other community purpose use restrictions on the site in perpetuity. This CLT model has been a long-accepted part of the broader nationwide affordable ownership ecosystem, with Fannie Mae and other major lenders providing loans for CLT homes for more than 20 years. The success of the model is borne out by studies that show the CLT model has the lowest rate of foreclosure of any type of homeownership.





Benefits of owning a CLT home include the following:

- **The Right to Return and The Right to Stay.** CLT homes provide opportunities for residents who have been displaced to return and remain.
- **Affordability.** A Berkeley 2-bedroom CLT condo recently sold for \$280,000, which is significantly lower than nearby similarly sized market-rate condos which sold at a price over \$800,000.
- **Generational Longevity.** CLT homes can be passed on to children.
- **Build Equity.** A recent CLT sale of \$280,000 allowed the seller, a homeowner of 10 years, to leave with \$80,000 in equity and the purchasing household an opportunity to live in South Berkeley affordably.
- **Mortgage Assistance.** CLTs can connect certain potential household owners with up to \$200,000 in down payment assistance and to beneficial lending programs.
- **Support for Residents.** CLTs offer ongoing training and support for residents to manage finances, make decisions together, and nurture community life.

Situated in the Adeline Corridor area of South Berkeley, Woolsey Gardens will provide first-time homebuyers an opportunity to return and stay in South Berkeley. For 120 years, the area has been one of Berkeley's most culturally and economically diverse neighborhoods and has played an important role in Berkeley's Black/African-American and Japanese-American communities; however, in recent decades—fueled by racism, redlining, and gentrification—the neighborhood's demography has shifted, with the Black/African-American population dramatically declining from 47% of the population in 1990 to just 17.6% in 2017<sup>1</sup>. In all, Woolsey Gardens aims to leverage the area's offering of amenities, such as mass transit, and critical services, such as schools, and to partner with household owners to create and sustain an enduring and impactful community.

### Applicable Statute

In December 2022, NCLT submitted an SB 330 application (aka "Preliminary SB 35 Application") for Woolsey Gardens to the City of Berkeley's Planning Department. This submission established the version of the municipal ordinance to which Woolsey Gardens is subject ("Pre-2023 Version"). Please note that we have attached this version of the relevant chapter, BMC Chapter 23.C.12: Inclusionary Housing Requirements of the Berkeley Municipal Code ("BMC"), in Appendix A of this letter.

Please also note that we attached a copy of BMC Sections 22.20.070 and 22.20.080, which are enabling provisions through which NCLT is pursuing the waiver and modification requests, in Appendix B of this letter.

<sup>1</sup> <https://berkeleyca.gov/sites/default/files/2022-03/Adeline-Corridor-Specific-Plan.pdf>





**REQUEST #1: Waiver to BMC Section 23.C.12.070 (C)(4) (“Pre-2023 Version”).**

Pursuant to (1) BMC 22.20.070, which provides an exception or limit where applicant establish inapplicability or unconstitutionality of general requirements, and to (2) BMC 22.20.080, which provides a hardship exception, NCLT is requesting a waiver of the provision set forth in BMC Section 23.C.12.070 (C)(4) (“Pre-2023 Version”) that in certain circumstances **would require the initial owner of a permanently affordable limited equity coop unit at Woolsey Gardens to resell their unit to a subsequent purchaser at a price far below the initial sales price.** With regard to the former, Woolsey Gardens is a project offering 100% of units as permanently affordable ownership units to LMI households and, therefore, will not generate any additional need for affordable housing, child care and/or public facilities. With regard to the latter, Woolsey Gardens is a project relying on public funding and, therefore, the strict application of BMC Section 23.C.12.070 (C)(4) would impose a hardship that would render the project infeasible. Furthermore, the benefits of Woolsey Gardens to the City of Berkeley, among which is the provision of affordable housing, outweigh the burdens which reasonably may be anticipated to be generated by and/or attributable to the development project.

In the Pre-2023 version of the Inclusionary Housing chapter, there is a provision that impacts sales of limited equity cooperative units subsequent to initial sale, which states as follows:

*Purchasers of Inclusionary Units in Limited Equity Cooperatives at time of first occupancy shall be first time home buyers with Gross Incomes no greater than 120 percent of the Oakland PMSA median. Subsequent purchasers of Inclusionary Units in Limited Equity Cooperatives shall be first time home buyers whose yearly Gross Income is **no more than 44 percent of the cost of a unit at the time of sale, provided that such income shall be no more than 110 percent of the Oakland PMSA median.** [emphasis added]*

This provision is problematic because it could result in a significant loss of equity to the household owner and loss to the lender (who would probably not provide debt capital in the first place). This not only runs counter to the mission of CLT homeownership but could also jeopardize efforts to secure construction financing for Woolsey Gardens.

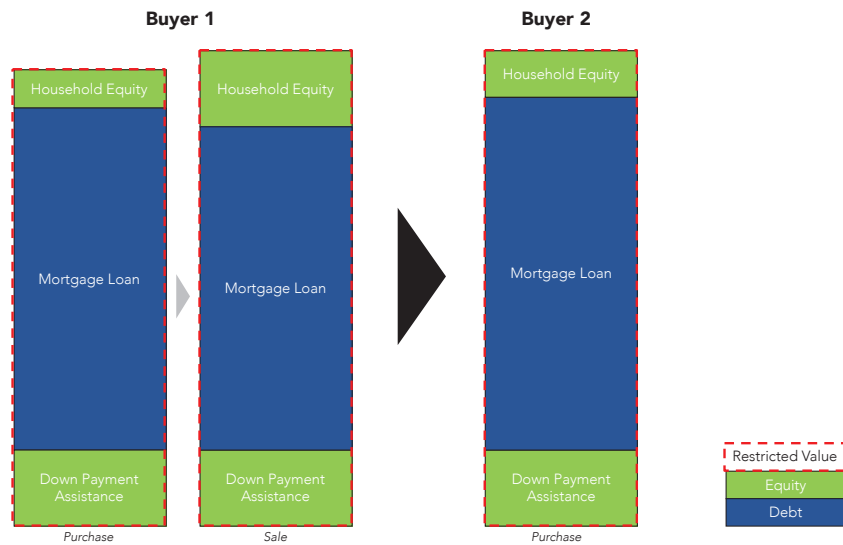
Please note that the initial LEHC share prices are typically limited under state law to 10% of the total development cost of the unit under CA Bus. & Prof. Code §11003.4 (b) (2) which states as follows:

*No more than 20 percent of the total development cost of a limited-equity mobile home park, and no more than 10 percent of the total development cost of other limited-equity housing cooperatives, is provided by purchasers of membership shares.*

While the BMC restricts the initial sale to a price affordable to a 110% of income household, the BMC provisions do not appear to consider the initial share price limitation of an LEHC share, where the share price represents only a portion of the total monthly housing cost. The Pre-2023 code requires the subsequent resale purchaser’s income to be limited to 44% of the resale share price, but does not account for the monthly carrying charge costs of the limited equity cooperative. For example, a unit set as affordable to an 80% of AMI household with a total development cost of \$500,000 would have its initial share price limited to \$50,000 (10% of the TDC) under state law. If not waived, the Pre-2023 BMC code would require, at the first resale, the income limit for unit purchasers to drop from 110% of AMI to 22% of AMI, without providing any additional subsidy. This could result in a financially devastating loss of equity for our initial purchasers.

As discussed previously, one of the pivotal objectives of providing CLT homeownership opportunities for low-income households is to offer these disadvantaged households an elusive opportunity to build wealth via increasing equity.

How does equity increase in a CLT home? As demonstrated in the illustration below, Buyer 1 provides equity, about 3% to 5% of the unit share’s value. When selling the unit to Buyer 2, despite an affordability ceiling on the value of the unit, because of (1) an increase in regional AMI and (2) mortgage principal paydown during the hold period, a household’s initial equity contribution increases. (Please note that for limited equity cooperative units, the “mortgage loan” represents the limited equity housing cooperative’s master mortgage, rather than the individual unit’s mortgages in the condominium units). Importantly, the unit remains affordable for Buyer 2.



We, therefore, respectfully request that the subsequent resale provision of the Pre-2023 code limiting the subsequent resale of limited equity units to households earning 44% of the resale share price or less be waived in order to avoid potentially devastating losses of equity for our initial LMI purchasers of limited equity cooperative units. Specifically, NCLT is requesting a waiver which would eliminate the problematic language identified below:

*Purchasers of Inclusionary Units in Limited Equity Cooperatives at time of first occupancy shall be first time home buyers with Gross Incomes no greater than 120 percent of the Oakland PMSA median. Subsequent purchasers of Inclusionary Units in Limited Equity Cooperatives shall be first time home buyers whose yearly Gross Income is ~~no more than 44 percent of the cost of a unit at the time of sale, provided that such income shall be no more than 110 percent of the Oakland PMSA median.~~*

This would not only enable low-income household owners at Woolsey Gardens the opportunity to build wealth via housing ownership but also allow for NCLT to tap critical construction financing for Woolsey Gardens.



**REQUEST #2: Modification to BMC Section 23.C.12.040 (E), (“Pre-2023 Version”).**

Pursuant to (1) BMC 22.20.070, which provides an exception or limit where applicant establish inapplicability or unconstitutionality of general requirements, and to (2) BMC 22.20.080, which provides a hardship exception, NCLT is requesting a modification of the provision set forth in BMC Section 23.C.12.040 (E) (“Pre-2023 Version”) requiring the projects **where the calculation of the inclusionary requirement results in a fraction of a unit, such a shall be paid in the form of an in-lieu fee to the City.** With regard to the former, Woolsey Gardens is a project offering 100% of units as permanently affordable ownership units to LMI households and, therefore, will not generate any additional need for affordable housing, child care and/or public facilities. With regard to the latter, Woolsey Gardens is a project relying on public funding and, therefore, the strict application of BMC Section 23.C.12.040 (E) would impose a hardship that would render the project infeasible. Furthermore, the benefits of Woolsey Gardens to the City of Berkeley, among which is the provision of affordable housing, outweigh the burdens which reasonably may be anticipated to be generated by and/or attributable to the development project.

The following table sets forth the resulting calculations after application of Inclusionary Housing Requirements on Woolsey Gardens:

|                                                 | A             | B                         | C                 | D               |
|-------------------------------------------------|---------------|---------------------------|-------------------|-----------------|
| Inclusionary                                    | Coop Units    | Condo (Studio; 1 BR/1 BA) | Condo (2 BR/1 BA) | Total           |
| All Units                                       | 24 units      | 21 units                  | 20 units          | 65 units        |
| Inclusionary Units Required Under Pre 2023 Code | 51% of units  | 20% of units              | 20% of units      | 20.44 units     |
|                                                 | 12.24 * units | 4.2 * units               | 4 units           |                 |
| Max AMI for Inclusionary Units                  | 120% AMI      | 80% AMI                   | 80% AMI           |                 |
| <b>Total Proposed Inclusionary Units</b>        |               |                           |                   | <b>21 Units</b> |

As distinguished by the asterisks above (\*), applying the Inclusionary Housing percentages creates fractional units. According to BMC Section 23.C.12.040 (E),

*In projects where the calculation of the inclusionary requirement results in a fraction of a unit, such a fraction shall be paid in the form of an in-lieu fee to the City.*

Instead, NCLT would prefer to apply an alternate remedy, specifically providing an additional inclusionary unit versus paying an in-lieu fee. In other words, NCLT is requesting a modification to the provision, resulting in the provision of 21 inclusionary housing units Woolsey Gardens versus paying the City an in-lieu fee.



**WOOLSEYGARDENS**

Reimagining Affordable Housing in a Carbon-Constrained Future

**Conclusion**

NCLT believes that Woolsey Gardens offers a viable, long-term alternative solution—one that is replicable, sustainable, and financeable—addressing the critical affordable housing shortage crisis facing Berkeley and acknowledging the reparations called for by the Equity 4 Black Berkeley movement. NCLT appreciates the Berkeley City Council’s past and continued support for this important project and hopes that the Council will consider these waiver and modification requests. Thank you for your time consideration of this critical and urgent request.

Sincerely,

A handwritten signature in black ink, appearing to read "Anne-Marie Flynn".

Anne-Marie Flynn  
Interim Executive Director  
Northern California Land Trust

A handwritten signature in black ink, appearing to read "Suzanne Kim".

Suzanne Kim  
Director of Real Estate Development  
Northern California Land Trust

A handwritten signature in black ink, appearing to read "Ian Winters".

Ian Winters  
Director of Incubation/Special Projects  
Northern California Land Trust

**APPENDIX A. Pre-2023 Version of BMC Chapter 23C.12: Inclusionary Housing Requirements**

**Chapter 23C.12: Inclusionary Housing Requirements**

**Chapter 23C.12**

**INCLUSIONARY HOUSING REQUIREMENTS\***

**Sections:**

|                   |                                                                                                   |
|-------------------|---------------------------------------------------------------------------------------------------|
| <b>23C.12.010</b> | <b>Purpose</b>                                                                                    |
| <b>23C.12.020</b> | <b>Applicability of Regulations</b>                                                               |
| <b>23C.12.030</b> | <b>General Inclusionary Requirement: 20% of Units</b>                                             |
| <b>23C.12.035</b> | <b>Payment of In-Lieu Fees as an Alternative to Providing Inclusionary Units within a Project</b> |
| <b>23C.12.040</b> | <b>Requirements Applicable to all Inclusionary Units</b>                                          |
| <b>23C.12.050</b> | <b>Repealed by Ord. 7644-NS</b>                                                                   |
| <b>23C.12.060</b> | <b>Inclusionary Unit Requirements for Rental Housing Projects</b>                                 |
| <b>23C.12.070</b> | <b>Inclusionary Unit Requirements for Ownership Projects*</b>                                     |
| <b>23C.12.080</b> | <b>Special Requirements for Avenues Plan Area</b>                                                 |
| <b>23C.12.090</b> | <b>Administrative Regulations*</b>                                                                |
| <b>23C.12.100</b> | <b>Fees</b>                                                                                       |

\*Specific text which previously amended Berkeley Municipal Code Sections 23C.12.070A, 23C.12.070D, and 23C.12.090 for the period January 27, 2004 through February 19, 2006 was repealed on February 19, 2006 as stated in the sunset provision of Ordinance 6,790-N.S. These specific text amendments were reinstated by Ordinance 6,920-N.S., adopted on May 23, 2006.

**Section 23C.12.010 Purpose**

The purpose of this chapter is to promote achievement of the City Housing Element goals for developing affordable housing for Households with incomes below the median, as defined in this chapter, or, in the case of Limited Equity Cooperatives, households with incomes below 120% of the median income by requiring the inclusion of affordable Dwelling Units in specified proposed developments, hereinafter referred to as projects. (Ord. 6478-NS § 4 (part), 1999)

**Section 23C.12.020 Applicability of Regulations**

- A. The following types of projects must comply with the inclusionary housing requirements of this chapter:
1. Residential housing projects for the construction of five or more Dwelling Units;
  2. Residential housing projects for the construction of one to four new Dwelling Units, when such Units are added to an existing one to four unit property, which has been developed after August 14, 1986, and the resulting number of units totals five or more. All Units in such a property are subject to the requirements of this chapter;
  3. Residential housing projects proposed on lots whose size and zoning designation is such to allow construction of five or more Dwelling Units.
- B. This chapter does not apply to Dormitories, Fraternity and Sorority Houses, Boarding Houses, Residential Hotels or Live/Work Units, which are not considered Dwelling Units. Live/Work Units are subject to low income inclusionary provisions set forth in Section 23E.20.080.
- C. This chapter sets forth specific inclusionary housing requirements for the Avenues Plan Area, which prevails over any inconsistent requirements set forth elsewhere in this chapter. (Ord. 6478-NS § 4 (part), 1999)

### Chapter 23C.12: Inclusionary Housing Requirements

#### Section 23C.12.030 General Inclusionary Requirement: 20% of Units

- A. Any project subject to this chapter is required to include at least 20% of the total number of Dwelling Units within the project as Inclusionary Units, except that Limited Equity Cooperatives are required to include at least 51% of their units as Inclusionary Units.
- B. In applying the percentages above, any decimal fraction above a whole number of Dwelling Units shall be paid as an in-lieu fee.
- C. For the purpose of determining the median income levels for Households under this chapter, the City shall use the Oakland Primary Metropolitan Statistical Area (PMSA) statistical figures that are available to the City from the most recent U.S. Census. (Ord. 6478-NS § 4 (part), 1999)

#### Section 23C.12.035 Payment of In-Lieu Fees as an Alternative to Providing Inclusionary Units within a Project

- A. Applicability. As an alternative to providing inclusionary units required in an ownership project, the applicant may elect to enter in an agreement with the City to pay fees as set forth in this section, in-lieu of providing units that are not required to be provided at below market prices pursuant to Government Code Section 65915.
- B. Purpose. The fee shall be deposited in the City's Housing Trust Fund.
- C. Amount of Fee.
  1. The in-lieu fee shall be sixty two and a half percent (62.5%) of the difference between the permitted sale price for inclusionary units and the amounts for which those units are actually sold by the applicant.
  2. This fee shall be calculated and collected based on the sales prices of all of the units in a project to which the inclusionary requirement applies, such that the fee as charged shall be a percentage of the difference between the actual sales price for each unit, and the sales price that would have been permitted had that unit been an inclusionary unit. The percentage shall be determined using the following formula: the number of units for which an in-lieu fee is substituted for an inclusionary unit divided by the total number of units to which the inclusionary ordinance applies, multiplied by 62.5%.
  3. This fee shall only be applicable to units in a project that are counted in determining the required number of inclusionary units in a project and shall not be applicable to any units provided as a density bonus.
  4. In the event that the City Manager makes a determination that an actual sales price does not reflect the fair market value of a unit, the City Manager shall propose an alternate price based on the fair market value of the unit. In the event that the developer and the City Manager cannot agree on a fair market value the City Manager shall select an appraiser to carry out an appraisal of the unit and the appraised value shall be used as the market value.
- D. Calculation of Inclusionary Sales Price.
  1. The allowable inclusionary sales price for the purpose of calculating the in-lieu fee pursuant to this section shall be three (3) times eighty percent (80%) of the Area Median Income (AMI) last reported as of the closing date of the sale of the unit, with the exception that if the developer has already been authorized to charge an inclusionary sale price based on development costs pursuant to Ordinance 6,790-N.S. (adopted January 27, 2004, sunsetted February 19, 2006) the allowable inclusionary sale price for the purposes of this section shall be the price permitted under that ordinance.
  2. Area median income (AMI) shall be calculated in accordance with the affordability regulations established by the City Manager pursuant to Section 23C.12.090.

### Chapter 23C.12: Inclusionary Housing Requirements

- E. Time of Payment of Fee. The developer shall be required to pay the applicable in-lieu fee no later than the closing date of the sale of a unit as a condition of said closing.
- F. Use Permit Obtained Prior to Adoption of This Section. This section shall apply to projects for which all required Permits have already been issued, as long as no units on those projects to which this section would apply have been sold. (Ord. 6946-NS § 1, 2006)

#### Section 23C.12.040 Requirements Applicable to all Inclusionary Units

- A. All Inclusionary Units other than those in Limited Equity Cooperatives shall be sold to the City or its designee or to Low Income, Lower Income or Very Low Income Households or shall be rented to Households of similar incomes. Units in Limited Equity Cooperatives shall be sold or rented to Households whose gross incomes do not exceed 120% of the Oakland PMSA median.
- B. The applicant shall execute a written agreement with the City indicating the number, type, location, approximate size and construction schedule of all Dwelling Units and other information as required for determining compliance with this chapter.
- C. All Inclusionary Units in a project and phases of a project shall be constructed concurrently with, or prior to, the construction of non-inclusionary units.
- D. All Inclusionary Units shall be reasonably dispersed throughout the project, be of the same size and contain, on average, the same number of bedrooms as the non-Inclusionary Units in the project; and be comparable with the design or use of non-inclusionary units in terms of appearance, materials and finish quality.
- E. In projects where the calculation of the inclusionary requirement results in a fraction of a unit, such a fraction shall be paid in the form of an in-lieu fee to the City.
  - 1. The in-lieu fee shall be the fractional value of the difference between development cost (excluding marketing costs and profit) and actual sales price for the average comparable unit in projects, where Government Code Section 65915 does not apply, and the difference between affordable cost for an appropriately-sized household and the fractional value of the average comparable actual sales price for the fraction of the unit in projects where Government Code Section 65915 does apply to require a Density Bonus or equivalent incentive.;
  - 2. The in-lieu fee shall be used by the City or its designee (such as a non-profit housing development corporation), to provide, construct or promote the creation or retention of low income housing in the City. The use of in-lieu fees for specific housing programs shall be brought before the Housing Advisory and Appeals Board for review and approval.
- F. Where the applicant demonstrates, and Staff concurs, that the direct construction and financing costs of the Inclusionary Units, excluding marketing cost and profit (and also excluding land costs if a Density Bonus or equivalent incentive is provided), exceed the selling prices allowed for Inclusionary Units by this chapter, the Board may approve one or more of the following measures to reduce costs or increase profitability:
  - 1. Reduction of the floor area or in the interior amenities of the Inclusionary Units, provided that such units conform to applicable building and housing codes;
  - 2. An increase in the number of bedrooms in the Inclusionary Units;
  - 3. In a home ownership project, construction of rental units in a number required to meet the inclusionary provisions of this chapter applicable to rental housing projects;
  - 4. Waiving of the in-lieu participation fees for fractions of units. (Ord. 6676-NS § 2, 2002: Ord. 6478-NS § 4 (part), 1999)

### Chapter 23C.12: Inclusionary Housing Requirements

- E. Time of Payment of Fee. The developer shall be required to pay the applicable in-lieu fee no later than the closing date of the sale of a unit as a condition of said closing.
- F. Use Permit Obtained Prior to Adoption of This Section. This section shall apply to projects for which all required Permits have already been issued, as long as no units on those projects to which this section would apply have been sold. (Ord. 6946-NS § 1, 2006)

#### Section 23C.12.040 Requirements Applicable to all Inclusionary Units

- A. All Inclusionary Units other than those in Limited Equity Cooperatives shall be sold to the City or its designee or to Low Income, Lower Income or Very Low Income Households or shall be rented to Households of similar incomes. Units in Limited Equity Cooperatives shall be sold or rented to Households whose gross incomes do not exceed 120% of the Oakland PMSA median.
- B. The applicant shall execute a written agreement with the City indicating the number, type, location, approximate size and construction schedule of all Dwelling Units and other information as required for determining compliance with this chapter.
- C. All Inclusionary Units in a project and phases of a project shall be constructed concurrently with, or prior to, the construction of non-inclusionary units.
- D. All Inclusionary Units shall be reasonably dispersed throughout the project, be of the same size and contain, on average, the same number of bedrooms as the non-Inclusionary Units in the project; and be comparable with the design or use of non-inclusionary units in terms of appearance, materials and finish quality.
- E. In projects where the calculation of the inclusionary requirement results in a fraction of a unit, such a fraction shall be paid in the form of an in-lieu fee to the City.
  - 1. The in-lieu fee shall be the fractional value of the difference between development cost (excluding marketing costs and profit) and actual sales price for the average comparable unit in projects, where Government Code Section 65915 does not apply, and the difference between affordable cost for an appropriately-sized household and the fractional value of the average comparable actual sales price for the fraction of the unit in projects where Government Code Section 65915 does apply to require a Density Bonus or equivalent incentive.;
  - 2. The in-lieu fee shall be used by the City or its designee (such as a non-profit housing development corporation), to provide, construct or promote the creation or retention of low income housing in the City. The use of in-lieu fees for specific housing programs shall be brought before the Housing Advisory and Appeals Board for review and approval.
- F. Where the applicant demonstrates, and Staff concurs, that the direct construction and financing costs of the Inclusionary Units, excluding marketing cost and profit (and also excluding land costs if a Density Bonus or equivalent incentive is provided), exceed the selling prices allowed for Inclusionary Units by this chapter, the Board may approve one or more of the following measures to reduce costs or increase profitability:
  - 1. Reduction of the floor area or in the interior amenities of the Inclusionary Units, provided that such units conform to applicable building and housing codes;
  - 2. An increase in the number of bedrooms in the Inclusionary Units;
  - 3. In a home ownership project, construction of rental units in a number required to meet the inclusionary provisions of this chapter applicable to rental housing projects;
  - 4. Waiving of the in-lieu participation fees for fractions of units. (Ord. 6676-NS § 2, 2002: Ord. 6478-NS § 4 (part), 1999)



**Chapter 23C.12: Inclusionary Housing Requirements**

**Section 23C.12.050 State of California Density Bonus Requirements**

*Repealed by Ord. 7644-NS. (Ord. 6848-NS § 3 (part), 2005; Ord. 6478-NS § 4 (part), 1999)*

**Section 23C.12.060 Inclusionary Unit Requirements for Rental Housing Projects**

- A. All Inclusionary Units shall be occupied by Low, Lower or Very Low Income Households.
- B. The maximum rental price for Inclusionary Units shall be affordable, as set forth in Section E below, to an appropriate-sized Household whose income is 81% of the Oakland PMSA median.
- C. In projects requiring more than one Inclusionary Unit, at least 50% of those units shall be rented at a price that is affordable to Low or Lower Income Households, provided that the City can make available rental subsidies through the federal Section 8 Existing Housing Program or an equivalent program. When there is an uneven number of Inclusionary Units, the majority of units shall be priced to be affordable to a Household at 50% of median income if subsidies are available. If no rental subsidies are available, all Inclusionary Unit prices shall be affordable to Households at 81% income of the Oakland PMSA median.
- D. If an applicant agrees to provide 10% Lower Income Inclusionary Units, the rental price for such units shall be affordable to a Household with income that is 60% of the Oakland PMSA median.
- E. A unit shall be considered affordable if the rent (including utilities) does not exceed 30% of a Household's Gross Income.
  - 1. Gross Household Income and utility allowance shall be calculated according to the guidelines used by the Berkeley Housing Authority for the federal Section 8 Existing Housing Program;
  - 2. For purposes of calculating rent, appropriate Household size shall be determined by using the schedule contained in the administrative regulations developed for this chapter.
- F. Dwelling Units designated as Inclusionary Units shall remain in conformance with the regulations of this section for the life of the building.
- G. The City or its designee shall screen applicants for the Inclusionary Units and refer eligible Households of the appropriate Household size for the unit. For purposes of occupancy, the appropriate Household size standards used by the Housing Authority for the federal Section 8 Existing Housing Program or any future equivalent program shall be used. The applicant or owner shall retain final discretion in the selection of the eligible Households referred by the City.
- H. The owner shall provide the City with data on vacancies and other information required to insure the long-term affordability of the Inclusionary Units by eligible Households. (Ord. 6478-NS § 4 (part), 1999)

**Section 23C.12.070 Inclusionary Unit Requirements for Ownership Projects\***

- A. Inclusionary Units in ownership projects shall be sold as set forth below:
  - 1. Inclusionary Units in ownership projects shall be sold at a price that is affordable to an appropriate-sized Household whose income is no more than 80% of the area median income reported for the Oakland PMSA for households of that size, unless the cost of development of the unit is greater than the affordable sales price. Appropriate sizes of household and the ratio of income to sales price for affordable units shall be defined by City Manager regulation;
  - 2. Inclusionary ownership units shall be affirmatively marketed to tenants with Section 8 housing vouchers, and who are known to be interested in participating in the Section 8 homeownership program, or other

### Chapter 23C.12: Inclusionary Housing Requirements

equivalent program(s) of the City of Berkeley, which are in effect at the time said units are offered for sale by the developer.

- B. The applicant for a project other than a Limited Equity housing Cooperative shall be required to give right-of-first-refusal to purchase any or all new Inclusionary Units to the City or a City-designated agency or organization for a period of not less than 60 days as evidenced by issuance of a Certificate of Occupancy.
- C. Should the City choose not to exercise its right-of-first-refusal, it shall provide the applicant or owner with a purchaser or with a list of eligible purchasers within a period of not less than 60 days. If the list is not provided, the applicant may select a Low Income purchaser of their choice as long as the City verifies income eligibility and the unit is sold at an affordable price as described in this chapter. The City shall maintain a list of eligible Low Income Households and review the assets and incomes of prospective purchasers of the Inclusionary Units on a project by project basis and refer potential purchasers to the applicant or owner.
1. All purchasers of Inclusionary Units shall be first-time home buyers from Low, Lower or Very Low Income Households. Purchasers shall also be required to occupy the unit except that such requirement may be waived with the approval of the City. In such cases, the unit shall be rented to a Low, Lower or Very Low Income Household at a rent affordable by such Households;
  2. Eligible City Residents will have first preference for Inclusionary Units; second preference will be given to eligible persons employed in the City. Other preferences and priorities may also be established administratively, with Planning Commission review, to help meet the City's Housing Element goals;
  3. The City shall advise all prospective purchasers on the City's eligibility list of the resale restrictions applicable to ownership of Inclusionary Units as specified in this chapter and shall provide purchasers with a Declaration of Restrictions applicable to ownership of Inclusionary Units as specified in this chapter;
  4. Purchasers of Inclusionary Units in Limited Equity Cooperatives at time of first occupancy shall be first time home buyers with Gross Incomes no greater than 120 percent of the Oakland PMSA median. Subsequent purchasers of Inclusionary Units in Limited Equity Cooperatives shall be first time home buyers whose yearly Gross Income is no more than 44 percent of the cost of a unit at the time of sale, provided that such income shall be no more than 110 percent of the Oakland PMSA median.
- D. All Inclusionary Units developed under this chapter except for those in Limited Equity Cooperatives shall be subject to the resale restrictions set forth below.
1. Home ownership Inclusionary Units offered for sale or sold under the requirements of this chapter shall be offered to the City or its designee for a period of at least 60 days by the first purchaser or subsequent purchasers from the date of the owner's notification to the City of intent to sell. The resale price of the unit shall not exceed the original price and customary closing costs, except to allow for the lower of any increase of either the Consumer Price Index (CPI) for all urban consumers (as produced by the U.S. Bureau of Labor Statistics or its successor agencies) applicable to the Oakland PMSA or of the increase as measured in household income guidelines published annually by the U.S. Department of Housing and Urban Development (or its successor agencies) for the Oakland PMSA;
  2. This resale formula shall supercede and replace the earlier resale formula in deed restrictions executed between February 19, 1987 (adoption date for Ordinance 5791-N.S.) and May 23, 2006. The City of Berkeley, or its designee, shall notify each such owner of this change to the resale formula contained in their deed restriction within 60 days of adoption of this section. All other terms and conditions of these deed restrictions shall remain in effect;
  3. If the City does not act on its right-of-first-refusal, the same procedure for new Inclusionary Units shall be used for selection of a purchaser.

### Chapter 23C.12: Inclusionary Housing Requirements

- E. The seller shall not levy or charge any additional fees nor shall any finders fee or other monetary consideration be allowed, other than customary real estate commissions if the services of a licensed real estate agent are employed.
- F. The City or its designee may monitor resale of Inclusionary Units in Limited Equity Cooperatives. The City or its designee shall monitor the resale of ownership Inclusionary Units. The owners of any Inclusionary Units shall attach, lawfully reference in the Grant Deed conveying title of any such inclusionary ownership unit, and record with the County Recorder a Declaration of Restrictions provided by the City, stating the restrictions imposed pursuant to this chapter. Violators of any of the terms thereof may be prosecuted by the City. (Ord. 6920-NS § 1-2 (part), 2006: Ord. 6478-NS § 4 (part), 1999)

\*Specific text which previously amended Berkeley Municipal Code Sections 23C.12.070A, 23C.12.070D, and 23C.12.090 for the period January 27, 2004 through February 19, 2006 was repealed on February 19, 2006 as stated in the sunset provision of Ordinance 6,790-N.S. These specific text amendments were reinstated by Ordinance 6,920-N.S., adopted on May 23, 2006.

#### Section 23C.12.080 Special Requirements for Avenues Plan Area

- A. The City Council finds and determines that:
  - 1. The Avenues Plan process identified a number of regional and Berkeley-specific barriers to housing development;
  - 2. Among the Berkeley-specific barriers were high land prices; lengthy, difficult and uncertain permit processes; and insufficient financing, especially for affordable housing projects;
  - 3. The Avenues Plan area represents a core area of the City where it is particularly appropriate to encourage housing development because of the area's generally good access to workplaces, transit service, senior services and retail stores;
  - 4. The policy to encourage housing in this area is reflected in a number of documents, including, but not limited to, the City's Housing Element of the Master Plan, the Concept Plan for the General Plan revision, the Downtown Plan, the South Berkeley Area Plan, the West Berkeley Plan and the University Avenue statement of planning of goals;
  - 5. Despite the City's support for housing in this area, new housing development here has been limited and this has hindered revitalization of the area;
  - 6. As part of a multi-pronged experimental strategy to create incentives to encourage housing development, relaxation of various inclusionary zoning requirements within the Avenues Plan area as set forth in this section is appropriate;
  - 7. These changes will also assist the buyer of below market rate Inclusionary Units, by allowing them to gain greater appreciation on their investments (market conditions permitting), making the investment more similar to conventional home ownership, while retaining the long term affordability of Inclusionary Units;
  - 8. The changes will also encourage the construction of larger, family-sized units rather than the smaller units which have generally been built in multi-family developments;
  - 9. These changes in inclusionary zoning will be followed by mechanisms to make more financing available and changes in zoning standards and permit processes;
  - 10. The success of these changes will be reviewed annually, until the five year time period of the Avenues Plan experiment expires July 1, 2000.



**Chapter 23C.12: Inclusionary Housing Requirements**

B. This section applies on the streets and the addresses listed in the Table below. The area of applicability consists of the entire C-2 District and portions of the C-1, C-SA, C-W, C-N, R-2A, R-3 and R-4 Districts as indicated in the Table. Within this area, the provisions of this section supersede any inconsistent provisions of this chapter.

*Table 23C.12.080*

**Avenues Plan Area: Street and Address Range**

| <u>Street</u>    | <u>Addresses</u>                                             |
|------------------|--------------------------------------------------------------|
| Acton            | 1940-2100                                                    |
| Addison          | 841-1145 odd, 1846 up                                        |
| Adeline          | All                                                          |
| Alcatraz Avenue  | 1700-1937                                                    |
| Allston Way      | 1901-1999 odd, 2000 up                                       |
| Ashby Avenue     | 1830-2117, 2118-2198 even                                    |
| Bancroft Way     | 2000-2300                                                    |
| Berkeley Square  | All                                                          |
| Berkeley Way     | 1200-1800 even only, 1800-1920, 1920-2000 even only, 2000 up |
| Blake            | 1800-2100                                                    |
| Bonar            | 2000-2099                                                    |
| Bonita           | 1900-1950 even, 1950-1999                                    |
| Browning         | portion of West Campus only                                  |
| California       | 1950-2009                                                    |
| Carleton         | 2000-2117                                                    |
| Center           | All                                                          |
| Channing Way     | 1800-1850 even, 2000-2200, 2200-2300 odd                     |
| Cowper           | All                                                          |
| Chestnut         | 1910-1950 even, 1950 up                                      |
| Curtis           | 1900-2100, portion BUSD                                      |
| Delaware         | 1041-1112, 2000-2200 even                                    |
| Derby            | 2000-2113                                                    |
| Dover            | All                                                          |
| Durant Avenue    | 2000-2300                                                    |
| Dwight Way       | 1800-1850 even, 1850-2200                                    |
| Ellis            | 3124-3320 odd                                                |
| Emerson          | 2000-2111                                                    |
| Essex            | 1901-2106                                                    |
| Fairview         | 1750 up                                                      |
| Fulton           | 2200-2400, 2400-2606 even                                    |
| Grant            | 1800-1900 odd, 1900-2050, 2501-2599 odd                      |
| Harold Way       | All                                                          |
| Harmon           | 1750 up                                                      |
| Harper           | 2901-3123 odd                                                |
| Haste            | 1900-1998 even, 2000-2200                                    |
| Hearst           | 1032-1200, 1800-2000 even, 2000-2200                         |
| Henry            | 1900 up                                                      |
| Jefferson Avenue | 2000-2050                                                    |

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APPENDIX B. Enabling Provisions: BMC Sections 22.20.070 and 22.20.080

22.20.070 Exception/limit where applicant establishes inapplicability or unconstitutionality of general requirements.



A. Notwithstanding any other provision of this chapter, the requirements of this chapter shall not apply or shall be limited as follows:

1. No mitigation and/or fees shall be imposed on any applicant or development project where the applicant establishes to the City's satisfaction that the proposed development project will not generate any additional need for affordable housing, child care and/or public facilities, adequate employment training and placement services or amenities or any other impact for which a mitigation and/or fee is otherwise required;
2. The amount and/or level of any mitigation and/or fee under this chapter shall not exceed the reasonable cost of either satisfying the additional demand for affordable housing, child care and/or public facilities, adequate employment training and placement services or amenities or of eliminating and/or reducing to an acceptable level any other impact which reasonably may be anticipated to be generated by or attributed to any individual development project;
3. The City shall not condition any permit in any manner which results in a deprivation of the applicant's constitutional rights.

B. The burden of establishing by satisfactory factual proof the applicability and elements of subsections [\(A\)\(1\)](#), [\(A\)\(2\)](#) and [\(A\)\(3\)](#) of this section shall be on the applicant

C. No exemption or limit shall be granted pursuant to this section unless a finding is made, based on satisfactory factual proof provided by the applicant, that at least one of the requirements set forth in subsection [\(A\)\(1\)](#), [\(A\)\(2\)](#) or [\(A\)\(3\)](#) of this section has been satisfied. (Ord. 6179-NS § 7, 1993)

22.20.080 Exception--Hardship.



A. Notwithstanding any other provision of this chapter, the requirements of this chapter in the discretion of the City may be waived or limited for a particular development project where both of the following findings are made:

1. The imposition of the mitigation and/or fees otherwise required by the City make the development of the particular project infeasible; and
2. The benefits to the City from the particular development project outweigh its burdens in terms of increased demand for affordable housing, child care and/or public facilities, adequate employment training and placement services and/or amenities and/or other impacts which reasonably may be anticipated to be generated by and/or attributable to the development project.

B. The burden of establishing by satisfactory factual proof the applicability and elements contained in subsections [\(A\)\(1\)](#) and [\(A\)\(2\)](#) of this section shall be on the applicant. (Ord. 6179-NS § 8, 1993)

| Upcoming Worksessions and Special Meetings<br><i>start time is 6:00 p.m. unless otherwise noted</i> |                                                                                                                                                                        |
|-----------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Scheduled Dates                                                                                     |                                                                                                                                                                        |
| July 18 (WS)                                                                                        | <ol style="list-style-type: none"> <li>1. Ashby BART Transit Oriented Development (TOD)</li> <li>2. City Policies for Managing Parking Around BART Stations</li> </ol> |
| July 24                                                                                             | <ol style="list-style-type: none"> <li>1. ZAB Appeal: 2720 Hillegass Avenue - Willard Park Clubhouse</li> </ol>                                                        |
| Sept 26                                                                                             | <ol style="list-style-type: none"> <li>1. ZAB Appeals: 3000 Shattuck Avenue and 705 Euclid Avenue</li> </ol>                                                           |

| Unscheduled Workshops and Special Meetings                                                             |
|--------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> <li>1. Re-Imagining Public Safety Update (November 2023)</li> </ol> |

| Unscheduled Presentations (City Manager)                                                                                                                                                                                                                       |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> <li>1. Dispatch Needs Assessment Presentation (September 19, 2023 - 4:00 pm)</li> <li>2. Draft Waterfront Specific Plan (October 2023)</li> <li>3. Fire Dept Standards of Coverage and Community Risk Assessment</li> </ol> |

|    |                                                                                                                                                                                                                                                                          |
|----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|    | <b>City Council Referrals to the Agenda &amp; Rules Committee and Unfinished Business for Scheduling</b>                                                                                                                                                                 |
| 1. | <b>58. Status Report - Berkeley's Financial Condition (FY 2012 – FY 2021): Pension Liabilities and Infrastructure Need Attention</b> <i>(from the June 27, 2023 agenda)</i><br><b>From: City Manager</b><br>Contact: Sharon Friedrichsen, Budget Manager, (510) 981-7000 |



| CITY CLERK DEPARTMENT                                                       |                      |                       |                   |
|-----------------------------------------------------------------------------|----------------------|-----------------------|-------------------|
| WORKING CALENDAR FOR SCHEDULING LAND USE MATTERS<br>BEFORE THE CITY COUNCIL |                      |                       |                   |
| Address                                                                     | Board/<br>Commission | Appeal Period<br>Ends | Public<br>Hearing |
| <b>NOD – Notices of Decision</b>                                            |                      |                       |                   |
|                                                                             |                      |                       |                   |
|                                                                             |                      |                       |                   |
|                                                                             |                      |                       |                   |
|                                                                             |                      |                       |                   |
| <b>Public Hearings Scheduled</b>                                            |                      |                       |                   |
| 2720 Hillegass Avenue - Willard Park (construct community center)           | ZAB                  |                       | 7/24/2023         |
| 705 Euclid Avenue (new single family dwelling)                              | ZAB                  |                       | 9/26/2023         |
| 3000 Shattuck Avenue - (construct 10-story mixed-use building)              | ZAB                  |                       | 9/26/2023         |
| 1598 University Avenue - (construct 8-story mixed-use building)             | ZAB                  |                       | 10/3/2023         |
|                                                                             |                      |                       |                   |
| <b>Remanded to ZAB or LPC</b>                                               |                      |                       |                   |
|                                                                             |                      |                       |                   |
|                                                                             |                      |                       |                   |
|                                                                             |                      |                       |                   |
|                                                                             |                      |                       |                   |
| <b>Notes</b>                                                                |                      |                       |                   |
|                                                                             |                      |                       |                   |
|                                                                             |                      |                       |                   |
|                                                                             |                      |                       |                   |

7/5/2023



# Major Item Legislative, Budgeting & Implementation Systems Redesign

FIRST SKETCH OF DRAFT #1

Presented to Agenda & Rules Committee

June 12, 2023

# Goal

Sketch a  
**PROCESS OVERVIEW**  
for the introduction, vetting, passage,  
funding, and implementation of  
Major Council Items

# Terminology

## MAJOR ITEMS

are items meeting the *current/existing definition* of Policy Committee Track Items:

*Moderate to significant administrative, operational, budgetary, resource, or programmatic impacts*

# Big Ideas

**City Clerk** - Consistency in process of how Major Items are developed, budgeted and implemented

**City Manager** - Help the Organization deliver without overwhelm; allow staff to be successful in their work

**Council/Mayor** - Successfully implement state of the art and/or innovative programs and policies to serve Berkeley, and to model best practices for other Cities/States

# Yearly Cycle:

Built around June 30 Budget Adoption/Update

July – September

**COUNCIL:** Finalization of Y2 Items  
**CITY MANAGER:** Implement Y1 Items

October – March

**Committee Season**

April – June

**Council + Budget  
Season**

# Legislative Session: One Cycle - Benefits

- Every Year, opportunity to Submit and have Council hear/vote on Major Items
- Four subject matter Committees only meet during a Committee Season (except if emergency or special reason to convene), reducing time commitment by Councilmembers and staff.
- Staff can turn to implementation during “off season,” and Councilmembers can work on the next year’s items.



# Major Item Development & Submission

*All Year → End of September*

- Must use Major Item Guidelines Format
- September 30 submission deadline
- Major Items can be submitted prior to September 30 but won't be assigned to Committees
- Timeline allows for Councilmembers to work all year on items
- Staff input at Pre-submission = high level/conceptual

# Agenda Committee

## October

### *Review & Assign Major Items to Committees*

- Early October special meeting(s)
- Review Major Items for compliance with Guidelines  
*(Could also do this on rolling basis as items come in)*
- Assign *compliant* Major Items to Policy Committees
- Send *non-compliant* Major Items back to Authors for resubmission by End of October

# Policy Committees

## *October - March*

- Organizing meeting(s) Mid-October
- Major Items heard by Committee and move out on Rolling Basis, October - March
- Committees may also prioritize/score items they review
- All Major Items OUT of Policy Coms by March 30

# City Council

## *April*

- Vote on all Major Items, as reviewed and sent forward by Committees, no later than April 30
- May require special meeting(s) in April
- City Attorney must sign off on legal conformity of Ordinances
- Council - Approved items sent to Budget Committee

# Budget Prioritization

*Early May\**

- All Major Items that have been passed by Council, both NEW and PENDING/previously unfunded, to be prioritized by Councilmembers
- Prioritization due May 15/second Friday in May

*\*Not the same as all-item prioritization*

# Budget Committee

## *May - June*

- Council [and Committee?] Prioritizations provided to Budget Committee as guides, but not binding
- Budget Committee makes recommendations to full Council along with Budget
- Budget passed; Major Items funded move forward to Implementation
- ROLLOVER: Major Items passed by Council but NOT funded get automatically rolled-over to future funding opportunities

# Implementation

*July +*

- Implementation Lead assigned by City Manager
- Implementation Team assembled by Lead + CM
- Meet with Author(s) to clarify intentions, sketch timelines, discuss opportunities, ideas, challenges
- Implementation Team prepares
  - *Launch Plan*
  - *Operating Plan*
- Program/Policy is Launched + Implemented

# OVERRIDE

## for Time Sensitive Items to respond to unforeseen events

- Rules of Procedure and Order already provide Override:  
*An item that would otherwise be assigned to a Policy Committee may bypass Policy Review if the Agenda Committee deems it Time Critical. Agenda & Rules Committee retains discretion to decide the Time Critical nature of an item*
- Time Critical definition - may need to be amended
- May still go to a Policy Committee or directly to Council, per A&R
- [Possible Add: Council-level override/appeal if Author doesn't agree with the A&R decision on Time Critical nature of a Major Item].



# Special Topic:

## Pre-Submission

- Guidelines mandatory for Major Items
- Only Authors (no Co-Sponsors) allowed at Pre-Submission and Committee stages, to reduce Brown Act issues
- Available: Pre-Submission Consult with City Manager to recommend internal subject matter experts for high level input
- Available: Pre-Submission Consult with City Attorney
- Consider a more formalized role for COMMISSIONS in Pre-Submission

# Special Topic:

## Strengthen Committee Process *Enhanced Review*

Develop checklist of what must be reviewed and addressed

- Relevance to existing Strategic Priorities or Current needs/Events
- Added value of program/policy
- Potential opportunities/costs of Program/Policy to community and COB
- Alternative means to achieve same or similar goals
- Phasing/timelines for implementation
- Staffing and Resources needed to Launch and Operate
- Evaluation/metrics/Enforcement
- Rate items as they go to Council?
- Increase options re: positive and negative recommendations?
- Other?

# Public & Staff input @ Committee

- Specific Outreach to Identifiable Stakeholders
- Several Opportunities for Comment  
*(items heard more than once)*
- Clarify staff's role
- Schedule will help get the right staff to meetings
- Empower staff to participate more fully in discussions, even if formal reports are not available

# Special Topic: Prioritization *Backlog*

Need a process to “clear the backlog” of items *currently* in the queue.

Send all pending (but not initiated) items to Policy Committees for review to suggest:

- Folding items together and/or updating referrals
- Re-approval of items “as is”
- Sunsetting/removal of moot items
- Recommend disposition of all items, ranked within each Lead Department
- Council reviews and approves Committee recommendations for consolidation, removal, restatement, and re-support of items
- May need some criteria - to ensure all council members get at least some of their priorities addressed
- May also want to integrate an RRV-type ranked prioritization?

# Special Topic: Prioritization

## *Regular/Ongoing*

- Long Term, enhanced process should result in fewer or no backlogs and items implemented in a reasonable timeframe
- “Prioritization” becomes less of a BIG ISSUE.

Prioritization in a rationalized new Legislative system should result naturally from:

- More fully conceived and vetted items
- Better review at Committee, including merger of similar items to avoid piecemeal legislation
- Fewer, more impactful/comprehensive items moving forward

# Special Topic:

## Need Process & Criteria for funding Items at AA01 and AA02

*Suggestions - this question needs discussion/input from Budget & Finance Committee*

- ? Only Time Critical and Rollover (previously approved but unfunded) items considered at these junctures - same rule for Council and City Manager items
- ? Not all extra funds (if any) get allocated - reservation for the annual budget process so funds are available for Council initiatives
- ? AA01 and 02 only for one-time and/or time sensitive expenses

# Special Topic: Implementation

Once Major Item is passed + funded, move to Implementation Process

- Implementation Lead is assigned by City Manager – *Single Individual* Responsible for managing and ensuring implementation
- Implementation Team assembled by Lead + City Manager
- Consult with Author(s) to clarify intentions, sketch timelines, discuss opportunities, ideas, challenges
- Implementation Team prepares **LAUNCH** and **OPERATING** Plans
  - Launch is a unique undertaking requiring special/one-time work
- **LAUNCH** elements + Timeline
- **OPERATING** Plan
  - Long term/ongoing operation of program/policy

# DISCUSSION + QUESTIONS



## MAJOR ITEM LEGISLATIVE, BUDGETING & IMPLEMENTATION SYSTEMS REDESIGN

### Goal:

Sketch a full process for introduction, vetting, passage, funding, and implementation of Major Council Items and initiatives.

### Terminology:

“Major Items” are items meeting the current definition of *Policy Committee Track Items*:

“Moderate to significant administrative, operational, budgetary, resource, or programmatic impacts.”

### Big Ideas for Major Items:

**City Clerk** - Consistency in process of how Major Items are developed, budgeted and implemented

**City Manager** - Help the Organization deliver without overwhelm; allow staff to be successful in their work

**Council/Mayor** - Successfully implement state of the art and/or innovative programs and policies to serve Berkeley, and to model what’s possible for other Cities/States

### OVERVIEW: YEARLY CYCLE - BUILT AROUND JUNE BUDGET ADOPTION/UPDATE:

#### 1. Major Item Development & Submission Cut Off - All Year - End of September

- a. Must use Major Item Guidelines Format
  - i. Guidelines prompt meaningful research, consult with experts and community, etc.
- b. September 30 Major Item submission deadline
  - i. Agenda Committee requests updates if not compliant with Guidelines
  - ii. 3rd Friday of October updated submissions, if any, due (as may be required by Agenda Committee)
- c. Major Items can be submitted prior to September 30 but won’t be assigned to Committees
- d. Timeline allows for Councilmembers to work all year on items, including over the summer, and to submit after Council resumes for the Fall.
- e. Staff input at Presubmission = high level/conceptual

**2. Agenda Committee - October**

- a. Early October special meeting(s)
- b. Review for compliance with Guidelines
  - i. Items not fulfilling Major Items Guidelines sent back to Authors for Resubmission at “late” deadline, or in future year, per Authors’ choice
- c. Review and assign compliant Major Items to Policy Committees

**3. Policy Committees - October - March**

- a. Organizing meeting(s) Mid-October
  - i. Create Calendar/agree on schedule for Items to be heard
  - ii. Group similar/topical items together
  - iii. Other organizing/housekeeping per Committee
- b. Major Items heard by Committee and move out on Rolling Basis, October - March
  - i. Review of items includes Enhanced Review (*See below*)
  - ii. Staff input more specific/involved but not requiring significant research
    - 1. If areas of significant unknowns are implicated, referral for item should include funds to support future research
  - iii. Input from City Attorney’s Office as appropriate - Review ordinances
- c. [Committees may also be asked to prioritize/score items they review]
- d. All Major Items OUT of Policy Coms by March 30.

**4. Council - April**

- a. Vote on all Major Items, as reviewed by Committees, no later than April 30
- b. May require special meetings in April
- c. City Attorney must sign off on legal conformity of Ordinances
- d. Approved items sent to Budget Committee so they are aware of them

**5. Budget Prioritization - Early May**

*(not the same as all-item prioritization)*

- a. All Major Items that have been passed by Council, both new and pending/previously unfunded, to be prioritized by Councilmembers
- b. Council scoring due the second week of May

**6. Budget Committee - May - June**

- a. Council [and Committee?] Prioritizations provided to Budget Committee as guides, but not binding
- b. Budget Committee makes recommendations to full Council along with Budget
- c. Budget passed; Major Items funded move forward to Implementation (*details below*)
- d. ROLLOVER: Major Items passed by Council but NOT funded get automatically rolled-over to future funding opportunities, to be considered with other rollover (and new) items until funded or retired/removed.

**7. Implementation - July +++**

- a. Implementation Lead assigned by City Manager
- b. Implementation Team assembled by Lead + CM
- c. Meet with Author(s) to establish clarity of intentions, sketch timelines, discuss opportunities, ideas, challenges, etc.
- d. Implementation Team prepares
  1. Launch Plan
  2. Operating Plan
- e. PROGRAM/POLICY is LAUNCHED

**Legislative Session: One Cycle - Benefits**

1. Every Year, opportunity to Submit and have Council hear/vote on Major Items
2. Four subject matter Committees only meet during a Committee Season (except if emergency or special reason to convene), reducing time commitment by Councilmembers and staff.
3. Staff can turn to implementation during “off season,” and Councilmembers can work on the next year’s items.
4. Override for Time Sensitive Items provided for, to respond to unforeseen events:
  - a. Rules of Procedure and Order already provide Override:
    - i. “An item that would otherwise be assigned to a Policy Committee may bypass Policy Review if the Agenda Committee deems it Time Critical. Agenda & Rules Committee retains discretion to decide the Time Critical nature of an item.”
    - ii. Time Critical definition - may need to be amended to add criteria to accept a Major Item later than the September 30 submission deadline).
    - iii. May still go to a Policy Committee or directly to Council, per A&R.
  - b. [Possible Add: Council-level override/appeal if the Author doesn’t agree with the Agenda & Rules Committee decision on Time Critical nature of a late Major Item].

**SPECIAL TOPIC: Pre-Submission - Details:**

1. Guidelines mandatory for Major Items
  - a. Review Guidelines for update/Adoption by Council (change name?)
  - b. Clerk to make new Major Item submission templates and provide adopted requirements for research and writing of Major Items
2. Only Authors (no Co-Sponsors) allowed at Pre-Submission and Committee stages, to reduce Brown Act issues
3. Available: Pre-Submission Consult with City Manager to recommend internal subject matter experts for high level input
  - a. Staff available for High Level input on Major Items
4. Available: Pre-Submission Consult with City Attorney
  - a. Identify possible Legal Issues early

- b. If Ordinance needed, discuss drafting and review
- 5. Consider a more formalized role for Commissions in Pre-Submission.  
[Councilmembers can go directly to Chairs to request items be placed on Commission agenda to receive feedback on a legislative proposal?]

**SPECIAL TOPIC: Strengthen Committee Process - Enhanced Review**

1. Policy Committees meet during a “season” (except Agenda & Budget)
  - i. Likely need to meet more frequently during the season
  - ii. Can be convened at other times (outside of the “season”) for special circumstances
2. First Committee Meeting(s) in October
  - i. Organize and Publish Committee Calendar
    1. Group similar items together
    2. Decide what to hear first/in what order to take up items
    3. Plan at least two hearings for each Major Item
    4. Identify stakeholders/special communities for outreach to participate
3. Clarify Committee tasks (*to be further defined*)
  - i. Develop checklist of what must be reviewed and addressed
    1. Relevance to existing Strategic Priorities or Current needs/Events
    2. Added value of program/policy
    3. Potential opportunities/costs of Project/Policy to community and to COB
    4. Alternative means to achieve same or similar goals
    5. Phasing/timelines for implementation
    6. Staffing and Resources needed to Launch and Operate
    7. Evaluation/metrics
    8. Enforcement
  4. Staff input at Committee level (*to be further defined*)
    1. Clarify staff’s role at Committees
    2. Get the right people to meetings, based on schedule
    3. Empower staff to participate more fully in discussions, even if formal reports are not available
    4. Etc.
  - ii. Committee Evaluation of Merits/Relative Merits of items
    1. Ask Committees to rate items as they go to Council?
      - a. Urgency, added value, cost/complexity, etc.?
    2. Increase options re: positive and negative recommendations?
    3. Other?
5. Items passed out of Committee to be updated by Author and re-submitted to Clerk in both original format and format passed by the Committee, for inclusion on Council agenda. *Clerk adds Committee recommendation.*
  - i. Clerk to provide clear process/direction on resubmission requirements, including timelines
    1. Original item included
    2. Redlined updated item with Committee-approved changes

3. ADD CO-SPONSORS
4. Possible proposed additional changes/final version from Author(s)?
  - ii. Deadline to resubmit updated items April 10 (most items will leave Committees before the March 30 deadline)
  - iii. April special meeting agendas reserved for Major Items
6. Allow CO-SPONSORS after items leave Committees and go to Council - Author(s) can add via Resubmission of item and/or via Supplemental process

**SPECIAL TOPIC: Prioritization of Items for Budgeting and Implementation**

**1. ONE-TIME - TO CLEAR CURRENT BACKLOG:**

Need a process to “clear the pile” of items currently in the queue.

- a. This should be “One time” to clear current backlog
  - i. May take a few years, but not necessary after that
- b. Send all pending (but not initiated) items to appropriate Policy Committees for review to suggest:
  - i. Folding items together and/or updating referrals
    1. Consolidate similar referrals
    2. Restate and/or strengthen referral language
    3. Update budget requests
    4. Etc.
  - ii. Re-approval of items “as is”
    1. Some items are still fresh, relevant
  - iii. Sunsetting/removal of moot items
    1. Moment has passed/No longer a priority
    2. Other similar work in progress
    3. Etc.
- c. Recommend disposition of all items, ranked within each LEAD DEPARTMENT
- d. Council reviews and approves Committee recommendations for consolidation, removal, restatement, and re-support of items
- e. *May need some criteria - to ensure all council members get at least some of their priorities addressed*
- f. May also want to integrate an RRV-type ranked prioritization, but this may not be necessary after items are culled down, merged, removed, and prioritized by Lead Department

**2. POST-BACKLOG/REGULAR PRIORITIZATION PROCESS :**

Long Term, enhanced process should result in fewer or no backlogs and Council items actually being implemented in a reasonable timeframe; "Prioritization" becomes less of a Big Issue.

- i. Prioritization in a rationalized new system should result naturally from:
  1. More fully conceived and vetted items being submitted
  2. Items better vetted and formed at Committee, including merger of similar items to avoid piecemeal of smaller similar items
  3. Fewer, more impactful/comprehensive items moving forward
- ii. Some Prioritization still may be necessary
  1. Possibly have Committees rank all items they reviewed in their session, and/or rank with previous items in their purview that have not been initiated
  2. Possibly have Council engage in a ranking process - RRV or similar
  3. All rankings, whatever the system, are non-binding and will be reviewed and finalized by Council

**SPECIAL TOPIC: Process & Criteria for Items to be funded at AA01 and AA02**

[Suggestions - this question needs input from Budget & Finance Committee]

1. Only Time Critical and Rollover (previously approved but unfunded) items considered at these junctures - same rule for Council *and City Manager* items
2. Not all extra funds (if any) get allocated - reservation for the annual budget process so funds are available for Council/CM initiatives
3. AA01 and 02 for one-time and/or time sensitive expenses

**SPECIAL TOPIC: Post-Approval Launch of new Initiatives/Policies/Programs:**

Once a Major Item is passed and funded, move to Implementation Conference with Author(s) and City Manager

1. Implementation Lead is assigned by City Manager
  - a. Responsible for managing and ensuring implementation
    - i. Need project management, implementation, and communications expertise - do not necessarily have to be *subject matter* experts
2. Implementation Team assembled by Lead + CM
  - a. Meets with Author(s) to establish clarity of intentions, sketch timelines, discuss opportunities, ideas, challenges, etc.
  - b. Implementation Team prepares Launch and Operating Plans
    - i. Launch Plan - Launch is a unique undertaking requiring special/one-time works products

1. Launch elements determined
    - a. Staffing
    - b. Communications/events
    - c. Online & Paper information/forms/processes
    - d. Education
  2. Timeline for Launch
  - ii. Operating Plan
    1. Long term/ongoing operation of program/policy
    2. Staffing/Systems
    3. Benchmarks for progress
    4. Evaluation/Updates/Continuous Improvement
    5. Enforcement
- 

DRAFT

## APPENDIX B. GUIDELINES FOR DEVELOPING AND WRITING COUNCIL AGENDA ITEMS

These guidelines are derived from the requirements for Agenda items listed in the Berkeley City Council Rules of Procedure and Order, Chapter III, Sections B(1) and (2), reproduced below. In addition, Chapter III Section C(1)(a) of the Rules of Procedure and Order allows the Agenda & Rules Committee to request that the Primary Author of an item provide “additional analysis” if the item as submitted evidences a “significant lack of background or supporting information” or “significant grammatical or readability issues.”

These guidelines provide a more detailed and comprehensive overview of elements of a complete Council item. While not all elements would be applicable to every type of Agenda item, they are intended to prompt Authors to consider presenting items with as much relevant information and analysis as possible.

Chapter III, Sections (B)(1) and (2) of Council Rules of Procedure and Order:

2. Agenda items shall contain all relevant documentation, including the following as Applicable:
  - a. A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested;
  - b. Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information;
  - c. Recommendation of the City Manager, if applicable (these provisions shall not apply to Mayor and Council items.);
  - d. Fiscal impacts of the recommendation;
  - e. A description of the current situation and its effects;
  - f. Background information as needed;
  - g. Rationale for recommendation;
  - h. Alternative actions considered;
  - i. For awards of contracts; the abstract of bids and the Affirmative Action Program of the low bidder in those cases where such is required (these provisions shall not apply to Mayor and Council items.);
  - j. Person or persons to contact for further information, with telephone number. If the Primary Author of any report believes additional background information, beyond the basic report, is necessary to Council understanding of the subject, a separate compilation of such background information may be developed and copies will be available for Council and for public review in the City Clerk Department, and the City Clerk shall provide limited distribution of such background information depending upon quantity of pages to be duplicated. In such case the agenda item distributed with the packet shall so indicate.



Guidelines for City Council Items:

1. Title
2. Consent/Action/Information Calendar
3. Recommendation
4. Summary Statement/Current situation and its effects
5. Background
6. Review of Existing Plans, Programs, Policies and Laws
7. Actions/Alternatives Considered
8. Consultation/Outreach Overview and Results
9. Rationale for Recommendation
10. Implementation, Administration and Enforcement
11. Environmental Sustainability
12. Fiscal Impacts
13. Outcomes and Evaluation
14. Contact Information
15. Attachments/Supporting Materials

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**1. Title**

A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested.

**2. Consent/Action/Information Calendar**

Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information.

**3. Recommendation**

Clear, succinct statement of action(s) to be taken. Recommendations can be further detailed within the item, by specific reference.

Common action options include:

- Adopt first reading of ordinance
- Adopt a resolution
- Referral to the City Manager (City Manager decides if it is a short term referral or is placed on the RRV ranking list)
- Direction to the City Manager (City Manager is directed to execute the recommendation right away, it is not placed on any referral list)
- Referral to a Commission or to a Standing or Ad Hoc Council Committee
- Referral to the budget process
- Send letter of support
- Accept, Approve, Modify or Reject a recommendation from a Commission or Committee
- Designate members of the Council to perform some action

**4. Summary Statement/ “Current situation and its effects”**

A short resume of the circumstances that give rise to the need for the recommended action(s).

- Briefly state the opportunity/problem/concern that has been identified, and the proposed solution.
- Example (fictional):  
*Winter rains are lasting longer than expected. Berkeley’s winter shelters are poised to close in three weeks, but forecasts suggest rain for another two months. If they do not remain open until the end of the rainy season, hundreds of people will be left in the rain 24/7. Therefore, this item seeks authorization to keep Berkeley’s winter shelters open until the end of April, and refers to the Budget Process \$40,000 to cover costs of an additional two months of shelter operations.*

**5. Background**

A full discussion of the history, circumstances and concerns to be addressed by the item.

- For the above fictional example, Background would include *information and data about the number and needs of homeless individuals in Berkeley, the number and availability of permanent shelter beds that meet their needs, the number of winter shelter beds that would be lost with closure, the impacts of such closure on this population, the weather forecasts, etc.*

**6. Review of Existing Plans, Programs, Policies and Laws**

Review, identify and discuss relevant/applicable Plans, Programs, Policies and Laws, and how the proposed actions conform with, compliment, are supported by, differ from or run contrary to them. What gaps were found that need to be filled? What existing policies, programs, plans and laws need to be changed/supplemented/improved/repealed? What is missing altogether that needs to be addressed?

Review of all pertinent/applicable sections of:

- The City Charter
- Berkeley Municipal Code
- Administrative Regulations
- Council Resolutions
- Staff training manuals

Review of all applicable City Plans:

- The General Plan
- Area Plans
- The Climate Action Plan
- Resilience Plan
- Equity Plan

- Capital Improvements Plan
- Zero Waste Plan
- Bike Plan
- Pedestrian Plan
- Other relevant precedents and plans

Review of the City's Strategic Plan

Review of similar legislation previously introduced/passed by Council

Review of County, State and Federal laws/policies/programs/plans, if applicable

## 7. Actions/Alternatives Considered

- What solutions/measures have **other jurisdictions** adopted that serve as models/cautionary tales?
- What solutions/measures are recommended by **advocates, experts, organizations**?
- What is the range of actions considered, and what are some of their major pros and cons?
- Why were other solutions not as feasible/advisable?

## 8. Consultation/Outreach Overview and Results

- Review/list external and internal stakeholders that were consulted
  - **External:** constituents, communities, neighborhood organizations, businesses and not for profits, advocates, people with lived experience, faith organizations, industry groups, people/groups that might have concerns about the item, etc.
  - **Internal:** staff who would implement policies, the City Manager and/or deputy CM, Department Heads, City Attorney, Clerk, etc.
- What reports, articles, books, websites and other materials were consulted?
- What was learned from these sources?
- What changes or approaches did they advocate for that were accepted or rejected?

## 9. Rationale for Recommendation

A clear and concise statement as to whether the item proposes actions that:

- Conform to, clarify or extend existing Plans, Programs, Policies and Laws
- Change/Amend existing Plans, Programs, Policies and Laws in **minor** ways
- Change/Amend existing Plans, Programs, Policies and Laws in **major** ways
- Create an exception to existing Plans, Programs, Policies and Laws
- Reverse/go contrary to or against existing Plans, Programs, Policies and Laws

Argument/summary of argument in support of recommended actions. The argument likely has already been made via the information and analysis already presented,

but should be presented/restated/summarized. Plus, further elaboration of terms for recommendations, if any.

**10. Implementation, Administration and Enforcement**

Discuss how the recommended action(s) would be implemented, administered and enforced. What staffing (internal or via contractors/consultants) and materials/facilities are likely required for implementation?

**11. Environmental Sustainability**

Discuss the impacts of the recommended action(s), if any, on the environment and the recommendation's positive and/or negative implications with respect to the City's Climate Action, Resilience, and other sustainability goals.

**12. Fiscal Impacts**

Review the recommended action's potential to generate funds or savings for the City in the short and long-term, as well as the potential direct and indirect costs.

**13. Outcomes and Evaluation**

State the specific outcomes expected, if any (i.e., *"it is expected that 100 homeless people will be referred to housing every year"*) and what reporting or evaluation is recommended.

**14. Contact Information**

**15. Attachments/Supporting Materials**



Lori Droste  
Councilmember, District 8

On March 14, 2023, the City Council referred the relevant concepts of this item to the Agenda & Rules Committee for consideration under the existing committee agenda item regarding enhancements to the City's legislative process.

Action Calendar  
March 14, 2023

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

**From:** Councilmember Lori Droste

**Subject:** Bureaucratic Effectiveness and Referral Improvement and Prioritization Effort (BE RIPE)

### **Recommendation**

In order to ensure that the City focuses on high-priority issues, projects, and goals and affords them the resources and funding such civic efforts deserve, the City Council should consult with the City Manager's Office to develop and adopt a suite of revisions to the City Council Rules of Procedure and Order that would implement the following provisions:

1. Beginning in 2023, Councilmembers shall submit no more than one major legislative proposal or set of amendments to any existing ordinance per year, with the Mayor permitted to submit two major proposals, for a maximum of ten major Council items per year.
2. In 2023 and all future years, Councilmembers shall be required to submit major items before an established deadline. Council shall then prioritize any new legislative items as well as any incomplete major items from the previous year using the Reweighted Range Voting (RRV) process. This will help establish clear priorities for staff time, funding, and scheduling Council work sessions and meetings. For 2023 alone, the RRV process should include outstanding/incomplete Council items from all previous years. In 2024 and thereafter, the RRV process should only incorporate outstanding/incomplete major items from the prior year. However, Councilmembers may choose to renominate an incomplete major policy item from an earlier year as their single major item.
3. During deliberations at a special worksession, Council retreat, and/or departmental budget presentations, Council and the City Manager should develop a work plan that establishes reasonable expectations about what can be accomplished by staff given the list of priorities as ranked by RRV. Council should also consult with the City Manager and department heads, particularly the City Attorney's office, Planning Department, and Public Works Department on workload challenges (mandates outside Council priorities, etc.), impacts, reasonable staff output expectations, and potential corrective actions to ensure that mandated deadlines are met, basic services are provided, and policy proposals are effectively implemented.
4. Budget referrals and allocations from City Council must be explicitly related to a previously established or passed policy/program, planning/strategy document, and/or an external funding opportunity related to one of these. As a good government practice, councilmembers and the Mayor may **not** submit budget referrals which direct funds to a

specific organization or event. Organizations which receive City funding must submit at least annually an application detailing, at a minimum: the civic goal(s)/purpose(s) for which City funds are used, the amount of City funding received for each of the preceding five years, and quantitative or qualitative accounting of the results/outcomes for the projects that made use of those City funds. Organizations receiving more than \$20,000 in City funds should be required to provide quantitative data regarding the number of individuals served and other outcomes.

5. Ensuring that any exceptions to these provisions are designed to ensure flexibility in the face of an emergency, disaster, or urgent legal issue/liability and narrowly tailored to be consistent with the goals of enhanced efficiency, effectiveness, fairness, and focus.

### **Policy Committee Recommendation**

On February 14, 2023, the Agenda and Rules Committee adopted the following action: M/S/C (Hahn/Arreguin) to send the item to the City Council with a Qualified Positive Recommendation to refer the relevant concepts of the original item to the Agenda & Rules Committee for consideration under the existing committee agenda item regarding enhancements to the City's legislative process. Vote: All Ayes.

### **Current Situation and Its Effects**

Over the past few years (excluding the COVID-19 state of emergency), City Council has grappled with potential options to reduce the legislative workload on the City of Berkeley staff. While a significant portion of this workload is generated from non-legislative matters and staffing vacancies, it is important to recognize that staff also continue to struggle to keep up with Council directives while still accomplishing the City's core mission or providing high quality public infrastructure and services.

### **Background and Rationale**

Berkeley faces an enormous staffing crisis due in part to workload concerns; as such, Council should take steps to hone its focus on legislative priorities. [November 2022's Public Works Off-Agenda Memo](#) offers a benchmark for problems faced by City departments. Public Works staff struggles to complete its top strategic plan projects, respond to audit findings, and provide basic services, in addition to fulfilling legislative priorities by Council. While the "Top Goals and Priorities" outlined by Public Works is tied to 130+ directives by the City Council, it is not reasonable to assume that all will be implemented.

The challenges faced by the Public Works department are not an anomaly. Other departments share the same challenges. In addition to needing to ensure that the City can adopt a compliant state-mandated Housing Element, process permits, secure new grant funding, mitigate seismic risks, and advance our Climate Action Plan, Planning Department staff have been tasked with addressing multiple policy proposals from the City Council. The sheer number of referrals also impacts the ability of staff in the City Attorney's office to vet all ordinances, protect the City's interests, participate in litigation, and address the City's other various legal needs.

### **Best Practices**

A number of nearby, similarly-sized cities were contacted to request information about how these cities approach Councilmember referrals and prioritizations processes. Cities contacted

included Richmond, Vallejo, Santa Clara, Concord, and Sunnyvale. Of these cities, Santa Clara, Concord, and Sunnyvale replied.

### **Santa Clara**

Overall, Santa Clara staff indicated that—similar to Berkeley—the Council referrals and prioritization process is not especially formalized, with additional referrals being made outside of the prioritization process.

Each year, the Council holds an annual priority setting session at which the Council examines and updates priorities from the previous year and considers what progress was made toward those priorities. The prioritization process takes place in February so that any priorities that rise to the top may be considered for funding ahead of the budget process. In any given year, some priorities may go unfunded and even holding those priorities over to a second year is not necessarily a guarantee of funding.

Despite conducting this annual prioritization exercise, Councilmembers in Santa Clara often still do bring forward additional referrals outside of this process. Part of this less restricted approach in Santa Clara's 030 ("zero thirty") policy, which allows members of the the City Council to add items to the Council agenda with sufficient notice and even allows members of the public to petition to have items added to a special section of the Council agenda.

Despite the overally looseness of Santa Clara's approach. Council members still rely upon staff to provide direction with respect to what priorities are or are not feasible based upon available funding and staff bandwidth.

### **Concord**

According to Concord City staff, although Concord—like Berkeley and Santa Clara—does have a process for Councilmembers to request items be added to Council agendas, Councilmembers generally agree not to add referrals outside of the formal priority-setting process.

Concord City staff only work on "new" items/policies that are mandated by law, recommended by the City Manager, and have been recommended for review/work of some kind by a majority (three of the five members) of the City Council.

In general, Councilmembers agree to not add work items outside of the Council's formal priority setting process. The Concord City Council has a once-a-year goal setting workshop each spring where the City plans its Tier 1 and Tier 2 priorities for the year (or sometimes for a 2-year cycle). Most Councilmembers abide by this process and refrain from bringing forward additional items. However any Councilmember may put forward a referral outside of the process and use the method outlined below.

Outside of the prioritization process, Councilmembers can request that their colleagues (under Council reports at any Council meeting) support placing an item on a future Council meeting agenda for a discussion. The Concord City Attorney has advised councilmembers that they can make a three sentence statement, e.g. "I would like my colleagues' support to agendize [insert item]" or "to send [insert item] to a Council standing committee for discussion." Followed by: "This is an important item to me or a timely item for the Council because [insert reasoning]. Do I have your support?" The other Councilmembers then cannot engage in any detailed discussion or follow up, but may only vote yes or no to agendizing the item.

If two of the Councilmember's colleagues (for a total of 3 out of 5) agree to the request to have the item agendized for a more detailed discussion by Council, then the item will be added to a future agenda for fuller consideration. An additional referral outside the prioritization process is suggested perhaps once every month in Concord, but the Concord City Council usually does not provide the majority vote to agendize these additional items.

### Sunnyvale

Of all the cities surveyed, Sunnyvale has the most structured approach for selecting, rating, and focusing on City Council priorities. "Study issues" require support from multiple councilmembers before being included in the annual priority setting, and then must go through a relatively rigorous process to rise to the top as Council priorities. And, perhaps most importantly, policy changes *must* go through the priority setting process to be considered. The Sunnyvale City Council's Policy 7.3.26 Study Issues reads, in part:

*Any substantive policy change (large or relatively small) is subject to the study issues process (i.e. evaluated for ranking at the Council Study Issues Workshop).*

*Policy related issues include such items as proposed ordinances, new or expanded service delivery programs, changes to existing Council policy, and/or amendments to the General Plan. Exceptions to this approach include emergency issues, and urgent policy issues that must be completed in the short term to avoid serious negative consequences to the City, subject to a majority vote of Council.*

If a study issue receives the support of at least two Councilmembers, the issue will go to staff for the preparation of a study issue paper. Council-generated study issues must be submitted to staff at least three weeks ahead of the priority-setting session, with an exception for study issues raised by the public and carried by at least two Councilmembers, if the study issues hearing takes place less than three weeks before the priority setting.

At the Annual Study Issues Workshop, the Council votes whether to rank, defer, or drop study issues. If a majority votes to drop the issue, it may not return the following year; if the issue is deferred, it returns at the following year's workshop; and if a majority votes to rank an issue, it proceeds to the ranking process. Sunnyvale's process uses "forced ranking" for "departments" with ten or fewer issues and "choice ranking" for departments with eleven or more issues. (The meaning of "departments" and the process for determining the number of issues per department are not elucidated within the policy.) Forced ranking involves assigning a ranking to every policy within a given subset, while choice ranking only assigns a ranking to a third of policies within a given subset, with the others going unranked.

After the Council determines which study issues will be moving forward for the year based on the rankings, the City Manager advises Council of staff's capacity for completing ranked issues. However, if the Council provides additional funding, the number of study issues addressed may be increased.

In 2022, Sunnyvale had 24 study issues (including 17 from previous years and only 7 new ones) and **zero** budget proposals. Although Sunnyvale does consider urgency items outside the prioritization process, this generally happens only 1 to 3 times per year and usually pertains to highly urgent items, such as gun violence.



### **Status Quo and Its Effects**

Council currently uses a reweighted range proportional representation voting method to determine which priorities represent both a) a consensus and b) district/neighborhood concerns. This process allows Council to coalesce around a particular common area of concern; but if there is a specific neighborhood or district issue that is not addressed by Council consensus, it also allows for that district's councilmember's top priority to be elevated in the ratings even without broad consensus, so long as there are not multiple items designated as that councilmember's "top" item. More information about this process can be found [here](#). This [system was established](#) in 2016 due to the sheer amount of referrals by Council and the lack of cohesive direction on which of the 100+ referrals the City Manager should act upon.

Subsequent to this effort, Council created a "short-term referral" pool which was intended to be light-lift referrals that could be accomplished in less than 90 days. However, that designation was always intended to be determined by the City Manager, not Council, with respect to what was operationally feasible in terms of the 90 day window. The challenge with Council determining what is a short-term referral is that it is not always realistic given other duties that the staff has to attend to and inappropriate determinations can stymie work on other long term priorities if staff have to drop everything they are doing to attend to an "short-term" or "emergency" referral.

An added challenge is that the City Auditor [reported in 2018](#) that the City of Berkeley's Code Enforcement Unit (CEU) had insufficient capacity to enforce various Municipal Code provisions. This was due to multiple factors, including understaffing—some of which have since improved. Nevertheless, the City Auditor wrote,

*"Council passes some ordinances without fully analyzing the resources needed for enforcement and without understanding current staffing capacity. In order to enforce new ordinances, the CEU must take time away from other enforcement areas. This increases the risk of significant health and safety code violations going unaddressed. It also leads to disgruntled community members who believe that the City is failing to meet its obligations. This does not suggest that the new ordinances are not of value and needed. Council passes policy to address community concerns. However, it does mean that the City Council routinely approves policy that may never result in the intended change or protections."*

Subsequent to that report, [an update](#) was published in September of 2022. A staffing and resource analysis for Code Enforcement is still needed to ensure that the laws Council passes can be implemented.

### **Fiscal Impacts**

These reforms are likely to result in significant direct savings related to reduced staff time/overtime as well as potential decreases to costs associated with the recruitment/retention of staff.

### **Alternatives Considered**

Alternatives were considered using effectiveness and efficiency as the evaluative criteria for referrals. One missing criterion that will be necessary in developing this process will be operational considerations so the City of Berkeley can continue to deliver basic services in an efficient manner.

*All-Council determination*

Council could vote *as a body* on the top 10 legislative priorities. The drawback of this method is that it, by default, eliminates any remaining priorities that have been passed by Council. It also eliminates “minority” voices which may disproportionately impact neighborhood-specific concerns as the remainder of the Council may not value district-specific concerns outside of their council district.

*Councilmember parameters*

Councilmembers could select their top two legislative priorities (as a primary author) for the year and the Mayor could select four legislative priorities for the year for a total of 10 legislative priorities per year. These “legislative priorities” would not include resolutions of support, budget referrals for infrastructure or traffic mitigations or other non-substantive policy items.....

*Status Quo Sans Short-Term Referrals*

The status quo of rating referrals is the fairest and most equitable if Council wishes to continue to pass the same quantity of referrals; however, it does not address the overall volume and that certain legislative items skip the prioritization queue due to popularity or perceived community support. Council enacts ordinances that fall outside of the priority setting process and designates items as short-term referrals. This loophole has made this process a bit more challenging. One potential option is to continue the prioritization process but eliminate the short-term referral option unless it is undeniably and categorically an emergency or time-sensitive issue.

**Contact Person**

Councilmember Lori Droste (legislative aide Eric Panzer)  
[erpanzer@cityofberkeley.info](mailto:erpanzer@cityofberkeley.info)  
Phone: 510-981-7180

**Attachments**

Update on Public Works’ Goals, Projects, Measures, and Challenges



Office of the City Manager

November 15, 2022

To: Honorable Mayor and Members of the City Council

From: *DWR* Dee Williams-Ridley, City Manager

Re: Update on Public Works' Goals, Projects, Measures, and Challenges

This memo shares an update on the department's *Performance Measures* and *FY 2023 Top Goals and Projects*, and identifies the department's highest priority challenge. I am proud of this department's work, its efforts to align its work with City Council's goals, and the department's dedication to improving project and program delivery.

#### *Performance Measures*

The department's performance measures were first placed on the department's website (<https://berkeleyca.gov/your-government/about-us/departments/public-works>) in 2020. They are updated annually in April. Progress continues in preventing trash from reaching the Bay, reducing waste, increasing bike lane miles, reducing the City fleet's reliance on gas, increasing City-owned electric chargers, expanding acres treated by green infrastructure, and reducing the sidewalk repair backlog. Challenges remain with the City's street condition and safety.

#### *Top Goals and Projects*

Public Works' top goals and projects are also on the department's website (<https://berkeleyca.gov/your-government/about-us/departments/public-works>). Department goals are developed annually. This year, after reviewing the 130+ directives from open City Council referrals, FY 2023 adopted budget referrals, audit findings, and strategic plan projects, staff matched existing resources with City Council's direction and the ability to deliver on this direction while ensuring continuity in baseline services.

The *FY 2023 Top Goals and Projects* is staff's projection of the work that the department has the capacity to advance this fiscal year. This list is intended to be both realistic and a stretch to achieve. More than three-quarters of the work on the *FY 2023 Top Goals and Projects* is tied to the existing 130+ directives from City Council referrals, budget referrals, audit findings, and strategic plan projects. The remainder are initiatives internal to the department aimed at increasing effectiveness and/or improving baseline services.

Public Works conducts quarterly monitoring of progress on the goals and projects, and status updates are shared on the department's website using a simple status reporting

Page 2

November 15, 2022

Re: Update on Public Works' Goals, Projects, Measures, and Challenges

procedure. Each goal or project is coded green, yellow, or red. A project coded green is either already completed or is on track and on budget. A project in yellow is at risk of being off track or over budget. A project in red either will not meet its milestone for this fiscal year or is significantly off track or off-budget. Where a project or goal has multiple sub-parts, an overall status is color-coded for the numbered goal and/or project, and exceptions within the subparts are identified by color-coding. Quarter 1's status update is [here](#). The 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> quarter results will be posted at the same location.

### *Challenge*

Besides the volume of direction, the most significant challenge in delivering on City Council's directions is the department's high vacancy rate. The Public Works Department is responsible for staff retention and serves as the hiring manager in the recruitment and selection process. Both retention and hiring contribute to the department's vacancy rate, and the department collaborates closely with the Human Resources Department to reduce the rate. Over the last year, the vacancy rate has ranged from 12% to 18%, and some divisions, such as Equipment Maintenance (Fleet), Transportation,<sup>1</sup> and Engineering, have exceeded 20%. While the overall vacancy rate is lower than in Oakland and San Francisco, it is higher than in Public Works Departments in Alameda, Albany, Emeryville, and San Leandro.

The high vacancy rate obviously reduces the number of services and projects that staff can deliver. It leaves little room for new direction through the course of the fiscal year and can lead to delays and diminished quality. It also detracts from staff morale as existing staff are left to juggle multiple job responsibilities over long periods with little relief. The department's last two annual staff surveys show that employee morale is in the lowest quarter of comparable public agencies and the vacancy rate is a key driver of morale.

Attachment 1 offers an excerpted list of programs and projects that the department is unable to complete or address in this fiscal year due to the elevated vacancy rate and/or the volume of directives.

Attachment 1: Selected list of program, project, referral, and audit finding impacts

cc: Paul Buddenhagen, Deputy City Manager  
LaTanya Bellow, Deputy City Manager  
Jenny Wong, City Auditor  
Mark Numainville, City Clerk  
Matthai Chakko, Assistant to the City Manager

---

<sup>1</sup> Three of the City's five transportation planner positions will be vacant by December 3. Before January 1, 2023, the City Manager will share an off agenda memo that explains the impact of transportation-specific vacancies on existing projects and programs.

## **Attachment 1: Selected list of program, project, referral, and audit finding impacts**


### *Project and Program Impacts*

- Major infrastructure planning processes are 6+ months behind schedule, including comprehensive planning related to the City's Zero Waste goal, bicycle, stormwater/watershed, sewer, and streetlight infrastructure.
- Some flashing beacon installations have been delayed for more than 18 months, new traffic maintenance requests can take 2+ months to resolve, and the backlog of neighborhood traffic calming requests stretches to 2019.
- The City may lose its accreditation status by the American Public Works Association because of a lack of capacity to gain re-accreditation.
- Some regular inspections and enforcement of traffic control plans for the City's and others' work in the right of way are missed.
- Residents experience missed waste and compost pickups as drivers and workers cover unfamiliar routes and temporary assignments.
- Illegal dumping, ongoing encampment, and RV-related cleanups are sometimes missed or delayed.
- The backlog of parking citation appeals has increased.
- Invoice and contracting approvals can face months-long delays.
- The Janitorial Unit has reduced service levels and increased complaints.
- Maintenance of the City's fleet has declined, with preventative maintenance happening infrequently, longer repair response times, and key vehicles being unavailable during significant weather events.

### *Prior Direction Deferred or Delayed*

- Referral: Expansion of Paid Parking (DMND0003994)
- Referral: Long-Term Zero Waste Strategy (DMND0001282)
- Referral: Residential Permit Parking (PRJ0016358)
- Referral: Parking Benefits District at Marina (DMND0003997)
- Referral: Prioritizing pedestrians at intersections (DMND0002584)
- Referral: Parking Districts on Lorin and Gilman (DMND0003998)
- Budget Referral: Durant/Telegraph Plaza, 12/14/2021
- Referral: Traffic Calming Policy Revision (PRJ0012444)
- Referral: Public Realm Pedestrianization Opportunities (PRJ0019832)
- Referral: Long-Term Resurfacing Plan (PRJ0033877)
- Referral: Street Sweeping Improvement Plan (DMND0002583)
- Audit: Leases: Conflicting Directives Hinder Contract Oversight (2009)
- Audit: Underfunded Mandate: Resources, Strategic Plan, and Communication Needed to Continue Progress Toward the Year 2020 Zero Waste Goal (2014)
- Audit: Unified Vision of Zero Waste Activities Will Help Align Service Levels with Billing and Ensure Customer Equity (2016)





No Material  
Available for  
this Item

There is no material for this item.

**City Clerk Department**  
2180 Milvia Street  
Berkeley, CA 94704  
(510) 981-6900

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