

AGENDA



BERKELEY CITY COUNCIL MEETING

Tuesday, September 10, 2019

6:00 PM

SCHOOL DISTRICT BOARD ROOM - 1231 ADDISON STREET, BERKELEY, CA 94702

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

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

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

Preliminary Matters

Roll Call:

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

1. Pledge of Allegiance to the Flag
2. Recognition of Dr. Rev. Robert L. McKnight Sr.
3. Recognition of the Berkeley Film Foundation
4. Adjourn in Memory of Bill Wilkins, Executive Director of Berkeley Housing Authority
5. Adjourn in Memory of Nicki Spillane, Former City Employee

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

Public Comment on Non-Agenda Matters: *Persons will be selected by lottery to address matters not on the Council agenda. If five or fewer persons submit speaker cards for the lottery, each person selected will be allotted two minutes each. If more than five persons submit speaker cards for the lottery, up to ten persons will be selected to address matters not on the Council agenda and each person*

selected will be allotted one minute each. Persons wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a speaker card to the City Clerk in person at the meeting location and prior to commencement of that meeting. The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda. Speaker cards are not required for this second round of public comment on non-agenda matters.

Consent Calendar

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

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

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

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

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

Recess Items

- 1. Recess Item: Reject All Bids and Negotiate in the Open Market for the John Hinkel Park Improvement Project, Specification No. 19-11321-C**
From: City Manager
Recommendation: Adopt a Resolution ratifying the action taken by the City Manager during recess to reject all bids and direct staff to negotiate in the open market for the work associated with the John Hinkel Park Improvement Project, Specification No. 19-11321-C.
Financial Implications: See report
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

Consent Calendar

- 2. Referral Response: Short-term referral to City Manager to amend Berkeley Municipal Code 7,441-N.S. to expand the control of flavored tobacco across the City of Berkeley toward preventing youth and young adult tobacco use**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,673-N.S. amending Berkeley Municipal Code sections 9.80.020 and 9.80.035, and adding sections 9.80.031 and 9.80.032 to prohibit the sale of flavored tobacco products, to require a minimum package size for cigars and little cigars, and to require a minimum price for certain tobacco products sold in the City.
First Reading Vote: All Ayes.
Financial Implications: See report
Contact: Farimah Brown, City Attorney, (510) 981-6950; Kelly Wallace, Housing and Community Services, (510) 981-5400
- 3. Amendments to the Berkeley Election Reform Act; Amending BMC Chapter 2.12**
From: Fair Campaign Practices Commission
Recommendation: Adopt second reading of Ordinance No. 7,674-N.S. amending the Berkeley Elections Reform Act, Berkeley Municipal Code Chapter 2.12, regarding the public financing program.
First Reading Vote: All Ayes.
Financial Implications: None
Contact: Emma Soichet, Commission Secretary, (510) 981-6950
- 4. Minutes for Approval**
From: City Manager
Recommendation: Approve the minutes for the Council meetings of July 9, 2019 (special closed and regular), July 16, 2019 (special closed and regular) and July 23, 2019 (special closed and regular).
Financial Implications: None
Contact: Mark Numainville, City Clerk, (510) 981-6900
- 5. Contract No. 9754 Amendment: Konica Minolta Business Solutions, Inc. for Electronic Content Management System and Agenda Management and Workflow System**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 9754 with Konica Minolta Business Solutions, Inc. for software maintenance, and related services for OnBase, an Electronic Content Management System (ECMS) and agenda management and workflow system, to increase the not-to-exceed amount by \$175,000 for a total not to exceed amount of \$541,004 to pay for regular annual maintenance costs and version updates, and authorize annual renewals for maintenance services through September 18, 2024.
Financial Implications: General Fund - \$175,000
Contact: Mark Numainville, City Clerk, (510) 981-6900

Consent Calendar

6. 2019 Updated Commissioners' Manual

From: City Manager

Recommendation: Adopt a Resolution approving the updated 2019 edition of the Commissioners' Manual to include the Council direction to enhance the requirements for the public availability of written materials distributed to the commission after the agenda packet is published, making additional clarifying, non-substantive corrections, and rescinding Resolution No. 68,487-N.S.

Financial Implications: None

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

7. On-Call Graphic Design Services Contracts

From: City Manager

Recommendation: Adopt eight Resolutions authorizing the City Manager to approve contracts and any amendments with the following firms for on-call graphic design and/or illustration services for a total contract period of three years:

1. Bess Design in an amount not to exceed \$75,000; and
2. Celery Design Collaborative in an amount not to exceed \$75,000; and
3. Finley Digital in an amount not to exceed \$75,000; and
4. Identafire in an amount not to exceed \$75,000; and
5. Kate Saker in an amount not to exceed \$75,000; and
6. lowercase productions in an amount not to exceed \$75,000; and
7. Pushcart Design in an amount not to exceed \$75,000; and
8. Uptown Studios in an amount not to exceed \$75,000.

Financial Implications: See report

Contact: Dee Williams-Ridley, City Manager, (510) 981-7000

8. Resolution Recognizing the Importance of the 2020 Census

From: City Manager

Recommendation: Adopt a Resolution supporting Census 2020 and encouraging residents of the City of Berkeley to promote and complete the Census to ensure a fair and complete count.

Financial Implications: See report

Contact: Dave White, City Manager's Office, (510) 981-7000

9. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on September 10, 2019

From: City Manager

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

Financial Implications: Various Funds - \$12,590,000

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

Consent Calendar

**10. Purchase Order Agreements: Aramark Uniform Rental and Laundry Service
From: City Manager**

Recommendation: Adopt a Resolution authorizing the City Manager to piggyback on the City of Fresno's competitively bid contract with Aramark Uniform Services for the provision to provide rental and laundering of uniforms, walk-off mats, towels, and miscellaneous items for various departments. Expenditures are projected to amount to \$64,178 in Year 1 (September 1, 2019 through December 31, 2019) and \$198,735 in Year 2 and \$205,134 in Year 3 through January 4, 2022 for a total not to exceed amount of \$468,047 during this 28 month period, subject to the City's annual budget appropriation process.

Financial Implications: Various Funds - \$186,530

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

**11. Toshiba Managed Printed Services – Participation in Cooperative Contract:
Region 4 Education Service Center/Omnia Partners**

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to piggyback off Region 4 Education Service Center Contract No. R171405 (hereinafter Region 4 Contract) and enter into annual Purchase Order agreements and any amendments with Toshiba Business Solutions Inc. (TBS) for the provision of citywide managed print and copy services. Expenditures are projected to amount to \$267,938 in FY2020, \$275,976 in FY2021, and \$284,255 in FY2022, for a total not to exceed amount of \$828,170 for three (3) years coverage, subject to the City's annual budget appropriation process.

Financial Implications: See report

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

**12. Contract No. 010561 Amendment: Alameda County Network of Mental Health
Clients / Berkeley Drop-In Center (BDIC) to Operate a Secure Storage Program
From: City Manager**

Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 010561 with the Alameda County Network of Mental Health Clients / Berkeley Drop-In Center, adding \$50,000 in state Homeless Emergency Aid Program (HEAP) funding for a homeless storage locker program. This addition of \$50,000 will support eligible program-related activities for the period of one year and will increase the total not-to-exceed (NTE) amount of the existing contract to a revised amount of \$85,721.

Financial Implications: HEAP Funds - \$50,000

Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400

Consent Calendar

- 13. Contract: Alameda County Public Health Department, Office of Dental Health to Provide Dental Services to the Berkeley Unified School District**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to execute a contract and any amendments or extensions with Alameda County in an amount not to exceed \$159,000 to provide dental services in Berkeley Unified School District for the period of July 1, 2019 through June 30, 2022.
Financial Implications: General Fund - \$53,000
Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400
- 14. Authorization to Execute a Revised Programmatic Agreement with the California State Historic Preservation Officer (SHPO)**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a revised Programmatic Agreement (PA) with the California State Historic Preservation Officer (SHPO) to clarify which rehabilitation activities would not require SHPO's review.
Financial Implications: See report
Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400
- 15. Authorization to use Measure E Reserves to Procure Consulting Services for Easy Does It**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to use Measure E reserve funds to procure a consultant and enter into any agreements to provide Easy Does It (EDI) with operational, management, and organizational culture consulting services for an amount not to exceed \$100,000 to ensure initial and sustained implementation of audit findings.
Financial Implications: See report
Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400
- 16. State Minimum Wage Increases: Camps' Classification Salaries State Minimum Wage Increase – July 1, 2019 through June 30, 2022**
From: City Manager
Recommendation: Adopt a Resolution approving salary increases for certain Unrepresented Camp Classification salaries in Unit X1, for the period July 1, 2019 through December 31, 2020 pursuant to State of California Minimum Wage Order (MW-2019), and amending Resolution No. 68,534-N.S. (Salary).
Financial Implications: See report
Contact: LaTanya Bellow, Human Resources, (510) 981-6800

Consent Calendar

- 17. Berkeley Minimum Wage Increases: Salary Adjustments in accordance with Berkeley Minimum Wage Ordinance – July 1, 2019 through June 30, 2021**
From: City Manager
Recommendation: Adopt a Resolution approving salary increases for certain Unrepresented Classification salaries in Unit X1, for the period July 1, 2019 through June 30, 2020 pursuant to Berkeley Minimum Wage Ordinance, adopt future CPI-W increases through June 30, 2021 pursuant to Berkeley Minimum Wage Ordinance B.M.C. 13.99, and amending Resolution No. 68,534-N.S. (Salary).
Financial Implications: See report
Contact: LaTanya Bellow, Human Resources, (510) 981-6800
- 18. Presidio Networked Solutions Group, LLC: Using National Association of State Procurement Officials (NASPO) ValuePoint Cooperative Purchasing Agreement for Computer Hardware and Software Purchase Orders**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to increase spending authority with Presidio Networked Solutions Group, LLC (“Presidio”) for the purchase of networking equipment hardware and software, utilizing pricing and contracts, amendments, and extensions from the National Association of State Procurement Officials (NASPO) ValuePoint for the period beginning September 10, 2019 to June 30, 2020 for an amount not-to-exceed (NTE) \$200,000.
Financial Implications: See report
Contact: Savita Chaudhary, Information Technology, (510) 981-6500
- 19. Contract No. 10414A Amendment: Geographic Technologies Group (GTG) for Geographic Information System (GIS) Master Plan**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 10414A with Geographic Technologies Group (GTG) for Geographic Information System (GIS) Master Plan, for a total not to exceed \$99,700 and for a total contract value of \$303,960 from September 14, 2016 to June 30, 2021.
Financial Implications: General Fund - \$99,700
Contact: Savita Chaudhary, Information Technology, (510) 981-6500
- 20. Donation: Memorial Bench at Cesar Chavez Park in memory of Robert J. and Charlotte C. Coomber**
From: City Manager
Recommendation: Adopt a Resolution accepting a cash donation in the amount of \$3,400 for a memorial bench to be placed at Cesar Chavez Park at the Berkeley Marina in memory of Robert J. and Charlotte C. Coomber.
Financial Implications: See report
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

Consent Calendar

- 21. Contract: United Site Services of California, Inc. for Portable Toilet Rental and Service**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with United Site Services of California, Inc. in an amount not to exceed \$360,000 for a period of two years, with an option to extend for three 12-month periods for a total amount not to exceed \$900,000 to provide portable toilet services for rental and service of portable toilet units for the period October 1, 2019 through September 30, 2024.
Financial Implications: Various Funds - \$900,000
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
- 22. Contract: Rincon Consultants, Inc. for Southside Initial Study and Environmental Impact Report**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Rincon Consultants, Inc. to prepare an Initial Study/Environmental Impact Report (IS/EIR) for Zoning Ordinance changes in the Southside area for an amount not to exceed \$192,000 for a period of 18 months.
Financial Implications: See report
Contact: Timothy Burroughs, Planning and Development, (510) 981-7400
- 23. Approval of match commitment letter for FEMA Hazard Mitigation Grant**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to submit a letter of commitment of matching funds for a Hazard Mitigation Grant application for the Retrofit Grants program to the Federal Emergency Management Agency (FEMA), and subject to its award, to accept the grant and execute any resultant revenue agreements and amendments including any additional funding allocations from the Hazard Mitigation Grant Program.
Financial Implications: See report.
Contact: Timothy Burroughs, Planning and Development, (510) 981-7400
- 24. Contract: DC Electric Group, Inc., for On-Call Electronic Traffic Calming Devices Maintenance Project**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with DC Electric Group, Inc., for the on-call general maintenance of electronic traffic calming devices for the period October 16, 2019 to June 30, 2024, with an option of up to three one-year extensions, for an amount not-to-exceed \$250,000.
Financial Implications: State Transportation Tax Fund - \$250,000
Contact: Phillip Harrington, Public Works, (510) 981-6300

Consent Calendar

- 25. Contract No. 10298 Amendment: C. Overaa & Co. for the Center Street Parking Garage**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 10298 with C. Overaa & Co. for the Center Street Parking Garage Project, increasing the contract amount by \$473,835 for a total amount not to exceed \$38,944,818.
Financial Implications: Off Street Parking Fund - \$473,835
Contact: Phillip Harrington, Public Works, (510) 981-6300
- 26. Contract No. 9082C Amendment: Northgate Environmental Management, Inc. for On-Call Environmental Consulting Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 9082C with Northgate Environmental Management, Inc. for on-call environmental consulting services, increasing the current contract by \$50,000 for a total contract amount not to exceed \$234,500.
Financial Implications: Various Funds - \$50,000
Contact: Phillip Harrington, Public Works, (510) 981-6300
- 27. Correction to Resolution No. 68,901-N.S. to Authorize Enhanced Fine Tow Zones on UC Berkeley Football Game Days**
From: City Manager
Recommendation: Adopt a Resolution re-establishing new parking restrictions on UC Berkeley football game days, correcting the inadvertent omission of Enhanced Fine tow zones in Resolution No. 68,901-N.S., and rescinding Resolution No. 68,901-N.S.
Financial Implications: None
Contact: Phillip Harrington, Public Works, (510) 981-6300
- 28. Agreement with East Bay Regional Park District for Drainage, Slope, and Maintenance Access Easements in Tilden Regional Park**
From: City Manager
Recommendation: Adopt first reading of an Ordinance authorizing the City Manager to execute an agreement with the East Bay Regional Park District (EBRPD) for Drainage, Slope and Maintenance Access Easements at Tilden Regional Park.
Financial Implications: See report
Contact: Phillip Harrington, Public Works, (510) 981-6300

Consent Calendar

29. **Green Infrastructure Plan Adoption**

From: City Manager

Recommendation: Adopt a Resolution adopting the City of Berkeley Green Infrastructure Plan, July 2019, submit the Plan to the SF Bay Regional Water Quality Control Board, and authorize the City Manager to amend the Green Infrastructure Plan as needed to adjust for changes in technologies, or changes in City priorities.

Financial Implications: See report

Contact: Phillip Harrington, Public Works, (510) 981-6300

30. **Referral Response: Proposed New BMC Ordinance Adding Chapter 9.26 Live Animal Sales – Disclosure Requirements**

From: Animal Care Commission

Recommendation: In lieu of approving the ordinance, encourage Berkeley live animal retailers to provide purchasers with information regarding the sourcing of their animals by utilizing one or two of the following designations describing the sourcing of the particular animal: 'captive bred;' 'hobby breeder' or 'licensed breeder;' 'rescue;' 'wild caught;' or 'imported.'

Financial Implications: None

Contact: Amelia Funghi, Commission Secretary, (510) 981-6600

31. **Providing Wheelchair Charging Opportunities for Homeless Individuals**

From: Commission on Disability

Recommendation: Adopt a resolution directing appropriate city staff to develop policies which will provide accessible, reliable opportunities for homeless individuals with disabilities to charge power wheelchairs. Staff is directed to research existing conditions of homeless individuals with disabilities; barriers to charging power wheelchairs; related consequences; and potential City actions to provide accessible, reliable wheelchair charging. Request that staff assemble a policy to be reviewed and implemented.

Financial Implications: See report

Contact: Dominika Bednarska, Commission Secretary, (510) 981-6300

32. **Calling for State Action on Parking Enforcement Vehicle Emissions**

From: Community Environmental Advisory Commission

Recommendation: Refer to the City Manager to send the letter attached to the report, calling for the State of California to require 100% all-electric parking enforcement vehicles by 2030 or earlier, to Berkeley's elected State-level representatives and the Chair of the California Air Resources Board.

Financial Implications: See report

Contact: Viviana Garcia, Commission Secretary, (510) 981-7460

Consent Calendar

33. Commission Referral: Recommendation to Install an Outdoor Public Warning System (Sirens) and Incorporate It Into a Holistic Emergency Alerting Plan
(Reviewed by the Public Safety Committee)

From: Disaster and Fire Safety Commission

Recommendation: We recommend that City of Berkeley immediately begin the process to purchase, install, and maintain an outdoor public warning system (sirens) as a supplement to other alert and warning technologies within our boundaries and coordinated with abutting jurisdictions and Alameda County. This installation should be accompanied by the following: -ongoing outreach and education so that the public will understand the meaning of the sirens and what to do when they hear a siren; - development of a holistic alert protocol, incorporating sirens as an additional option among the available suite of alerting methods; -staff training and drills on alerting procedures; -development of a testing and maintenance plan that will ensure the system is fully operational while avoiding unnecessary or excessive noise pollution in the City; -outreach to deaf and hard of hearing residents to encourage them to opt-in for alerting that meets their communication needs. This may include distributing weather radios or other in-home devices with accessibility options for people with disabilities.

This recommendation does not specify the number, type, or location of sirens; City staff should determine the most cost-effective system that achieves the goals described in this recommendation. This may include either mobile or fixed-location sirens.

Financial Implications: See report

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

34. Reinstating October, 2019 Homeless Commission Meeting

From: Homeless Commission

Recommendation: The Homeless Commission recommends that Council reinstate the October, 2019 Homeless Commission meeting earlier relinquished in order to hold an additional meeting in February, 2019 to address community funding allocations.

Financial Implications: Staff time

Contact: Peter Radu, Commission Secretary, (510) 981-5400

35. 1281 University Avenue Request for Proposals

From: Housing Advisory Commission

Recommendation: Direct the City Manager to issue a Request for Proposals (RFP) for residential development at the City-owned site at 1281 University Avenue with a requirement that at least 50% of the on-site units to be restricted to 50% AMI or below households, with consideration given to accommodations that serve unhoused or homeless households, including nontraditional living arrangements such as tiny homes and that Council consider interim use for the site for housing purposes.

Financial Implications: See report

Contact: Mike Uberti, Commission Secretary, (510) 981-7400

Consent Calendar

- 36. Spring 2019 Bi-Annual Report on Funding for Housing Programs**
From: Housing Advisory Commission
Recommendation: Accept the Housing Advisory Commission's (HAC) recommendations for the allocation of U1 General Fund revenues to increase the supply of affordable housing and protect residents of Berkeley from homelessness.
Financial Implications: See report
Contact: Mike Uberti, Commission Secretary, (510) 981-7400
- 37. Appointment of Andrea Pritchett to the Mental Health Commission**
From: Mental Health Commission
Recommendation: Adopt a Resolution approving the appointment of Andrea Pritchett to the Mental Health Commission, as a representative of the general public interest category, for a three year term beginning September 11, 2019 and ending September 10, 2022.
Financial Implications: None
Contact: Jamie Works-Wright, Commission Secretary, (510) 981-5400
- 38. Resolution: Oppose U.S. Withdrawal from INF Treaty**
From: Peace and Justice Commission
Recommendation: Adopt a resolution that calls on President Trump to rescind the U.S. notice of withdrawal from the Intermediate-Range Nuclear Forces Treaty (INF Treaty) and to continue to comply with and re-enter into the Treaty, calls on Congress to oppose U.S. withdrawal from the Treaty and to support resolution of U.S.-Russian disputes through mechanisms established by the Treaty, and calls on Representative Barbara Lee to support H.R. 1249, the INF Treaty Compliance Act of 2019.
Financial Implications: None
Contact: Bre Slimick, Commission Secretary, (510) 981-7000

Council Consent Items

- 39. Support of AB 18 – Firearms Excise Tax**
From: Mayor Arreguin and Councilmembers Wengraf, Harrison, and Robinson
Recommendation: Adopt a Resolution in support of Assembly Bill (AB) 18, which would place a \$25 excise tax on the sale of firearms. Send a copy of the Resolution to Governor Gavin Newsom, State Senator Nancy Skinner, and Assemblymembers Buffy Wicks and Marc Levine.
Financial Implications: None
Contact: Jesse Arreguin, Mayor, (510) 981-7100

Council Consent Items

- 40. Sierra Club San Francisco Bay Chapter: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**
From: Mayor Arreguin and Councilmember Hahn
Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed \$1,000 per Councilmember including \$1,000 from Mayor Arreguin to the Sierra Club San Francisco Bay Chapter for sponsorship of the 2019 David Brower Dinner, a 501(c)(3) tax-deductible non-profit corporation. Funds would be relinquished to the City's General Fund for this purpose from the discretionary Council Office Budgets of Mayor Arreguin and any other Councilmembers who would like to contribute.
Financial Implications: Mayor's Discretionary Funds - \$1,000
Contact: Jesse Arreguin, Mayor, (510) 981-7100
- 41. Approval of One-Time Reimbursement for Sister City Visit to Gongju, Republic of Korea**
From: Mayor Arreguin and Councilmember Robinson
Recommendation: Adopt a Resolution approving the reimbursement of travel expenses at up to \$6,000 from the discretionary Council Office Budgets of Mayor Arreguin and Councilmember Robinson for the purpose of visiting Berkeley's sister city, Gongju, Republic of Korea to officially commemorate the establishment of sister city relations.
Council approval of this one-time reimbursement is required under the Council Expense Reimbursement Policy (Resolution No. 67,992-N.S.) as the policy does not expressly allow reimbursement for international travel relating to city business.
Financial Implications: Mayor and Councilmember Discretionary Funds - \$6,000
Contact: Jesse Arreguin, Mayor, (510) 981-7100
- 42. Berkeley Community Fund Annual Gala and Benefit Event: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**
From: Councilmember Davila
Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember including \$250 from Councilmember Cheryl Davila, to support the Berkeley Community Fund Annual Gala and Benefit Event on September 28, 2019, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Davila, the Mayor and any other Councilmembers who would like to contribute.
Financial Implications: Councilmember's Discretionary Fund - \$250
Contact: Cheryl Davila, Councilmember, District 2, (510) 981-7120

Council Consent Items

- 43. Berkeley Youth Alternatives 1st Golf Tournament Supporting Education and Sports Activities: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**
From: Councilmember Davila
Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember including \$250 from Councilmember Cheryl Davila, to support the Berkeley Youth Alternatives 1st Golf Tournament Supporting Education and Sports Activities on September 30, 2019, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Davila, the Mayor and any other Councilmembers who would like to contribute.
Financial Implications: Councilmember's Discretionary Funds - \$250
Contact: Cheryl Davila, Councilmember, District 2, (510) 981-7120
- 44. Pavement of Derby Street and Ward Street between Telegraph Ave and Shattuck Ave**
From: Councilmember Bartlett
Recommendation: That the Council refers consideration of the paving of Derby St. and Ward St. between Shattuck Ave and Telegraph Ave to the Public Works Commission in order to repair these deteriorating streets that serve as a part of a major commuter corridor which both individual drivers and buses use in their daily commute.
Financial Implications: See report
Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130
- 45. Funding the Construction of a Pedestrian Signal at Ashby Street and Fulton Street**
From: Councilmember Bartlett
Recommendation: That the Council refers to the November Budget Annual Appropriations Ordinance to fund the construction of a pedestrian crossing signal at the intersection of Ashby and Fulton Street in order to address inadequate traffic control and stopping, reduce traffic accidents, and further safeguard the community.
Financial Implications: See report
Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130
- 46. Funding for Pedestrian Crossing Signal at the intersection of Shattuck and Prince**
From: Councilmember Bartlett
Recommendation: That the Council refers to the November Budget Annual Appropriations Ordinance to fund pedestrian crossing signals on all directions of the Shattuck Avenue and Prince Street intersection in order to address inadequate traffic control and ensure the safety of travelers along these streets.
Financial Implications: See report
Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130

Council Consent Items

- 47. Funding Streetlight Near South East Corner of Otis Street**
From: Councilmember Bartlett
Recommendation: That the Council refers to the City Manager to fund construction of a streetlight on the corner of Otis near Ashby.
Financial Implications: See report
Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130
- 48. Request for Information Regarding Current Status and Progress on Traffic Mitigations at Dwight Way and California Street**
From: Councilmembers Bartlett and Harrison
Recommendation: Refer to the City Manager a request for information regarding the current status and progress on traffic mitigations and pedestrian safety improvements at the intersection of Dwight Way and California Street.
Financial Implications: See report
Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130
- 49. Resolution in Support of Congresswoman Barbara Lee's Resolution (H. Res. 429): Affirming the Right of All Renters to a Safe, Affordable, and Decent Home**
From: Councilmembers Harrison, Bartlett, Hahn, and Robinson
Recommendation: Adopt a resolution in support of H. Res. 429, a resolution introduced by Congresswoman Barbara Lee. Send a letter of support to Congresswoman Lee.
Financial Implications: None
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140
- 50. Resolution Endorsing the United Nations Convention on the Rights of the Child**
From: Councilmembers Harrison and Bartlett
Recommendation:
1. Adopt a resolution endorsing the United Nations Convention on the Rights of the Child.
2. Send a letter of support to Acting U.S. Ambassador to the United Nations, Jonathan Cohen.
Financial Implications: None
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140

Council Consent Items

51. Co-Sponsorship of 2019 East Bay Community Emergency Prep Fair and Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds

From: Councilmember Hahn

Recommendation: Adopt a resolution approving the co-sponsorship by the City of Berkeley of the 2019 East Bay Community Emergency Prep Fair (“Emergency Prep Fair”) to be held at James Kenney Park on Saturday, October 12, 2019, and approving the expenditure of an amount not to exceed \$500 per councilmember, including \$300 from Councilmember Hahn, to the Berkeley Disaster Preparedness Neighborhood Network (BDPNN), a 501(c)(3) non-profit organization, for administrative fees, event production, and advertising in support of the Emergency Prep Fair, with funds relinquished to the City’s general fund for this purpose from the discretionary Council office budget of Councilmember Hahn, and any other Councilmembers who would like to contribute.

Financial Implications: None

Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150

52. Letter of Support for HR-3001 (Meng)

From: Councilmember Wengraf

Recommendation: Send a letter of support for HR-3001, “The Quiet Communities Act of 2019,” to Representative Grace Meng, with copies to Representative Barbara Lee, and Senators Dianne Feinstein and Kamala Harris.

HR-3001 will reinstate the Federal Office of Noise Abatement and Control, tasked with developing State and Local noise control programs and carrying out research on airport, airplane and vehicular noise.

Financial Implications: None

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

53. Voluntary Time Off on Statewide Election Days for City Employees *(Reviewed by the Budget and Finance Committee)*

From: Councilmembers Robinson, Davila, Hahn, and Droste

Recommendation: Refer to the City Manager to designate Statewide Election Days as VTO days, and refer to the 2x2 Committee to discuss coordinating City and District policy on holidays, in particular Election Day.

Financial Implications: See report

Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170

Council Consent Items

- 54. Decriminalizing Entheogenic Plants** *(Reviewed by the Public Safety Committee)*
From: Councilmembers Robinson and Davila
Recommendation: Refer to the Community Health Commission for feedback regarding the adoption of a Resolution decriminalizing Entheogenic Plants and Fungi such as mushrooms, cacti, iboga containing plants, and/or extracted combinations of plants similar to Ayahuasca; and limited to those containing the following types of compounds: indole amines, tryptamines, phenethylamines, by restricting any city funds or resources to assist in the enforcement of laws imposing criminal penalties for the use and possession of Entheogenic Plants by adults age 21 and over.
Financial Implications: See report
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170
- 55. Game Day Parking - Minor Update to include RPP area K**
From: Councilmember Droste and Mayor Arreguin
Recommendation: Refer to the City Manager the modification of parking restrictions in specified RPP Zones on UC Berkeley home football game days as follows: establish "Enhanced Fine Areas" to prohibit parking without a valid RPP permit to include RPP Zone K; and install new RPP signs in zone K to clearly indicate UC Berkeley home football game day parking prohibitions.
Financial Implications: Staff time and signage
Contact: Lori Droste, Councilmember, District 8, (510) 981-7180

Action Calendar

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

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

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

Action Calendar – Public Hearings

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

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

Action Calendar – Public Hearings

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.

56. Public Hearing and Approval of California Municipal Finance Authority Bond Financing for Berkeley Way Affordable Housing

From: City Manager

Recommendation:

1. Conduct the public hearing under the requirements of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) and the Internal Revenue Code of 1986, as amended; and
2. Adopt a Resolution approving the issuance of the Bonds by the California Municipal Finance Authority (CMFA) for the benefit of BRIDGE Berkeley Way LP, a California limited partnership (the “Borrower”), to provide for the financing of the Project, such adoption is solely for the purposes of satisfying the requirements of TEFRA, the Internal Revenue Code and the California Government Code Section 6500 (and following).

Financial Implications: See report

Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400

57. Public Hearing and Approval of California Municipal Finance Authority Bond Financing for Berkeley Way HOPE Center

From: City Manager

Recommendation:

1. Conduct the public hearing under the requirements of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) and the Internal Revenue Code of 1986, as amended.
2. Adopt a Resolution approving the issuance of bonds by the California Municipal Finance Authority for the benefit of BFHP Hope Center LP, a California limited partnership (the “Borrower”), to provide for the financing of the Project, such adoption is solely for the purposes of satisfying the requirements of TEFRA, the Internal Revenue Code and the California Government Code Section 6500 (and following).

Financial Implications: See report

Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400

58. Implement Residential Preferential Parking (RPP) Program on Sections of McGee Street and Rose Street

From: City Manager

Recommendation: Conduct a public hearing and upon its conclusion, adopt a Resolution amending Resolution No. 56,508-N.S. Sections 25E and 25N by adding subsections to implement Residential Preferential Parking (RPP) on portions of two city streets.

Financial Implications: See report

Contact: Phillip Harrington, Public Works, (510) 981-6300

Action Calendar – Old Business

59. Residential Preferential Parking (RPP) Program: Summer 2019 Update

(Continued from July 23, 2019)

From: City Manager

Recommendation: Direct staff to conduct analysis of Fiscal Year (FY) 2020 Residential Preferential Parking (RPP) Program costs and revenues and return to Council early 2020 with updated fee increase proposal(s) to be effective April 1, 2020 for the FY 2021 permit year for Program enhancement and expansion.

Financial Implications: See report

Contact: Phillip Harrington, Public Works, (510) 981-6300

Action Calendar – New Business

60. Funding for Street Rehabilitation Capital Improvement Program in Berkeley

From: City Manager

Recommendation: In response to Council comments at the December 11, 2018 Council Meeting, this report provides information on current and future funding sources for street rehabilitation. Staff is requesting feedback on the funding available, including current expenditures, projected expenses, and plans, for the City's current and future Street Rehabilitation Capital Improvement Program (CIP).

Financial Implications: See report

Contact: Phillip Harrington, Public Works, 981-6300

Action Calendar – New Business

61a. Health Study to be Conducted by Division of Public Health to Gather Data on Health Conditions, Health Disparities and Mortality Rates of Berkeley's Homeless

From: Homeless Commission

Recommendation: The Homeless Commission recommends that Council direct that the City Division of Public Health conduct a study gathering data on health conditions, health disparities and mortality rates of Berkeley's homeless for the last five years.

Such recommendation includes compiling information on Berkeley's homeless including persons living in shelters, in vehicles, on the streets, and any other location not intended for human habitation and who move between these settings. Such study shall include data on specific health conditions and make a comparative analysis between the homeless and Berkeley's general population and shall include demographics such as race, age, gender and known disability. Such study shall include how long the homeless person has lived on the streets and/or in shelters and attempt to track back the nature of their various residences for five years as is feasible.

Data for mortality rates among Berkeley's homeless shall also be gathered for the last five years. The mortality rates shall be examined for persons living in shelters, in vehicles, on the streets and any other location not intended for human habitation.

The cause of death shall be identified and demographics such as race, age, gender and known disability compiled. Tracking the housing status of the persons, for the last five years, shall be identified as is feasible. If feasible, the length of residence in Berkeley shall be identified.

A comparative analysis with the general population shall be made. To the extent feasible and within legal constraints, whether or not the deceased individual was under the care of a medical provider shall be identified. All personal information should be redacted so as to comply with federal, state and local laws.

Recommendations shall be made to improve the health conditions of the homeless and decrease the mortality rates of homeless persons. Recommendations, within the City Division of Public Health's purview shall be made initially by them and return to Council where further recommendations can be made. Council shall provide the opportunity for the Homeless Commission, any other relevant commission, and the public to weigh in on recommendations following the release of the data/study.

Financial Implications: See report

Contact: Peter Radu, Commission Secretary, (510) 981-5400

Action Calendar – New Business

61b. Companion Report: Health Study to be Conducted by the Public Health Division to Gather Data on Health Conditions, Health Disparities and Mortality Rates of Berkeley's homeless

From: City Manager

Recommendation: The Homeless Commission's recommendation to conduct a study on the health conditions, disparities, and mortality rates of Berkeley's homeless population addresses important issues within the City. Staff greatly appreciate the Commission's continued advocacy for the unhoused and their suggestions to gather as much relevant information as possible. Therefore, staff recommend asking Alameda County to explore the feasibility of recording homelessness as a data point in death records and/or making investments to begin tracking this information locally.

Financial Implications: None

Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400

62a. Conducting an Analysis of Increasing Inclusionary Housing over Affordable Housing Mitigation Fee

From: Homeless Commission

Recommendation: The Homeless Commission recommends that Council direct or refer to the City Manager, as Council sees fit, to conduct an analysis of the current inclusionary housing/affordable housing mitigation fee structure and return to Council with the benefits/detriments of the following options:

1. Requiring inclusionary housing over the affordable housing mitigation fee;
2. Requiring an increased number of inclusionary units when the inclusionary option is utilized;
3. Providing incentives to developers to elect the inclusionary unit option over the affordable housing mitigation fee option;
4. Identifying designated geographical boundaries or Council districts which would require only inclusionary housing in new developments and not permit the affordable housing mitigation fee in those geographical boundaries or Council districts; and
5. As to all options, strengthening the ordinance for inclusionary units so as to mitigate homelessness by insuring access to units for extremely low-income persons and persons experiencing homelessness.

The Homeless Commission recommends that an analysis include updated data on the number of developments initiated in the last three years showing the number of inclusionary units added and the amount of affordable housing mitigation fees paid and to the extent feasible, a ten year projection of the numbers of planned developments and an analysis of the potential number of inclusionary units or amount of affordable housing mitigation fees anticipated. An analysis of various options should also consider a sunset clause so that amendments to current law would require revisiting the impact of any changes.

Financial Implications: See report

Contact: Peter Radu, Commission Secretary, (510) 981-5400

Action Calendar – New Business

62b. Companion Report: Conducting an Analysis of Increasing Inclusionary Housing over Affordable Housing Mitigation Fee

From: City Manager

Recommendation: Refer to the City Manager to conduct a feasibility analysis for the recommendations by the Homeless Commission as part of the existing referral to examine potential reforms to the Affordable Housing Mitigation Fee.

Financial Implications: See report

Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400

63a. Utilization of City-Owned Property at 1281 University Avenue to House up to 8-10 RV Dwellers

From: Homeless Commission

Recommendation: The Homeless Commission recommends that the currently unused City-owned property at 1281 University Avenue be used to house, on an interim basis, up to 8-10 RV dwellers, or as many as the property can safely accommodate, selected by the City of Berkeley. The RV dwellers would be selected by the City of Berkeley based on the strength of their ties to the community such as employment in Berkeley, attending school in Berkeley and families with children in Berkeley schools.

Financial Implications: See report

Contact: Peter Radu, Commission Secretary, (510) 981-5400

63b. Companion Report: Utilization of City-Owned Property at 1281 University Avenue to House up to 8 - 10 RV Dwellers

From: City Manager

Recommendation: Refer to the City Manager to conduct a feasibility analysis of 1281 University Avenue as an interim site to host Recreational Vehicle (RV) dwellers.

Financial Implications: See report

Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400

64a. Expansion of Adeline Corridor Plan to Include Housing in Private Component for Extremely low-Income Persons

From: Homeless Commission

Recommendation: The Homeless Commission recommends that the City Council identify a means to expand housing within the private housing component of inclusionary housing to include a set-aside for extremely low-income persons. The Commission recommends that be done either through retaining a consultant to conduct a nexus study to include extremely low-income housing in inclusionary housing, as to the Adeline Corridor, or by staff internally conducting that study so that inclusionary housing, within the Adeline Corridor, can be expanded to include a set-aside for extremely low-income persons.

Financial Implications: See report

Contact: Peter Radu, Commission Secretary, (510) 981-5400

Action Calendar – New Business

64b. Companion Report: Expansion of Adeline Corridor Plan to Include Housing in Private Component for Extremely low-Income Persons

From: City Manager

Recommendation: If Council believes it is needed, refer to the FY20 November budget process the Homeless Commission's recommendation to hire a consultant for a nexus study to include extremely low-income housing in the Adeline Corridor Plan's inclusionary housing requirements. A cost estimate will be provided at the time of referral.

Financial Implications: None

Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400

Council Action Items

65. Open Doors Initiative: City Worker and First Time Affordable Homebuyer Program *(Reviewed by the Land Use, Housing & Economic Development Committee)*

From: Councilmembers Bartlett, Robinson, and Mayor Arreguin

Recommendation: That the City Council refer the City Manager and Housing Advisory Committee to explore mechanisms to support homeownership by City of Berkeley First-Responders and other critical safety staff and further refer to City Manager to prepare a report detailing available first-time homeownership and low-income homeowner programs that might be available for implementation in the City of Berkeley (Qualified Positive Recommendation from the Land Use, Housing & Economic Development Committee).

Financial Implications: See report

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

Action Calendar – New Business

66. Referral Response: Lava Mae Mobile Shower and Hygiene Services

From: City Manager

Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400

Action Calendar – Old Business

67. Repealing and Reenacting BMC Chapter 13.104, Wage Theft Prevention *(Continued from July 23, 2019)*

From: Mayor Arreguin and Councilmember Harrison

Recommendation: Adopt second reading of Ordinance No. 7,668-N.S. repealing and reenacting BMC Chapter 13.104, Wage Theft Prevention to improve enforcement of the ordinance by requiring a signed acknowledgement of ordinance requirements and signed attestation at completion of the project.

First Reading Vote: All Ayes.

Financial Implications: Staff time

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

Information Reports

68. **Recommendations Status: Easy Does It City Grant Funding Audit**
From: City Manager
Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400
69. **LPC NOD: 2526 Hawthorne Terrace/#LMIN2019-0002**
From: City Manager
Contact: Timothy Burroughs, Planning and Development, (510) 981-7400
70. **LPC NOD: 1911 Fourth Street/#LMSAP2019-0005**
From: City Manager
Contact: Timothy Burroughs, Planning and Development, (510) 981-7400
71. **Commission on Labor 2020-2021 Work Plan**
From: Commission on Labor
Contact: Delfina Geiken, Commission Secretary, (510) 981-5400
72. **LPC Annual Report to City Council for the period May 2018 to May 2019**
From: Landmarks Preservation Commission
Contact: Fatema Crane, Commission Secretary, (510) 981-7400
73. **Parks and Waterfront Commission 2019 Work Plan**
From: Parks and Waterfront Commission
Contact: Roger Miller, Commission Secretary, (510) 981-6700
74. **Police Review Commission Work Plan for 2019-2020**
From: Police Review Commission
Contact: Katherine Lee, Commission Secretary, (510) 981-4950
75. **Update on Assembly Bill 101 and Local Government Planning Support Grants**
From: Mayor Arreguin
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.*

Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33), via internet accessible video stream at <http://www.cityofberkeley.info/CalendarEventWebcastMain.aspx> and KPFB Radio 89.3.

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

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

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at the public counter at the City Clerk Department located on the first floor of City Hall located at 2180 Milvia Street as well as posted on the City's website at <http://www.cityofberkeley.info>.

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

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

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

COMMUNICATION ACCESS INFORMATION:

This meeting is being held in a wheelchair accessible location.

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

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



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

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***I hereby certify that the agenda for this 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 August 29, 2019.***

A handwritten signature in black ink, appearing to read "Mark Numainville".

Mark Numainville, City Clerk

## Communications

*Council rules limit action on Communications to referral to the City Manager and/or Boards and Commissions for investigation and/or recommendations. All communications submitted to Council are public record. Copies of individual communications are available for viewing at the City Clerk Department and through Records Online.*

### **Vivian Warkentin URL's**

1. Vivian Warkentin (3)

### **Item #54: Decriminalizing Entheogenic Plants**

2. Lydia La Roux

### **Item #64b: Companion Report: Expansion of Adeline Corridor Plan to Include Housing in Private Component of Extremely low-income persons**

3. Steering Committee for South Berkeley NOW
4. Friends of Adeline
5. Teresa Clarke
6. Larisa Cummings
7. Julia Cato

### **Traffic Circle**

8. Emily Modde

### **Crime is the #1 Issue**

9. Wende Micco

### **5G**

10. Phoebe Anne Sorgen
11. Jill Jones

### **Natural Gas**

12. John Jones
13. League of Women Voters
14. Joel Goodman
15. H. Wayne Snavelly
16. James Haley

### **Gun Control**

17. Tom Lent
18. David Danello

### **Spit Masks**

19. Maris Arnold
20. Christine Schwartz

### **BART**

21. Sara Fain
22. Talia Falk

## **Communications**

### **Compostable Packaging**

- 23. Pureco Products
- 24. Todd Gasparik
- 25. Brian Dow (2)

### **Gender Neutral**

- 26. George Losoncy
- 27. Randy Hoff
- 28. Arejayel@ (3)
- 29. Richard Ward
- 30. Carlisle Johnson
- 31. Mathewskillingsagain77@

### **Homelessness**

- 32. Margot Smith
- 33. Jessica Behrman
- 34. Mike Lee
- 35. Jennifer Hamilton
- 36. Genevieve Wilson
- 37. Bryce Nesbitt

### **Climate Change**

- 38. David Lerman
- 39. Berkeley Citizens Action
- 40. Thomas Lord

### **Christine Schwartz**

- 41. Liz Wiener
- 42. Marcia Poole
- 43. Christine Schwartz

### **RV's**

- 44. Charles Bullett
- 45. Alyson Mitchell
- 46. Erwan Illian (2)
- 47. Alfred Manning
- 48. Barbara Rydlander
- 49. John Palmer
- 50. Tricia Paulson
- 51. Pam Speich (3)
- 52. Genevieve Wilson
- 53. Daniel Jurnove
- 54. Dan McDunn (3)
- 55. Councilmember Kesarwani
- 56. David Lerman
- 57. Barbara

## **Communications**

### **Pool**

- 58. Rebecca Burke
- 59. Parks, Recreation and Waterfront Department
- 60. Linda Worthman (2)
- 61. Lynn Jones-Finn
- 62. Lorraine Gunther
- 63. Diane Tomkins
- 64. Barbara Rylander

### **Berkeley Considers Issues**

- 65. Barbara Gilbert (3)
- 66. Tony Benado
- 67. Matthai Chakko

### **Worst City of Berkeley**

- 68. Margot Smith
- 69. Barbara Gilbert
- 70. Jessica Behrman

### **Trash Truck Fire and Creek Damage**

- 71. Nicholas Dominguez, on behalf of the Public Works Commission
- 72. Susan Schwartz, on behalf of Friends of Five Creeks

### **Use of Surveillance Technology - Security Cameras**

- 73. Brian Hofer, on behalf of Secure Justice (2)

### **Bicycle and Pedestrian Accidents**

- 74. Michael and Denise Harland

### **Street Rehab and Plan Include Bicycles**

- 75. Ben Gerhardstein

### **“13 Reasons” Movie Shoot**

- 76. Adrian Kierman

### **Dangerous Conditions – Street Lights**

- 77. David Lerman

### **Evaluation of the City Manager**

- 78. Linda Franklin

### **Rent Increase for Commercial Buildings**

- 79. Lucinda Olney

### **Scooters Safety Risk**

## **Communications**

80. Moni Law

### **East Bay Seniors**

81. Joann Sullivan

### **Street Sweeping Reminder**

82. David Lerman

83. Melanie McLean, on behalf of the City Manager's Office

### **Lawrence Berkeley National Laboratory**

84. bcitizen@

### **Gabriela Costello-Kramer Complaint**

85. Margaret Fine (2)

86. Gabriela Kramer

### **Dumb Cities**

87. Margy Wilkinson

### **Opportunity Zones**

88. Barbara Gilbert

### **Hilldale Avenue and Bonnie Lane Infrastructure**

89. Max Blanchet

90. I-Kuna Lin

### **Sherriff Audit**

91. Richard Vale, President, Board of Supervisors

### **Weeds/Trash at the Public Safety Building**

92. Kathi Pugh

### **Hotel Construction at University and Sacramento**

93. Jesse Goldberg

### **Amazon and ICE**

94. Mimi Main

### **Outdoor Public Warning Siren System**

95. Gradiva Couzin, on behalf of the Disaster and Fire Safety Commission

### **Homeless Tombstones**

96. Barbara Brust

### **Library Complaint**

97. Barbara Gilbert

## **Communications**

98. Councilmember Hahn

### **Wild Urban Interface**

99. Bob Flasher

### **Kids On The Line**

100. Chimney5@

### **IKE Kiosks**

101. Stuart Baker, on behalf of the Telegraph Business Improvement District

### **Berkeley Big People**

102. Karen Eichler

103. Richard Whitlock

104. Catherine Bathrick

105. Liz Hoadley

106. Scott Donahue

107. Marsha Gale

### **Berkeley Property Taxes**

108. Jessica Behrman

### **Public Safety Issue at University and Shattuck**

109. Gary Simons

### **Berkeley Parking Tickets**

110. David Lerman

### **Habitat for Humanity**

111. Lori Pottinger

### **1444 Fifth Street Project**

112. Law Offices of Holland & Knight

### **Cashless Businesses in Berkeley**

113. Cassia Stepak

## Communications

### **Supplemental Communications and Reports**

*Items received by the deadlines for submission will be compiled and distributed as follows. If no items are received by the deadline, no supplemental packet will be compiled for said deadline.*

- **Supplemental Communications and Reports 1**  
Available by 5:00 p.m. five days prior to the meeting.
- **Supplemental Communications and Reports 2**  
Available by 5:00 p.m. the day before the meeting.
- **Supplemental Communications and Reports 3**  
Available by 5:00 p.m. two days following the meeting.







Office of the City Manager

**RECESS ITEM**  
CONSENT CALENDAR  
 September 10, 2019

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Scott Ferris, Director, Parks Recreation & Waterfront  
 Subject: Recess Item: Reject All Bids and Negotiate in the Open Market for the John Hinkel Park Improvement Project, Specification No. 19-11321-C

RECOMMENDATION

Adopt a Resolution ratifying the action taken by the City Manager during recess to reject all bids and direct staff to negotiate in the open market for the work associated with the John Hinkel Park Improvement Project, Specification No. 19-11321-C.

NEGATIVE EFFECT IF ACTION IS DELAYED UNTIL AFTER COUNCIL RECESS

After an extensive public process, the project is currently ready for construction and can be completed prior to the upcoming 2019/20 winter season. It is in the City's best interest to negotiate with a contractor as soon as possible to avoid the potential difficulties, delays, and additional costs of construction during the winter season.

FISCAL IMPACTS OF RECOMMENDATION

Funding is available in the FY 2020 budget in the Measure WW Parks Bond Fund (Fund 345) and the Parks Tax Fund (Fund 138). A small amount of additional staff and consultant time will be required to negotiate a contract to complete the project. This project is one of two remaining projects that are partially funded by Measure WW. The City has already incurred design-related expenses using Measure WW Grant funds that may only be reimbursed at the completion of the project.

CURRENT SITUATION AND ITS EFFECTS

The John Hinkel Park Improvement project was advertised for bids on June 13, 2019 and bids were opened on July 9, 2019. The City received one bid at \$1,139,500 from CF Contracting, Inc. This bid is 211% higher than the City's available funding for the project and therefore the project cannot proceed. Staff recommends that Council reject all bids and authorize the City Manager to negotiate in the open market in accordance with the City Charter Article XI, Public Works and Supplies, Section 67(a.).

BACKGROUND

The John Hinkel Park site was designated a City Landmark in 2001. In early 2015, a fire destroyed the John Hinkel Clubhouse and the remains were demolished in April of that year. Since that time, the upper area of the park has been fenced off-limits for

Reject All Bids and Negotiate in the open market for the  
John Hinkel Park Improvement Project Specification No. 19-11321-C

**RECESS ITEM**  
CONSENT CALENDAR  
September 10, 2019

safety reasons. The area is in need of restoration, renovation, and safety improvements. Over the past three years, an extensive public process was conducted, comprised of community and Parks and Waterfront Commission meetings, to develop appropriate improvements that respond to community needs and also respect the historic nature of its Landmark designation. In late May of 2019, the project scope was finalized and the project is ready for construction. This project supports the City's Strategic Plan goal to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.

ENVIRONMENTAL SUSTAINABILITY

The construction contract includes requirements to comply with the City's Environmentally Preferable Purchasing Policy.

RATIONALE FOR RECOMMENDATION

The City is not able to accept the one bid from CF Contracting, Inc. because it exceeds the City's available funding for the project. The City does not have the in-house labor or equipment resources to complete this renovation project.

ALTERNATIVE ACTIONS CONSIDERED

None

CONTACT PERSON

Scott Ferris, Director, Parks Recreation & Waterfront, 981-6700  
Evelyn Chan, Supervising Civil Engineering, PRW, 981-6430

Attachments:

1: Resolution

Exhibit A: Bid Abstract

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

REJECT ALL BIDS AND DIRECT STAFF TO NEGOTIATE IN THE OPEN MARKET FOR THE WORK ASSOCIATED WITH THE JOHN HINKEL PARK IMPROVEMENT PROJECT, SPECIFICATION NO. 19-11321-C

WHEREAS, the John Hinkel Park site was designated a City Landmark in 2001. In early 2015, a fire destroyed the John Hinkel Clubhouse and the remains were demolished in April of that year. Since that time, the upper area of the park has been fenced off-limits for safety reasons. The area is in need of restoration, renovation, and safety improvements; and

WHEREAS, over the past three years, an extensive public process was conducted, comprised of community and Parks and Waterfront Commission meetings, to develop appropriate improvements that respond to community needs and also respect the historic nature of its Landmark designation. In late May of 2019, the project scope was finalized and the project is ready for construction; and

WHEREAS, on June 13, 2019, the John Hinkel Park Improvement project was advertised for bids, and bids were opened on July 9, 2019. The City received one bid at \$1,139,500 from CF Contracting, Inc. (Exhibit A). This bid is 211% higher than the City's available funding for the project and therefore the project cannot proceed. Staff recommends that Council reject all bids and authorize the City Manager to negotiate in the open market in accordance with the City Charter Article XI, Public Works and Supplies, Section 67(a.); and

WHEREAS, funding is available in the FY 2020 budget in the Measure WW Parks Bond Fund (Fund 345) and the Parks Tax Fund (Fund 138). A small amount of additional staff and consultant time will be required to negotiate a contract to complete the project. This project is one of two remaining projects that are partially funded by Measure WW. The City has already incurred design-related expenses using Measure WW Grant funds that may only be reimbursed at the completion of the project.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of that the Council ratifies the action taken by the City Manager during recess to reject all bids and direct staff to negotiate in the open market for the work associated with the John Hinkel Park Improvement Project, Specification No. 19-11321-C.

Exhibit A: Bid Abstract

Exhibit A: Bid Abstract



City of Berkeley  
Abstract of Bids Worksheet

Finance Department  
General Service Division

For: John Hinkle Park Improvements

Specification#: 19-11321-C

Bid Date: 7/9/19

|    | Bidders             | Base Bid       | Nuc Free | Work Force Comp | Opp. States | Living Wage | EBO |
|----|---------------------|----------------|----------|-----------------|-------------|-------------|-----|
| 1  | CF Contracting Inc. | \$1,139,500.00 |          |                 |             |             |     |
| 2  |                     |                |          |                 |             |             |     |
| 3  |                     |                |          |                 |             |             |     |
| 4  |                     |                |          |                 |             |             |     |
| 5  |                     |                |          |                 |             |             |     |
| 6  |                     |                |          |                 |             |             |     |
| 7  |                     |                |          |                 |             |             |     |
| 8  |                     |                |          |                 |             |             |     |
| 9  |                     |                |          |                 |             |             |     |
| 10 |                     |                |          |                 |             |             |     |

add // ✓

Bid Recorder: [Signature] 7/9/19  
 Bid Opener: [Signature] 7/9/19  
 Project Manager: [Signature] 07/09/19

2180 Milvia Street, Berkeley, CA 94704 Tel: 510.981.7320 TDD: 510.510.981.6903 Fax: 510.981.7390  
 E-mail: finance@ci.berkeley.ca.us

## ORDINANCE NO. 7,673-N.S.

AMENDING BERKELEY MUNICIPAL CODE SECTIONS 9.80.020, 9.80.030, AND 9.80.035 TO PROHIBIT THE SALE OF FLAVORED TOBACCO PRODUCTS AND TO REQUIRE A MINIMUM PACKAGE SIZE FOR CIGARS AND LITTLE CIGARS

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

Section 1. Legislative findings:

The City Council hereby finds that:

1. Approximately 480,000 people die in the United States from smoking-related diseases and exposure to secondhand smoke every year, making tobacco use the nation's leading cause of preventable death;<sup>i</sup>

2. 5.6 million of today's Americans who are younger than 18 are projected to die prematurely from a smoking-related illness;<sup>ii</sup>

3. Despite the state's efforts to limit youth access to tobacco, youth are still able to access tobacco products, as evidenced by the following:

- In California, over 67% of current and former adult smokers started by the age of 18 and almost 100% start by age 26;<sup>iii</sup>

- In 2017, 22.8% of high school students in California had tried cigarette smoking;<sup>iv</sup>

4. The federal Family Smoking Prevention and Tobacco Control Act ("Tobacco Control Act"), enacted in 2009, prohibited candy- and fruit-flavored cigarettes,<sup>v</sup> largely because these flavored products are marketed to youth and young adults,<sup>vi</sup> and younger smokers were more likely than older smokers to have tried these products;<sup>vii</sup>

5. Neither federal nor California state laws restrict the sale of menthol cigarettes or flavored non-cigarette tobacco products, such as cigars, cigarillos, smokeless tobacco, hookah tobacco, electronic smoking devices, and the solutions used in these devices;

6. In 2016, an estimated 82% of tobacco retailers in California sold flavored non-cigarette tobacco products, over 90% of tobacco retailers sold menthol cigarettes, and 8 out of 10 tobacco retailers near schools sold flavored non-cigarette tobacco products;<sup>viii</sup>

7. Mentholated and flavored products have been shown to be "starter" products for youth who begin using tobacco<sup>ix</sup> and these products help establish tobacco habits that can lead to long-term addiction;<sup>x</sup>

8. Flavored tobacco has significant public health implications for youth, people of color, low income populations, and members of LGBTQ+ communities as a result of targeted industry marketing strategies and product manipulation;<sup>xi</sup>

9. As a result of the FDA ban on all flavored cigarette products (except menthol), tobacco use by youth decreased by 6% and the likelihood of a youth becoming a cigarette smoker post flavor ban fell by 17%;<sup>xii</sup>

10. Similar to flavored cigars and little cigars, electronic cigarette companies have marketed to minors with sweet flavors to "graduate" users toward unflavored tobacco products;

- The National Youth Tobacco Survey reported that the most commonly selected reasons for use of e-cigarettes among middle and high school students included the availability of "flavors such as mint candy, fruit, or chocolate" (31% of respondents);<sup>xiii</sup> There was also a 7% increase of high school students who used flavored e-cigarettes

from 61% in 2017 to 68% in 2018, unlike the steady decline of cigarette use seen among youth.<sup>xiv</sup>

- The Surgeon General has concluded that e-cigarette use among youths and young adults is of public health concern; exposure to nicotine during adolescence can cause addiction and can harm the developing adolescent brain.

- E-cigarette use is strongly associated with the use of other tobacco products among youth and young adults, particularly the use of combustible tobacco products. For example, in 2015, 58.8% of high school students who were current users of combustible tobacco products were also current users of e-cigarettes.<sup>xv</sup>

11. Youth whose first tobacco product was flavored are more likely to become current tobacco users than those whose first product was tobacco-flavored.<sup>xvi</sup> Data from the National Youth Tobacco Survey indicate that more than two-fifths of U.S. middle and high school smokers report using flavored little cigars or flavored cigarettes;

12. Although federal and state law ban the sale of individual cigarettes,<sup>xvii</sup> neither federal nor California state laws restrict the sale of individual little cigars and cigars;

13. Many retailers sell little cigars and cigars individually, making them more affordable and appealing to youth.<sup>xviii</sup> For example:

- 87.4% of California tobacco retailers sell a popular brand of youth-friendly cigars for less than \$1.00;<sup>xix</sup>

- From 1995 to 2008, annual sales of cigarillos increased by 255%, and sales of little cigars increased by 316%; and<sup>xx</sup>

14. The availability of inexpensive tobacco products leads to increased tobacco use as evidenced by more than 100 academic studies that conclusively show that when tobacco products are made more expensive, fewer people use tobacco, fewer initiate tobacco use, and more people quit tobacco use.<sup>xxi</sup>

Section 2. That Section 9.80.020 of the Berkeley Municipal Code is hereby amended to read as follows:

**Section 9.80.020 Definitions.**

The following words and phrases, whenever used in this article, shall have the meanings defined in this section unless the context clearly requires otherwise:

A. "Cigar" means any roll of tobacco other than a cigarette wrapped entirely or in part in tobacco or any substance containing tobacco and weighing more than three pounds per thousand units.

B. "Cigarette" means: (1) any roll of tobacco wrapped in paper or in any substance not containing tobacco; and (2) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subparagraph (1).

C. "Characterizing flavor" means a distinguishable taste or aroma, other than the taste or aroma of tobacco, that is imparted either prior to or during consumption of a tobacco product, or any byproduct produced by the tobacco product, including but not limited to tastes or aromas of menthol, mint, wintergreen, chocolate, vanilla, honey, cocoa, any candy, any dessert, any alcoholic beverage, any fruit, any herb, and any spice; provided, however, that no tobacco product shall be determined to have a characterizing

flavor solely because of the use of additives or flavorings or the provision of ingredient information.

D. "Consumer" means a person who purchases a tobacco product for consumption and not for sale to another.

E. "Coupon" means any voucher, rebate, card, paper, note, form, statement, ticket, image, or other issue, whether in paper, digital, or other form, used for commercial purposes to obtain an article, product, service, or accommodation without charge or at a discounted price.

F. "Electronic nicotine delivery system" means any electronic and/or battery-operated device that can be used to deliver an inhaled dose of nicotine or other substances, including but not limited to electronic cigarettes, vaporizer pens, electronic cigars, electronic cigarillos, electronic pipes, electronic hookahs, or any other product name or descriptor, and including any component, part, or accessory of such a device, whether or not sold separately, including but not limited to cartomizers, clearomizers, atomizers, and tips.

G. "E-liquid" means any liquid, gel or other substance designed for use with an electronic nicotine delivery system, including but not limited to e-juice, smoke juice or any other product name or descriptor. Excluded from this definition is any non-nicotine containing liquid, gel or other substance that contains cannabis in any form as its active ingredient.

H. "Flavored tobacco product" means any tobacco product that imparts a characterizing flavor.

I. "Full Retail Price" means the price listed for a Tobacco Product on its Packaging or on any related shelving, advertising, or display where the Tobacco Product is sold or offered for Sale, plus all applicable taxes and fees if such taxes and fees are not included in the listed price.

J. "Labeling" means written, printed, or graphic matter upon any tobacco product or any of its packaging, or accompanying such tobacco product.

K. "Little cigar" means any roll of tobacco, other than a cigarette, wrapped entirely or in part in tobacco or any substance containing tobacco and weighing no more than three pounds per thousand units. "Little cigar" includes, but is not limited to, tobacco products known or labeled as small cigar, little cigar, or cigarillo.

L. "Manufacturer" means any person, including any repacker or relabeler, who manufactures, fabricates, assembles, processes, or labels a tobacco product; or imports a finished tobacco product for sale or distribution into the United States.

M. "Package" or "Packaging" means a pack, box, carton, or container of any kind or, if no other container, any wrapping (including cellophane) in which a tobacco product is sold or offered for sale to a consumer.

N. "Pharmacy" means any retail establishment in which the profession of pharmacy is practiced by a pharmacist licensed by the State of California in accordance with the Business and Professions Code and where prescription pharmaceuticals are offered for sale, regardless of whether the retail establishment sells other retail goods in addition to prescription pharmaceuticals.

O. "Proprietor" means a person with an ownership or managerial interest in a business. An ownership interest shall be deemed to exist when a person has a ten percent (10%) or greater interest in the stock, assets or income of a business other than the sole

interest of security for debt. A managerial interest shall be deemed to exist when a person can or does have, or can or does share, ultimate control over the day-to-day operations of a business.

P. "School" means a building or group of buildings and associated grounds used for educational and/or classroom purposes operated by the Berkeley Unified School District (BUSD) and/or other public or private educational institutions offering a general course of study at primary, secondary or high school levels (grades K through 12) which is equivalent to the courses of study at such levels offered by the BUSD, as specified by City Council Resolution from time to time. Pre-school, vocational or trade programs shall be considered schools only when incidental to the primary use as a school as defined herein. Excluded from this definition are buildings operated by public or private education institutions in which the total student enrollment is less than 25 students and private residences at which students participate in home-based or independent study programs.

Q. "Sale" or "Sell" means any transfer, exchange, barter, gift, offer for sale, or distribution for a commercial purpose, in any manner or by any means whatsoever.

R. "Tobacco paraphernalia" means items or instruments designed for the consumption, or preparation for consumption, of any substance containing tobacco or derived from tobacco, including but not limited to cigarette papers or wrappers, pipes, hookahs, and cigarette rolling machines.

S. "Tobacco product" means:

1: Any substance containing, made of, or derived from tobacco or nicotine including but not limited to cigarettes, cigars, cigarillos, pipe tobacco, snuff, chewing tobacco, dipping tobacco, bidis, and shisha;

2: Any e-liquid;

3: Any electronic nicotine delivery system; and

4: Any tobacco paraphernalia.

"Tobacco product" does not include drugs, devices or combination products, authorized by the United States Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.<sup>2</sup>

T. "Tobacco retailer" means any person or business that operates a store, stand, booth concession or other place at which the sales of tobacco products are made to purchasers for personal consumption or use. (Ord. 7441-NS § 3, 2015; Ord. 7377-NS § 2, 2014; Ord. 6720-NS § 2, 2002)

Section 3. That Section 9.80.031 of the Berkeley Municipal Code is hereby added to read as follows:

**Section 9.80.031 Sale of Flavored Tobacco Prohibited.**

A. It shall be a violation of a tobacco retailer's license for a licensee or his or her agent or employee to sell or offer for sale, or to possess with intent to sell or offer for sale, any flavored tobacco product.

B. There shall be a rebuttable presumption that a tobacco retailer in possession of four or more flavored tobacco products, including, but not limited to, individual flavored tobacco products, packages of flavored tobacco products, or any combination thereof, possesses such flavored tobacco products with intent to sell or offer



for sale.

C. There shall be a rebuttable presumption that a tobacco product is a flavored tobacco product if a tobacco retailer, manufacturer, or any employee or agent of a tobacco retailer or manufacturer has:

1. Made a public statement or claim that the tobacco product imparts a characterizing flavor;
2. Used text, color, and/or images on the tobacco product's labeling or packaging to explicitly or implicitly indicate that the tobacco product imparts a characterizing flavor; or
3. Taken action directed to consumers that would be reasonably expected to cause consumers to believe the tobacco product imparts a characterizing flavor.

Section 4. That Section 9.80.032 of the Berkeley Municipal Code is hereby added to read as follows:

**Section 9.80.032 Tobacco Product Pricing and Packaging.**

A. It shall be a violation of a tobacco retailer's license for a licensee or his or her agent or employee to sell or offer for sale, or to possess with the intent to sell or offer for sale, any tobacco product to any consumer unless such product: (1) is sold in the original manufacturer's packaging intended for sale to consumers; and (2) conforms to all applicable federal labeling requirements.

B. The price of each tobacco product offered for sale shall be clearly and conspicuously displayed to indicate the price of the product.

C. It shall be a violation of a tobacco retailer's license for a licensee or his or her agent or employee to sell or offer for sale, or to possess with the intent to sell or offer for sale, to a consumer:

1. Any little cigar unless it is sold in a package of at least 20 (twenty) little cigars ; or
2. Any cigar unless it is sold in a package of at least 6 (six) cigars.

D. No tobacco retailer shall sell to a consumer:

1. Cigarettes at a price that is less than \$8.00 per package of 20 cigarettes, including all applicable taxes and fees;
2. Little cigars at a price that is less than \$8.00 per package of little cigars, including all applicable taxes and fees; or
3. Cigars at a price that is less than \$7.00 per cigar, including all applicable taxes and fees.

E. The minimum prices established in subdivision D shall be adjusted annually by the annual average of the percentage change in the Consumer Price Index for all urban consumers for all items for the San Francisco-Oakland-Hayward statistical area as reported by the United States Bureau of Labor Statistics or any successor to that index.

F. No tobacco retailer shall:

1. Honor or redeem, or offer to honor or redeem, a coupon to allow a consumer to purchase a tobacco product for less than the full retail price;
2. Sell any tobacco product to a consumer through a multiple-package discount or otherwise provide any such product to a consumer for less than the full retail price in

consideration for the purchase of any tobacco product or any other item; or

3. Provide any free or discounted item to a consumer in consideration for the purchase of any tobacco product.

Section 5. That Berkeley Municipal Code Section 9.80.035 is hereby amended to read as follows:

**Section 9.80.035 Limits on eligibility for a tobacco retailer license.**

A. No new tobacco retailer license may be issued to a pharmacy.  
B. No existing tobacco retailer license may be renewed by a pharmacy.  
C. No new tobacco retailer license may be issued to authorize the sale of tobacco products with six hundred (600) feet of any school as measured by a straight line from the nearest point of the property line of the parcel on which the school is located to the nearest point of the property line of the parcel on which the business is located.

D. 1. Effective January 1, 2017, no person shall sell, give away, barter, exchange, or otherwise deal in electronic nicotine delivery systems or e-liquid within six hundred (600) feet of any school as measured by a straight line from the nearest point of the property line of the parcel on which the school is located to the nearest point of the property line of the parcel on which the business is located.

2. Subdivision D.1 shall not prohibit the sale of electronic nicotine delivery systems to persons who demonstrate that they are qualified patients or primary caregivers as defined in Health and Safety Code section 11362.7 or persons with identification cards issued pursuant to Health and Safety Code section 11362.71, provided that such electronic nicotine delivery systems are unaccompanied by any tobacco product defined in Sections 9.80.020.K.1 or 9.80.020.K.2.

E. A map identifying the areas falling within six hundred (600) feet of schools shall be adopted by the City Council by resolution, and may be amended from time to time. (Ord. 7441-NS § 5, 2015: Ord. 7377-NS § 3, 2014)

Section 5. Effective date.

This Ordinance shall take effect and be in force from and after 30 days after date of enactment; provided, however, that Sections 9.80.031 and 9.80.032 shall not take effect until 6 months after date of enactment.

Section 6. Preemption.

It is the intent of the City Council of the City of Berkeley to supplement applicable state and federal law and not to duplicate or contradict such law, and this ordinance shall be construed consistently with that intention. Nothing in this ordinance shall be interpreted or applied so as to create any requirement, power, or duty that is preempted by federal or state law.

Section 7. Severability.

If any section, subsection, sentence, clause, phrase, or word of this ordinance, or any application thereof to any person or circumstance, is held to be invalid, unconstitutional, or unenforceable by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of the ordinance. The City Council of the City of Berkeley hereby declares that it would have passed this ordinance, and each

section, subsection, sentence, clause, phrase, and word not declared invalid, unconstitutional, or unenforceable without regard to whether any other portion of this ordinance or application thereof would be subsequently declared invalid, unconstitutional, or unenforceable.

<sup>i</sup> U.S. Department of Health and Human Services. *The Health Consequences of Smoking: 50 Years of Progress. A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health. 2014.

Available at: <https://www.surgeongeneral.gov/library/reports/50-years-of-progress/full-report.pdf>.

<sup>ii</sup> U.S. Department of Health and Human Services. *The Health Consequences of Smoking: 50 Years of Progress. A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health. 2014. Available at: <https://www.surgeongeneral.gov/library/reports/50-years-of-progress/full-report.pdf>.

<sup>iii</sup> California Department of Public Health California Tobacco Control Program. *California Tobacco Facts and Figures 2016*. Sacramento, CA: California Department of Public Health. 2016. Available at:

<https://www.cdph.ca.gov/Programs/CCDPHP/DCDIC/CTCB/CDPH%20Document%20Library/ResearchandEvaluation/FactsandFigures/2016FactsFiguresWeb.pdf>.

<sup>iv</sup> Kann L, McManus T, Harris WA, et al. Youth Risk Behavior Surveillance - United States, 2017. *MMWR Surveill Summ*. 2018;67(8):1-114. doi: 10.15585/mmwr.ss6708a1; Centers for Disease Control and Prevention. Youth Risk Behavior Surveillance — United States, 2017. Supplementary Tables 52-93: Tobacco Use. 2018;

[https://www.cdc.gov/healthyyouth/data/yrbs/2017\\_tables/tobacco\\_use.htm](https://www.cdc.gov/healthyyouth/data/yrbs/2017_tables/tobacco_use.htm).

<sup>v</sup> 21 U.S.C. § 387g(a)(1)(A).

<sup>vi</sup> U.S. Department of Health and Human Services. *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health. 2012. Available at: <https://www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/>; Villanti AC, Collins LK, Niaura RS, Gagosian SY, Abrams DB. Menthol cigarettes and the public health standard: a systematic review. *BMC Public Health*. 2017;17(1):983. doi: 10.1186/s12889-017-4987-z; Villanti AC, Johnson AL, Ambrose BK, et al. Flavored Tobacco Product Use in Youth and Adults: Findings From the First Wave of the PATH Study (2013-2014). *Am J Prev Med*. 2017;53(2):139-151. doi: 10.1016/j.amepre.2017.01.026.

<sup>vii</sup> U.S. Department of Health and Human Services. *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health. 2012. Available at: <https://www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/>.

<sup>viii</sup> California Department of Public Health California Tobacco Control Program. *2016 Healthy Stores for a Healthy Community Survey Results-all counties*. 2016. Available at: <http://healthystoreshealthycommunity.com/media-center/?campaign>.

<sup>ix</sup> U.S. Department of Health and Human Services. *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health. 2012. Available at: <https://www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/>;

Hersey JC, Ng SW, Nonnemaker JM, et al. Are menthol cigarettes a starter product for youth? *Nicotine Tob Res*.

2006;8(3):403-413. doi: 10.1080/14622200600670389; Wackowski O, Delnevo CD. Menthol cigarettes and indicators of tobacco dependence among adolescents. *Addict Behav*. 2007;32(9):1964-1969. doi:

10.1016/j.addbeh.2006.12.023.

<sup>x</sup> U.S. Department of Health and Human Services. *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health. 2012. Available at: <https://www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/>; Oliver AJ, Jensen JA, Vogel RI, Anderson AJ, Hatsukami DK. Flavored and nonflavored smokeless tobacco products: rate, pattern of use, and effects. *Nicotine Tob Res*. 2013;15(1):88-92. doi: 10.1093/ntr/nts093.

- <sup>xi</sup> United States v. Philip Morris USA, Inc., 449 F. Supp. 2d 1 (D.D.C. 2006), *aff'd in part, vacated in part*, 566 F.3d 1095 (D.C. Cir. 2009), and order clarified, 778 F. Supp. 2d 8 (D.D.C. 2011); U.S. Department of Health and Human Services. *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health. 2012. Available at: <https://www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/>; Yerger VB, Przewoznik J, Malone RE. Racialized geography, corporate activity, and health disparities: tobacco industry targeting of inner cities. *J Health Care Poor Underserved*. 2007;18(4 Suppl):10-38. doi: 10.1353/hpu.2007.0120; Kreslake JM, Wayne GF, Alpert HR, Koh HK, Connolly GN. Tobacco industry control of menthol in cigarettes and targeting of adolescents and young adults. *Am J Public Health*. 2008;98(9):1685-1692. doi: 10.2105/AJPH.2007.125542; Fallin A, Goodin AJ, King BA. Menthol cigarette smoking among lesbian, gay, bisexual, and transgender adults. *Am J Prev Med*. 2015;48(1):93-97. doi: 10.1016/j.amepre.2014.07.044.
- <sup>xii</sup> Courtemanche CJ, Palmer MK, Pesko MF. Influence of the Flavored Cigarette Ban on Adolescent Tobacco Use. *Am J Prev Med*. 2017;52(5):e139-e146. doi: 10.1016/j.amepre.2016.11.019.
- <sup>xiii</sup> Tsai J, Walton K, Coleman BN, et al. Reasons for Electronic Cigarette Use Among Middle and High School Students — National Youth Tobacco Survey, United States, 2016. *MMWR Morb Mortal Wkly Rep* 2018;67:196–200. Available at: <https://www.cdc.gov/mmwr/volumes/67/wr/mm6706a5.htm>
- <sup>xiv</sup> Cullen KA, Ambrose BK, Gentzke AS, Apelberg BJ, Jamal A, King BA. *Notes from the Field: Use of Electronic Cigarettes and Any Tobacco Product Among Middle and High School Students — United States, 2011–2018*. *MMWR Morb Mortal Wkly Rep* 2018;67:1276–1277. DOI: [http://dx.doi.org/10.15585/mmwr.mm6745a5external icon](http://dx.doi.org/10.15585/mmwr.mm6745a5external%20icon)
- <sup>xv</sup> US Department of Health and Human Services. *E-cigarette use among youth and young adults: a report of the Surgeon General*. 2016. Available at: [https://www.cdc.gov/tobacco/data\\_statistics/sgr/e-cigarettes/pdfs/2016\\_sgr\\_entire\\_report\\_508.pdf](https://www.cdc.gov/tobacco/data_statistics/sgr/e-cigarettes/pdfs/2016_sgr_entire_report_508.pdf)
- <sup>xvi</sup> Villanti, A.C., A.L. Johnson, B.K. Ambrose, et al., “Flavored Tobacco Product Use in Youth and Adults: Findings From the First Wave of the PATH Study (2013–2014),” *American Journal of Preventive Medicine*, 53(2):139–151, 2017.
- <sup>xvii</sup> 21 C.F.R. § 1140.16(b); Cal. Penal Code §§ 308.2-308.3(a).
- <sup>xviii</sup> California Department of Public Health California Tobacco Control Program. *Tobacco in the Retail Environment*. 2012. Available at: <https://www.cdph.ca.gov/Programs/CCDPHP/DCDIC/CTCB/CDPH%20Document%20Library/ResearchandEvaluation/FactsandFigures/TobaccoRetailEnvironmentFactSheetEasyPrint.pdf>.
- <sup>xix</sup> California Department of Public Health California Tobacco Control Program. *2016 Healthy Stores for a Healthy Community Survey Results-all counties*. 2016. Available at: <http://healthystoreshealthycommunity.com/media-center/?campaign>.
- <sup>xx</sup> Cullen J, Mowery P, Delnevo C, et al. Seven-year patterns in US cigar use epidemiology among young adults aged 18-25 years: a focus on race/ethnicity and brand. *Am J Public Health*. 2011;101(10):1955-1962. doi: 10.2105/AJPH.2011.300209.
- <sup>xxi</sup> U.S. Department of Health and Human Services. *The Health Consequences of Smoking: 50 Years of Progress. A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health. 2014. Available at: <https://www.surgeongeneral.gov/library/reports/50-years-of-progress/full-report.pdf>; Institute of Medicine. *Ending the Tobacco Problem: A Blueprint for the Nation*. Washington, DC. 2007. Available at: <https://www.nap.edu/catalog/11795/ending-the-tobacco-problem-a-blueprint-for-the-nation>; Community Preventive Services Task Force. *Reducing Tobacco Use and Secondhand Smoke Exposure: Interventions to Increase the Unit Price for Tobacco Products*. 2012. Available at: <https://www.thecommunityguide.org/sites/default/files/assets/Tobacco-Increasing-Unit-Price.pdf>; Centers for Disease Control and Prevention. *State Cigarette Minimum Price Laws—United States, 2009*. *MMWR Morb Mortal Wkly Rep*. 2010;59(13):389-392; Chaloupka FJ, Cummings KM, Morley C, Horan J. Tax, price and cigarette smoking: evidence from the tobacco documents and implications for tobacco company marketing strategies. *Tob Control*. 2002;11(Supplement 1):i62-i72. doi: 10.1136/tc.11.suppl\_1.i62; Chaloupka FJ, Yurekli A, Fong GT. Tobacco taxes as a tobacco control strategy. *Tob Control*. 2012;21(2):172-180. doi: 10.1136/tobaccocontrol-2011-050417; Huang J, Gwarnicki C, Xu X, Caraballo RS, Wada R, Chaloupka FJ. A comprehensive examination of own- and cross-price elasticities of tobacco and nicotine replacement products in the U.S. *Prev Med*. 2018. doi: 10.1016/j.yjmed.2018.04.024; Pesko MF, Huang J, Johnston LD, Chaloupka FJ. E-cigarette price sensitivity among middle- and high-school students: evidence from monitoring the future. *Addiction*. 2018;113(5):896-906. doi:

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10.1111/add.14119; Jawad M, Lee JT, Glantz S, Millett C. Price elasticity of demand of non-cigarette tobacco products: a systematic review and meta-analysis. *Tob Control*. 2018. doi: 10.1136/tobaccocontrol-2017-054056.

At a regular meeting of the Council of the City of Berkeley held on July 23, 2019, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Davila, Droste, Hahn, Harrison, Kesarwani, Robinson, Wengraf, and Arreguin.

Noes: None.

Absent: None.



## ORDINANCE NO. 7,674 -N.S.

## AMENDMENTS TO THE BERKELEY ELECTION REFORM ACT RELATED TO PUBLIC FINANCING FOR CAMPAIGNS; AMENDING BERKELEY MUNICIPAL CODE CHAPTER 2.12

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

Section 1. That Berkeley Municipal Code Section 2.12.500 is amended to read as follows:

**2.12.500 Eligibility for Fair Elections campaign funding.**

A. To be eligible to be certified as a participating candidate, a candidate must:

1) During the qualifying period for the election involved, choose to participate in the Fair Elections program by filing with the Commission a written application for certification as a participating candidate in such form as may be prescribed by the Commission, containing the identity of the candidate, the office that the candidate seeks, and the candidate's signature, under penalty of perjury, certifying that:

a) The candidate has complied with the restrictions of this chapter during the election cycle to date;

b) The candidate's campaign committee has filed all campaign finance reports required by law during the election cycle to date and that they are complete and accurate; and

c) The candidate will comply with the requirements of this Act during the remainder of the election cycle and, specifically, if certified an eligible participating candidate, will comply with the requirements applicable to participating candidates.

2) Meet all requirements to be eligible to hold the office of Mayor or Councilmember as set forth in Sections 9 and 10 of Article V of the Charter of the City of Berkeley;

3) Before the close of the qualifying period, collect and submit at least 30 qualified contributions, from at least 30 unique contributors, of at least ten dollars (\$10), for a total dollar amount of at least five-hundred dollars (\$500).

a) Each qualified contribution shall be acknowledged by a receipt to the contributor, with a copy retained by the candidate. The receipt shall include the contributor's signature, printed name, home address, and telephone number, if any, and the name of the candidate on whose behalf the contribution is made. In addition, the receipt shall indicate by the contributor's signature that the contributor understands that the purpose of the qualified contribution is to help the candidate qualify for Fair Elections campaign funding and that the contribution is made without coercion or reimbursement.

b) A contribution for which a candidate has not obtained a signed and fully completed receipt shall not be counted as a qualified contribution.

- 4) Maintain such records of receipts and expenditures as required by the Commission;
  - 5) Obtain and furnish to the Commission any information it may request relating to his or her campaign expenditures or contributions and furnish such documentation and other proof of compliance with this chapter as may be requested by such Commission;
  - 6) Not make expenditures from or use his or her personal funds or funds jointly held with his or her spouse, domestic partner, or unemancipated children in connection with his or her election except as a monetary or non-monetary contribution to his or her controlled committee of \$250 or less. Contributions from a participating candidate to his or her own controlled committee are not eligible for matching funds.
  - 7) Not accept contributions in connection with the election for which Fair Elections funds are sought other than qualified contributions, contributions not greater than fifty dollars (\$50) made by a natural person non-resident of Berkeley, or non-monetary contributions with a fair market value not greater than fifty dollars (\$50). The aggregate value of all contributions from any individual must not be greater than fifty dollars (\$50);
  - 8) Not solicit or direct contributions in connection with any election during the election cycle in which Fair Elections funds are sought other than qualified contributions, contributions not greater than fifty dollars (\$50) made by a natural person non-resident of Berkeley, or non-monetary contributions with fair market value not greater than fifty dollars (\$50) to such candidate's controlled committee.
  - 9) Not accept loans from any source.
- (10) The Commission has the authority to approve a candidate's application for public financing, despite a violation by the candidate related to participation and qualification in the public financing program, if the violation is minor in scope and the candidate demonstrates a timely, good-faith effort to remedy the violation. The Commission may adopt regulations setting forth guidelines for what constitutes a minor violation under this provision.

Section 2. That Berkeley Municipal Code Section 2.12.505 is amended to read as follows:

**2.12.505 Fair Elections fund payments.**

A. A candidate who is certified as an eligible participating candidate shall receive payment of Fair Elections funds equal to six-hundred percent (600 percent) of the amount of qualified contributions received by the candidate during the election cycle with respect to a single election subject to the aggregate limit on the total amount of Fair Elections funds payments to a candidate specified in Section 2.12.505.B.

B. The aggregate amount of Fair Elections funds payments that may be made to a participating candidate during an election cycle may not exceed:



- 1) \$120,000 for a candidate running for the office of Mayor;
- 2) \$40,000 for a candidate running for the office of City Council.

C. A participating candidate's application for Fair Elections funds, including an initial request submitted with an application for certification as a participating candidate, shall be made using a form prescribed by the Commission and shall be accompanied by qualified contribution receipts and any other information the Commission deems necessary. This application shall be accompanied by a signed statement from the candidate indicating that all information on the qualified contribution receipts is complete and accurate to the best of the candidate's knowledge.

1) All Qualified Contributions, of any dollar amount, eligible for matching Fair Elections funds must be publically disclosed with the contributor information required under Sections 2.12.280 and 2.12.283.

2) All campaign filings must be current in order for a Participating Candidate to receive a disbursement of Fair Elections funds and the Participating Candidate and a Participating Candidate's controlled committee must not have any outstanding fines related to campaign filings or violations of municipal, state or federal election law. All applications for Fair Elections funds shall include a certification by the Participating Candidate that the Participating Candidate or his or her controlled committee does not have any outstanding fines or penalties related to campaign filings. Upon submission of outstanding campaign filings and payment of any outstanding fines, withheld Fair Elections funds will be disbursed at the next regularly scheduled distribution for that election cycle.

D. The City shall verify that a candidate's qualified contributions meet all of the requirements and restrictions of this Act prior to the disbursement of Fair Elections funds to the candidate. A participating candidate who receives a qualified contribution that is not from the person listed on the qualified contribution receipt shall be liable to pay the Fair Elections Fund the entire amount of the inaccurately identified contribution, in addition to any penalties.

E. The City shall make an initial payment of Fair Elections funds within seven business days of the Commission's certification of a participating candidate's eligibility, or as soon thereafter as is practicable.

F. The Commission shall establish a schedule for the submission of Fair Elections funds payment requests, permitting a candidate to submit a Fair Elections funds payment request at least once per month. However, the Commission shall schedule a minimum of three payment request submission dates within the thirty days prior to an election.

G. The City shall provide each participating candidate with a written determination specifying the basis for any non-payment of Fair Elections funds. The Commission

shall provide participating candidates with a process by which they may immediately upon receipt of such determination petition the Commission for reconsideration of any such non-payment and such reconsideration shall occur within seven business days of the filing of such petition. In the event that the Commission denies such petition then it shall immediately notify the candidate of his or her right to seek judicial review of the Commission's denial pursuant to Section 2.12.235.

H. Unspent funds of any Participating Candidate who does not remain a candidate until the election for which they were distributed, or such funds that remain unspent by a Participating Candidate following the date of the election for which they were distributed shall be deposited into the Fair Elections Fund. A Participating Candidate shall deposit all unspent funds into the Fair Elections Fund, up to the total amount of funds that the Participating Candidate received as Fair Elections Fund distributions in that election cycle, within sixty (60) days after the date of the election.

Section 3. That Berkeley Municipal Code Section 2.12.530 is amended to read as follows:

**2.12.530 Use of Fair Elections funds.**

- A. A participating candidate shall use Fair Elections funds and contributions only for direct campaign purposes.
- B. A participating candidate shall not use Fair Elections funds or contributions for:
  - 1) Costs of legal defense in any campaign law enforcement proceeding under this Act, or penalties arising from violations of any local, state, or federal campaign laws;
  - 2) The candidate's personal support or compensation to the candidate or the candidate's family;
  - 3) Indirect campaign purposes, including but not limited to:
    - a) Any expense that provides a direct personal benefit to the candidate, including clothing and other items related to the candidate's personal appearance;
    - b) Capital assets having a value in excess of five hundred dollars (\$500) and useful life extending beyond the end of the current election period determined in accordance with generally accepted accounting principles;
    - c) A contribution or loan to the campaign committee of another candidate or to a party committee or other political committee;
    - d) An independent expenditure as defined in Berkeley Municipal Code Section 2.12.142 as may be amended;
    - e) Any payment or transfer for which compensating value is not received;
- C. The term "Contribution" is defined in [2.12.100](#) and includes "Qualified Contributions" as defined in [2.12.167](#) and contributions from non-residents of Berkeley as described in [2.12.500.A.7](#).

Section 4. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on July 23, 2019, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Davila, Droste, Hahn, Harrison, Kesarwani, Robinson, Wengraf, and Arreguin.

Noes: None.

Absent: None.





Office of the City Manager

CONSENT CALENDAR  
September 10, 2019

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Mark Numainville, City Clerk  
Subject: Minutes for Approval

RECOMMENDATION

Approve the minutes for the Council meetings of July 9, 2019 (special closed and regular), July 16, 2019 (special closed and regular) and July 23, 2019 (special closed and regular).

CONTACT PERSON

Mark Numainville, City Clerk, 981-6900

Attachments:

1. July 9, 2019-Special Closed City Council Meeting
2. July 9, 2019-Regular City Council Meeting
3. July 16, 2019-Special Closed City Council Meeting
4. July 16, 2019-Regular City Council Meeting
5. July 23, 2019-Special Closed City Council Meeting
6. July 23, 2019-Regular City Council Meeting

**MINUTES  
BERKELEY CITY COUNCIL SPECIAL MEETING  
TUESDAY, JULY 9, 2019  
4:00 P.M.**

**School District Board Room – 1231 Addison Street, Berkeley, CA**

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

**Preliminary Matters**

**Roll Call:** 4:05 p.m.

**Present:** Bartlett, Davila, Droste, Hahn, Harrison, Robinson, Wengraf, Arreguin

**Absent:** Kesarwani

Councilmember Kesarwani present at 4:10 p.m.

**Public Comment - Limited to items on this agenda only – 7 speakers**

**CLOSED SESSION:**

The City Council will convene in closed session to meet concerning the following:

**1. CONFERENCE WITH LABOR NEGOTIATORS; GOVERNMENT CODE SECTION 54957.6:**

**Negotiators:** Dee Williams-Ridley, City Manager, David White, Deputy City Manager, LaTanya Bellow, Director of Human Resources, Andrew Greenwood, Chief of Police

**Employee Organizations:** Berkeley Police Association

**Action:** No reportable action taken.

**2. CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION PURSUANT TO GOVERNMENT CODE SECTIONS 54956.9(a) AND 54956.9(d)(1)**

City of Berkeley v. Regents of the University of California, Alameda Superior Court Case No. RG19023058

**Action:** No reportable action taken.

**OPEN SESSION:**

Public Reports of actions taken pursuant to Government Code section 54957.1.

No reportable action taken.

## Adjournment

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

**Vote:** All Ayes.

Adjourned at 6:21 p.m.

I hereby certify that the forgoing is a true and correct record of the special closed meeting of July 9, 2019 as approved by the Berkeley City Council.

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Rose Thomsen, Deputy City Clerk

**MINUTES**  
**BERKELEY CITY COUNCIL MEETING**  
**Tuesday, July 9, 2019**  
**6:00 PM**

SCHOOL DISTRICT BOARD ROOM - 1231 ADDISON STREET, BERKELEY, CA 94702

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

**Preliminary Matters**

**Roll Call:** 6:32 p.m.

**Present:** Kesarwani, Wengraf, Robinson, Droste, Arreguin

**Absent:** Davila, Bartlett, Harrison, Hahn

Councilmember Davila present at 6:34 p.m.

Councilmember Bartlett present at 6:34 p.m.

Councilmember Hahn present at 6:35 p.m.

Councilmember Harrison present at 6:40 p.m.

**Ceremonial Matters:**

1. Recognition of Rosenda Thomas, Local Educator
2. Recognition of Anil Thapa, Local Artist
3. Adjourned the meeting in Memory of Diane Woolley-Bauer, Former Berkeley Councilmember
4. Adjourned the meeting in Memory of Jane Falk, Community Leader

**City Manager Comments:** None

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

**Consent Calendar**

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



## Consent Calendar

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

**Vote:** All Ayes

## Consent Calendar

### 1. FY 2020 Annual Appropriations Ordinance

**From:** City Manager

**Recommendation:** Adopt second reading of Ordinance No. 7,669-N.S. adopting the FY 2020 Annual Appropriations Ordinance (AAO) in the amount of \$525,856,809 (gross appropriations) and \$460,146,093 (net appropriations).

**First Reading Vote:** All Ayes.

**Financial Implications:** See Report

Contact: Teresa Berkeley-Simmons, Budget Manager, 981-7000

**Action:** Adopted second reading of Ordinance No. 7,669-N.S.

### 2. Contract No. 9691 Amendment: FileTrail, Inc. for Records Management Software System

**From:** City Manager

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 9691 with FileTrail, Inc. for an additional \$44,163 for software licensing, maintenance, and related services for a records management software system, for a total contract amount not to exceed \$127,799 and extending the term from July 1, 2019 to June 30, 2024.

**Financial Implications:** General Fund - \$44,163

Contact: Mark Numainville, City Clerk, 981-6900

**Action:** Adopted Resolution No. 69,013–N.S.

### 3. Purchase Order: Life Assist, Inc. for Emergency Medical Supplies

**From:** City Manager

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a purchase order with Life Assist, Inc. to purchase emergency medical supplies and equipment for the Fire Department from July 1, 2019 to June 30, 2020, with an option to extend for an additional period up to a maximum of five years, in an amount not to exceed \$1,451,000.

**Financial Implications:** See report

Contact: David Brannigan, Fire, 981-3473

**Action:** Adopted Resolution No. 69,014–N.S.

## Consent Calendar

**4. Approve Waiver of the Nuclear Free Berkeley Act (NFBA) per BMC Section 12.90.070(A) to Enter into an Expenditure Contract with the University of California, Berkeley**

**From: City Manager**

**Recommendation:** Adopt a Resolution 1. waiving the contract requirements of the Nuclear Free Berkeley Act, pursuant to Resolution No. 60,840-N.S. and Chapter 12.90.070 of the Berkeley Municipal Code, in order to contract with the University of California Berkeley; and 2. authorizing the City Manager to execute a contract with the University of California, Berkeley for services evaluating the Sugar-Sweetened Beverage Tax Program.

**Financial Implications:** See report

Contact: Kelly Wallace, Housing and Community Services, 981-5400

**Action:** Adopted Resolution No. 69,015–N.S. Recommendation revised to include sending the letter included as Communication No. 62 in the Supplemental Communications Packet #1 to the Regents of the University of California explaining the City’s concerns with their nuclear-related work and urging them to discontinue such work, with copies of the letter sent to the City’s state and federal elected representatives.

**5. Contract: The Eikenberg Institute for Relationships for Cultural Humility Training Consultant, Specification Number 18-11230-C**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to execute a contract and any amendments with The Eikenberg Institute for Relationships for the term of 2 years or 24 months from start of contract, with an expenditure of \$75,000 to fund the Cultural Humility Training Consultant position with Dr. Kenneth Hardy.

**Financial Implications:** See report

Contact: Kelly Wallace, Housing and Community Services, 981-5400

**Action:** Adopted Resolution No. 69,016–N.S.

**6. Grant Application: The PCA Grant Program for the Marina Blvd Bay Trail Shoreline Vulnerability Public Access Improvement Project**

**From: City Manager**

**Recommendation:** Adopt a Resolution: 1. Authorizing the City Manager or her designee to submit a funding application to the Priority Conservation Area (PCA) grant program for \$2 million in federal funds for the Marina Blvd Bay Trail Shoreline Vulnerability and Public Access Improvement Project; 2. Committing local City matching funds in the amount of \$260,000; and 3. Stating the City’s assurance as to its ability and intent to complete the project.

**Financial Implications:** See report.

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

**Action:** Adopted Resolution No. 69,017–N.S.

## Consent Calendar

- 7. Contract: Kitchell for Construction Management Services for the Berkeley Tuolumne Camp Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Kitchell in an amount not to exceed \$3,800,000 to provide construction management services for the Berkeley Tuolumne Camp Project for the period July 1, 2019 through December 31, 2022.  
**Financial Implications:** Camps Fund - \$3,800,000  
Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700  
**Action:** Adopted Resolution No. 69,018–N.S.
- 8. Contract No. 9488C Amendment for Berry Brothers Towing for Towing Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 9488C with Berry Brothers Towing, to provide towing services for Department of Public Works Equipment Maintenance Division; increasing the contract amount by \$70,000 for an amended total not to exceed \$180,000 and extending the contract term to June 30, 2021.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, 981-6300  
**Action:** Adopted Resolution No. 69,019–N.S.
- 9. Gender Pay Equity Salary Negotiation Workshop**  
**From: Commission on the Status of Women**  
**Recommendation:** Adopt a Resolution authorizing the Commission on the Status of Women to sponsor a gender pay equity salary negotiation workshop, and provide \$900 in funding for the event.  
**Financial Implications:** \$900  
Contact: Shallon Allen, Commission Secretary, 981-7000  
**Action:** Adopted Resolution No. 69,020–N.S.

## Council Consent Items

10. **City Sponsored Protest of Conditions for Children in Federal Detention Centers From: Councilmembers Kesarwani, Wengraf, and Harrison**  
**Recommendation:** Request Berkeley City Council support for a protest over conditions for children in federal detention centers at our southern borders. The protest will be held on Saturday, July 13th at noon in Civic Center Park.  
**Financial Implications:** None  
Contact: Rashi Kesarwani, Councilmember, District 1, 981-7110  
**Action:** Councilmember Davila added as a co-sponsor. Approved recommendation as revised in Supplemental Communications Packet #2 to read as follows: "In accordance with the United Nations Convention on the Rights of the Child, request Berkeley City Council support for a rally for children in federal migrant detention centers at our out southern border. The rally will be held on Saturday, July 13th from noon to 2:00pm in Civic Center Park, in solidarity with the Lights of Liberty national day of action. Also request that associated sound permit fees (\$44.00) be waived to help defray costs."
11. **Resolution in Support of AB 392 California Act to Save Lives From: Councilmembers Davila, Harrison, and Mayor Arreguin**  
**Recommendation:** Adopt a resolution in support of AB 392 by Assemblymember Shirley Weber that would bring California Law in line with best policing practices by limiting and redefining the circumstances under which a homicide by a peace officer is deemed justifiable and direct the city clerk or designee to send a letter to our state representatives.  
**Financial Implications:** None  
Contact: Cheryl Davila, Councilmember, District 2, 981-7120  
**Action:** Councilmember Bartlett added as a co-sponsor. Adopted Resolution No. 69,021–N.S.
12. **Local Construction Workforce Development Policy** (*Reviewed by the Land Use, Housing & Economic Development Committee*)  
**From: Councilmember Bartlett, Mayor Arreguin, and Councilmembers Harrison and Davila**  
**Recommendation:** Policy Recommendation: That the City Council refer to the Planning Commission to address the shortage of qualified local construction workers; worker retention, and elevated labor costs through the creation of a construction workforce development policy. This local workforce development policy will encourage housing and nonresidential development applicants to require contractors to utilize apprentices from state-approved, joint labor-management training programs, and to offer employees employer-paid health insurance plans. The policy will help stabilize regional construction markets; and enhance productivity of the construction workforce Berkeley needs to meet its General Plan's build-out goals.  
**Financial Implications:** See report  
Contact: Ben Bartlett, Councilmember, District 3, 981-7130  
**Action:** Approved recommendation revised to refer the item to the Commission on Labor, rather than the Planning Commission.

## Council Consent Items

- 13. Resolution in Support of SB 347 – Sugar-Sweetened Beverages Safety Warning Act**  
**From: Councilmember Harrison, Mayor Arreguin, and Councilmembers Bartlett and Davila**  
**Recommendation:** Adopt a resolution in support of Senate Bill 347, which requires all sugary beverages to have an English-only health warning label IF an amendment is made to the bill requiring pictorial and multilingual health warning labels instead of the proposed English-only label. Send letters of support to Assemblymember Wicks, Senator Skinner, and Governor Newsom.  
**Financial Implications:** None  
Contact: Kate Harrison, Councilmember, District 4, 981-7140  
**Action:** Adopted Resolution No. 69,022–N.S.
- 14. Opposition to SB 386 (California Renewables Portfolio Standard Program: irrigation districts)**  
**From: Councilmembers Robinson and Harrison**  
**Recommendation:** Send a letter to Senator Caballero, Senator Skinner, and Assemblymember Wicks opposing SB 386, which would allow certain irrigation districts to count specific large hydroelectric resources toward compliance requirements under the California Renewables Portfolio Standard Program, undermining the state’s climate change prevention efforts.  
**Financial Implications:** None  
Contact: Rigel Robinson, Councilmember, District 7, 981-7170  
**Action:** Councilmember Bartlett added as a co-sponsor. Approved recommendation.
- 15. Support for SB 14: Higher Education Facilities Bond**  
**From: Councilmembers Robinson and Bartlett**  
**Recommendation:** Adopt a resolution supporting SB 14, which places an \$8 billion bond on the March 2020 ballot for the construction, reconstruction, and remodeling of facilities at California’s public universities.  
**Financial Implications:** None  
Contact: Rigel Robinson, Councilmember, District 7, 981-7170  
**Action:** Councilmember Hahn added as a co-sponsor. Adopted Resolution No. 69,023–N.S.

## Action Calendar – Old Business

- 16. Mental Health Commission 2018 Annual Report** *(Continued from June 25, 2019)*  
**From: Mental Health Commission**  
Contact: Karen Klatt, Commission Secretary, 981-5400  
**Action:** 6 speakers. Presentation made and discussion held.

## Action Calendar – New Business

### 17a. Equal Pay Independent Audit of City Employees

#### From: Commission on the Status of Women

**Recommendation:** Adopt a Resolution providing \$12,500 from the General Fund to pay Dr. Martha Burk to conduct an independent audit of the pay of male and female employees in the City of Berkeley city employee workforce.

**Financial Implications:** \$12,500.

Contact: Shallon Allen, Commission Secretary, 981-7000

### 17b. Companion Report: Equal Pay Independent Audit of City Employees

#### From: City Manager

**Recommendation:** Continue to implement the City's existing compensation system that addresses concerns raised by the Commission on the Status of Women.

**Financial Implications:**

Contact: Dave White, City Manager's Office, 981-7000

**Action:** 3 speakers. M/S/Failed (Harrison/Bartlett) to adopt a Resolution providing \$12,500 from the General Fund to pay Dr. Martha Burk to conduct an independent audit of the pay of male and female employees in the City of Berkeley city employee workforce.

**Vote:** Ayes – Davila, Bartlett, Harrison; Noes – Kesarwani, Hahn, Wengraf, Robinson, Droste, Arreguin.

**Action:** M/S/Carried (Wengraf/Hahn) to refer Item 17a as revised in the Supplemental Communications Packet #2 to clarify that the item is jointly from the Commission on the Status of Women and the Commission on Labor, to the budget process for consideration as part of the November 2019 Annual Appropriations Ordinance process.

**Vote:** All Ayes.

Recess: 9:03 p.m. – 9:19 p.m.

### 18a. Law Enforcement Use of Restraint Devices in the City of Berkeley

#### From: Mental Health Commission

**Recommendation:** Adopt a resolution directing the Berkeley Police Department, and any other law enforcement providing mutual aid in Berkeley, to cease use of restraint devices (spit hoods, spit masks) and replace them with non-restraining safety equipment like N95 masks or an equivalent substitute. The use of spit hoods is traumatizing and escalating, risks asphyxiation and can be a violation of constitutional civil rights, particularly free speech. Stopping their use contributes to humanitarian and compassionate approach to those living with mental illness.

**Financial Implications:** None

Contact: Karen Klatt, Commission Secretary, 981-5400

## Action Calendar – New Business

### 18b. Companion Report: Law Enforcement Use of Restraint Devices in the City of Berkeley

**From:** City Manager

**Recommendation:** Continue current policy to provide City of Berkeley Police and Fire personnel protection from individuals whose unlawful and assaultive spitting or biting actions may spread infectious diseases during a lawful detention or arrest.

**Financial Implications:** None

Contact: Kelly Wallace, Housing and Community Services, 981-5400; Andrew Greenwood, Police, 981-5900

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

**Vote:** Ayes – Kesarwani, Bartlett, Harrison, Hahn, Robinson, Arreguin; Noes – Davila, Wengraf, Droste.

**Action:** M/S/Failed (Hahn/Arreguin) to suspend the rules and extend the meeting to 11:40 p.m.

**Vote:** Ayes – Bartlett, Hahn, Robinson, Arreguin; Noes – Kesarwani, Davila, Harrison, Wengraf, Droste.

**Action:** 23 speakers. M/S/Failed (Davila/Harrison) to adopt a resolution directing the Berkeley Police Department, and any other law enforcement providing mutual aid in Berkeley, to cease use of restraint devices (spit hoods, spit masks) and replace them with non-restraining safety equipment alternatives. The use of spit hoods is traumatizing and escalating, risks asphyxiation and can be a violation of constitutional civil rights, particularly free speech. Stopping their use contributes to humanitarian and compassionate approach to those living with mental illness.

**Vote:** Ayes – Davila, Harrison; Noes – Kesarwani, Bartlett, Hahn, Wengraf, Robinson, Droste, Arreguin.

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

Refer to the Police Review Commission with input from the Mental Health Commission to examine alternatives to the use of spit hoods, or other processes to de-escalate and protect our Police and staff. Until an alternative is identified, and a new policy adopted by the City Council, the use of spit hoods would continue to be permitted per Police Departmental policy.

Request that the PRC consider an alternative barrier device that prevents spitting or biting, or transfer of fluids orally, and that does not fully cover someone's head. Potential examples include surgeon/doctors' masks or other breathable masks. We request that we explore a protective device for City staff, the citizen/suspect, and/or both as possible options.

Refer the points raised by Dr. Terry Kupfers:

Consider better articulation of a policy specifying limited and necessary use of spit hoods or other barriers, that 1) limits the circumstances where they can be used to be necessary to protect the safety of our staff, 2) clarify alternatives to be attempted

## Action Calendar – New Business

first, 3) specifies time frames for keeping spit hoods or other barriers on, 4) specifies all circumstances when it should be removed, 5) specifies that the officer or other staff be assigned to monitor the individual at all times they are wearing a spit hood, or other barrier.

Use of spit hoods/or similar device should be reported, and data tracked to understand the frequency, circumstances surrounding their application and use, including any resulting health impacts.

Refer the recommendations of the PRC:

-Recognizing that spit hoods “may be experienced as a traumatic event to the wearer”

-Look at engaging a CIT officer if possible in the application of spit hoods.

-Propose data collection measures, including the types of circumstances when spit hoods are used.

-Utilize other available methods of de-escalation and restraint when possible, such as placing the person in a vehicle.

-And prohibiting the use of spit-hoods on pre-adolescent children

The Commissions are to report back to the City Council by December 2019.

Request that the Berkeley Police Department consider implementing the revised Policy 302 submitted by the Berkeley Police Department in the Supplemental Communications Packet #2, effective immediately.

That staff consult with the Alameda County EMS Equipment Committee regarding the topic of spit hoods and potential alternatives.

**Vote:** Ayes – Bartlett, Hahn, Robinson, Arreguin; Noes – Davila, Harrison, Droste; Abstain – Kesarwani, Wengraf.

**Action:** M/S/Failed (Droste/Kesarwani) to accept the revised Policy 302 submitted by the Berkeley Police Department in the Supplemental Communications Packet #2.

**Vote:** Ayes – Kesarwani, Wengraf, Droste; Noes – Davila, Bartlett, Harrison, Hahn, Arreguin; Abstain – Robinson.

**Action:** M/S/Carried (Arreguin/Harrison) to hold over Items 19a and 19b, and Item 20 to July 16, 2019.

**Vote:** All Ayes.

Councilmember Droste absent 11:28 p.m. – 11:30 p.m.

### 19a. Resolution Assigning Socially Responsible Investment and Procurement advisory role to the Peace and Justice Commission

**From:** Peace and Justice Commission

**Recommendation:** Adopt resolution assigning socially responsible investment and procurement advisory role to the Peace and Justice Commission.

**Financial Implications:** None

Contact: Bre Slimick, Commission Secretary, 981-7000



## Action Calendar – New Business

**19b. Companion Report to Peace and Justice Commission’s Resolution Asking to be an Assigned Advisory Role in Consulting on Socially Responsible Investments and Procurement**

**From: City Manager**

**Recommendation:** Continue to allow the City Council Budget and Finance Committee to provide investment policy oversight.

**Financial Implications:** See report

Contact: Dave White, City Manager's Office, 981-7000

**Action:** Items 19a and 19b held over to July 16, 2019.

## Council Action Items

**20. Housing for a Diverse, Equitable and Creative Berkeley: Proposing a Framework for Berkeley’s Affordable Housing**

**From: Mayor Arreguin, and Councilmembers Hahn, Harrison, and Robinson**

**Recommendation:** Refer to the Housing Advisory Commission, the Measure O Bond Oversight Committee, and the Homeless Services Panel of Experts to consider the proposed Housing for a Diverse, Equitable and Creative Berkeley framework (the “Framework”) and return comments for consideration at a Special Meeting of the City Council in September, to inform a final version the City Council will adopt to govern Berkeley’s affordable housing policies, programs and projects through 2030.

**Financial Implications:** See report

Contact: Jesse Arreguin, Mayor, 981-7100

**Action:** Item 20 held over to July 16, 2019.

**21. Adopt an Ordinance adding a new Chapter 12.80 to the Berkeley Municipal Code Prohibiting Natural Gas Infrastructure in New Buildings** *(Reviewed by the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee)*

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

**Recommendation:**

1. Adopt an ordinance adding a new Chapter 12.80 to the Berkeley Municipal Code (BMC) prohibiting natural gas infrastructure in new buildings with an effective date of January 1, 2020.

2. Refer to the November 2019 budget process for consideration of up to \$273,341 per year to fund a new career position in the Building & Safety Division of the Department of Planning and Development. The staff person will assist with implementing the gas prohibition ordinance and reach codes, and perform other duties as specified in the Financial Implications section of this item.

**Financial Implications:** See report

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

**Action:** Item 21 held over to July 16, 2019.

## Information Reports

22. **2019 Disaster and Fire Safety Commission Work Plan**  
**From: Disaster and Fire Safety Commission**  
Contact: Keith May, Commission Secretary, 981-3473  
**Action:** Received and filed.
23. **Fair Campaign Practices Commission 2019 - 2020 Work Plan**  
**From: Fair Campaign Practices Commission**  
Contact: Emma Soichet, Commission Secretary, 981-6950  
**Action:** Received and filed.
24. **Open Government Commission 2019 - 2020 Work Plan**  
**From: Open Government Commission**  
Contact: Emma Soichet, Commission Secretary, 981-6950  
**Action:** Received and filed.
25. **Annual Report – Open Government Commission**  
**From: Open Government Commission**  
Contact: Emma Soichet, Commission Secretary, 981-6950  
**Action:** Received and filed.

**Public Comment – Items Not Listed on the Agenda – 1 speaker.**

## Adjournment

Adjourned at 11:30 p.m.

I hereby certify that the forgoing is a true and correct record of the regular meeting of July 9, 2019 as approved by the Berkeley City Council.

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Rose Thomsen, Deputy City Clerk

## Communications

**Item #21: Adopt an Ordinance adding a new Chapter 12.80 to the Berkeley Municipal Code Prohibiting Natural Gas Infrastructure in New Buildings**

1. John Gilman
2. Matt Gough, on behalf of the Sierra Club (2)
3. Tom Kelly

**Pilot Cannabis Event at Cesar Chavez Park**

4. Claudia Kawczynska

**5G**

5. Vivian Warkentin
6. Phoebe Anne Sorgen (2)
7. Stephanie Thomas
8. Lloyd Morgan (2)
9. Patricia Burke
10. Soula Culver
11. Doug Minkler
12. Galen Cranz
13. Margot Smith
14. M. Meade Glaser
15. Theresa
16. Arnold Passman
17. Sandra Decker
18. Cynthia Larson
19. Susan Nunes Fadley
20. B. Dudney

**Leonard Powell**

21. Patty Hirota

**Artificial Intelligence**

22. Fred Dodsworth
23. Cricket

**Climate Emergency**

24. Kelly Hammargren
25. Fred Dodsworth
26. Margy Wilkinson
27. Karl Knobler
28. Tom Lent
29. Donald Goldmacher
30. James McFadden

**Traffic Circle at 62<sup>nd</sup> and King**

31. Eric Perney
32. Tracey Brieger
33. Heather McWhinney
34. Brian LaFranchi
35. Emily Modde
36. Hillary Winters
37. Joe
38. Sarah Jo Zaharako
39. Joel

**Berkeley Marina**

40. Erwan Illian (2)

**Train Noise**

41. Edward Izett

**Anti-Displacement Funding**

42. Christine Schwartz

**McCaffrey Demand Letter**

43. Asher Waite-Jones, on behalf of the East Bay Community Law Center

**Berkeley Food and Housing Project (BFHP)**

44. Terrie Light, on behalf of BFHP

**RV's**

45. Diana Bohn

46. Fran Haselsteiner

**Homelessness**

47. Genevieve Wilson

**Yellow Pedestrian Crossing Light at Henry and Berryman**

48. Alexandra Ballard

**Hotel Construction at University and Sacramento**

49. Jesse Goldberg (2)

50. Roxana Andrade-Lizarzaburu of HHCS

51. Jordan Klein, on behalf of the Office of Economic Development.

**Correction of Errors in Resolution 68,941-N.S.**

52. Greenfire Law, PC

**Drug Dealing and Encampments**

53. Eric Friedman

**Affording a Rental Home**

54. Gerry Tierney

**Eviction Defense Center Endorsement**

55. Steven Smith

56. Floyd Toliver

57. Shun Suzuki

**Commission on Aging: Wildfire-Safety Related Power Outages**

58. George Porter, chair of Commission on Aging

**Terrible Refuse Service**

59. Paula Bradford

**Bankruptcy Court: Precision Technical Coatings**

60. Unknown

**Bumper Dialogue**

61. Russbumper (21)

**Supplemental Communications and Reports 1**

**Item #4: Approve Waiver of the Nuclear Free Berkeley Act (NFBA) per BMC Section 12.90.070(A) to Enter into an Expenditure Contract with the University of California, Berkeley**

62. Peace and Justice Commission (2)

**Item #10: City Sponsored Protest of Conditions for Children in Federal Detention Centers**

63. Revised material, submitted by Councilmember Kesarwani

**Item #18a: Law Enforcement Use of Restraint Devices in the City of Berkeley**

64. Terry Kupers

65. Peace and Justice Commission

66. George Perezvelez, on behalf for the Police Review Commission

**Item #21: Adopt an Ordinance adding a new Chapter 12.80 to the Berkeley Municipal Code Prohibiting Natural Gas Infrastructure in New Buildings**

67. Supplemental materials, submitted by Councilmember Harrison

**Supplemental Communications and Reports 2**

**Item #10: City Sponsored Protest of Conditions for Children in Federal Detention Centers**

68. Revised materials, submitted by Councilmember Kesarwani

**Item #17a: Equal Pay Independent Audit of City Employees**

69. Revised materials, submitted by the City Manager's Office

**Item #18a: Law Enforcement Use of Restraint Devices in the City of Berkeley**

70. Moni Law

71. Margy Wilkinson

**Item #18b. Companion Report: Law Enforcement Use of Restraint Devices in the City of Berkeley**

72. Supplemental materials, submitted by Police Chief Greenwood

**Item #20: Housing for a Diverse, Equitable and Creative Berkeley: Proposing a Framework for Berkeley's Affordable Housing**

73. Thomas Lord

**Item #20: Housing for a Diverse, Equitable and Creative Berkeley: Proposing a Framework for Berkeley's Affordable Housing**

74. 21 Communications submitted via Berkeley Considers, includes summary information

**Supplemental Communications and Reports 3**

**Item #17a: Equal Pay Independent Audit of City Employees**

75. Presentation, submitted by Human Resources

76. City Manager's Office

**Item #18a: Law Enforcement Use of Restraint Devices in the City of Berkeley**

77. Chimey Lee

78. Lorelei Bosserman

79. George Lippman

80. Margaret Fine

**Item #20: Housing for a Diverse, Equitable and Creative Berkeley: Proposing a Framework for Berkeley's Affordable Housing**

81. Pam Speich

82. Hadley Dyank

**Item #21: Adopt an Ordinance adding a new Chapter 12.80 to the Berkeley Municipal Code Prohibiting Natural Gas Infrastructure in New Buildings**

83. Tom Kelley

84. Cate Leger, Chairperson on behalf of the Berkeley Energy Commission

85. Alexander Benn

**MINUTES  
BERKELEY CITY COUNCIL  
SPECIAL MEETING**

**TUESDAY, JULY 16, 2019**

**5:00 P.M.**

**School District Board Room – 1231 Addison Street, Berkeley, CA**

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

**Preliminary Matters**

**Roll Call:** 5:07 p.m.

**Present:** Kesarwani, Davila, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin

**Absent:** None

**Public Comment - Limited to items on this agenda only:** 0 speakers.

**CLOSED SESSION:**

The City Council will convene in closed session to meet concerning the following:

**1. CONFERENCE WITH LABOR NEGOTIATORS; GOVERNMENT CODE SECTION 54957.6**

**Negotiators:** Dee Williams-Ridley, City Manager, David White, Deputy City Manager, LaTanya Bellow, Director of Human Resources.

**Employee Organizations:** Berkeley Police Association; Berkeley Firefighters Association.

**Action:** M/S/C (Arreguin/Hahn) to accept the staff recommendation to provide direction to approve the settlement agreements as to claims under the Fair Labor Standards Act and applicable Memorandum of Agreements and compensation plans for an amount not to exceed \$605,000.00

**Vote:** Ayes – Kesarwani, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – None; Absent – Davila.

Councilmember Davila absent 5:43 p.m. – 5:47 p.m.

**OPEN SESSION:**

City Council met in closed session pursuant to Government Code section 54956.9(d)(2) and provided direction to approve the settlement agreements as to claims under the Fair Labor Standards Act and applicable Memorandum of Agreements and compensation plans for an amount not to exceed \$605,000.

## Adjournment

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

**Vote:** Ayes – Kesarwani, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – None; Absent – Davila.

Adjourned at 5:47 p.m.

I hereby certify that the forgoing is a true and correct record of the special closed meeting of July 16, 2019 as approved by the Berkeley City Council.

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Mark Numainville, City Clerk



**MINUTES**  
**BERKELEY CITY COUNCIL MEETING**  
**Tuesday, July 16, 2019**  
**6:00 PM**

SCHOOL DISTRICT BOARD ROOM - 1231 ADDISON STREET, BERKELEY, CA 94702

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

**Preliminary Matters**

**Roll Call:** 6:00 p.m.

**Present:** Davila, Bartlett, Harrison, Hahn, Wengraf, Droste, Arreguin

**Absent:** Kesarwani, Robinson

Councilmember Robinson present at 6:02 p.m.

Councilmember Kesarwani present at 6:03 p.m.

**Report from Closed Session:**

City Council met in closed session pursuant to Government Code section 54956.9(d)(2) and provided direction to approve the settlement agreements as to claims under the Fair Labor Standards Act and applicable Memorandum of Agreements and compensation plans for an amount not to exceed \$605,000.

**Ceremonial Matters:**

1. Recognition of Paul's Shoe Repair
2. Recognition of Ari Neulight
3. Presentation by Pacific Gas & Electric

**City Manager Comments:** None

**Public Comment on Non-Agenda Matters:** 6 speakers.

## Consent Calendar

**Public Comment on Consent Calendar and Information Items Only:** 24 speakers.

**Action:** M/S/C (Arreguin/Wengraf) to accept revised materials from Mayor Arreguin on Item Aa.

**Vote:** Ayes – Davila, Bartlett, Harrison, Hahn, Wengraf, Robinson, Arreguin; Noes – Kesarwani; Abstain – Droste.

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

**Vote:** All Ayes.

- 1. Referral Response: Berkeley Municipal Code Revision Related to the Use of Gender Neutral Language**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance revising the Berkeley Municipal Code to include gender-neutral pronouns by eliminating any gender preference language within the Berkeley Municipal Code and amend Sections 1.04.020, 4.36.110, 4.38.110, 4.39.110, and 11.08.050 regarding grammatical interpretation to indicate that whenever a gender neutral personal pronoun is used, it shall be deemed to include the feminine and masculine also.  
**Financial Implications:** General Fund - \$600  
Contact: Mark Numainville, City Clerk, 981-6900  
**Action:** Adopted first reading of Ordinance No. 7,670–N.S. Second reading scheduled for July 23, 2019.
- 2. Contract: Gehl Studio for Civic Center Vision and Implementation Plan**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract for an amount not to exceed \$376,430, and any amendments thereto, with Gehl Studio Inc. for the Civic Center Vision and Implementation Plan (Specification No. 19-11286-C).  
**Financial Implications:** See report  
Contact: Jordan Klein, Economic Development, 981-7530  
**Action:** Adopted Resolution No. 69,024–N.S.
- 3. Contract Amendment and Purchase Order No. 21902736 with Bellingham Inc. to Replace Additional Finger Docks at the Berkeley Marina**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend a contract and Purchase Order No. 21902736 with Bellingham Inc. to replace additional finger docks at the Berkeley Marina by increasing the construction contract amount by \$215,000 for a not-to-exceed amount of \$324,335, and increasing the purchase order amount by \$200,000 for a not-to-exceed amount of \$300,000.  
**Financial Implications:** See report  
Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700  
**Action:** Adopted Resolution No. 69,025–N.S.

## Consent Calendar

- 4. Lease Amendment: Police Department Substation, 841 Folger Street/3000 Seventh Street**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance authorizing the City Manager to execute an amendment to the lease agreement with Sasha Shamszad for real property located at 841 Folger Street/3000 Seventh Street for the purpose of leasing office and parking space to the Berkeley Police Department Traffic and Parking Enforcement Units for the six months following approval of this amendment by the Berkeley City Council. A holding over clause in the amendment will also allow the City to continue to lease the property on a month to month basis if needed after the expiration of the six month extension.  
**Financial Implications:** See report  
Contact: Andrew Greenwood, Police, 981-5900  
**Action:** Adopted first reading of Ordinance No. 7,671–N.S. Second reading scheduled for July 23, 2019.
- 5. Updated Sewer System Management Plan**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving the update of the Sewer System Management Plan, as mandated by the State Water Resources Control Board.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, 981-6300  
**Action:** Adopted Resolution No. 69,026–N.S.
- 6. Approval and Levy of 2018 Clean Stormwater Fee in FY 2020**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving the proposed adjusted fees for the 2018 Clean Stormwater Fee and ordering the levy of the fees in Fiscal Year 2020.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, 981-6300  
**Action:** Adopted Resolution No. 69,027–N.S.

## Council Consent Items

- 7. Letter of Support for Senate Bill 806: The College for All Act**  
**From: Councilmember Bartlett, Mayor Arreguin, and Councilmembers Robinson and Davila**  
**Recommendation:** That the Mayor and Berkeley City Councilmembers support Senate Bill 806 (S.806) otherwise known as the College for All Act of 2017 and write a letter of support to Rep. Bernard Sanders and cosponsors of the bill. Senate Bill 806 would forgive over \$1.6 trillion of student loan debts, thereby releasing over 45 million Americans from student debt.  
**Financial Implications:** None  
Contact: Ben Bartlett, Councilmember, District 3, 981-7130  
**Action:** Approved recommendation.  
**Vote:** Ayes – Davila, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – Kesarwani.
- 8. Presentation by PG&E to City Council**  
**From: Councilmember Wengraf, Mayor Arreguin, and Councilmember Harrison**  
**Recommendation:** That the City Council receive a presentation from representatives of Pacific Gas & Electric (PG&E) concerning their Community Wildfire Safety Program and specifically the Public Safety Power Shutoff (PSPS) element of that program.  
**Financial Implications:** Minimal  
Contact: Susan Wengraf, Councilmember, District 6, 981-7160  
**Action:** Approved recommendation. Presentation held during Ceremonial Items on July 16, 2019.
- 9. Referral to the City Manager to Consider Amending the Language of the City's Wireless Telecommunications Ordinance and Aesthetic Guidelines**  
**From: Councilmembers Wengraf, Mayor Arreguin, and Councilmembers Bartlett and Harrison**  
**Recommendation:** Request that the City Manager consider amending the language of the City's Wireless Telecommunications Ordinance (BMC 23C.17) and Aesthetic Guidelines (BMC 16.10 & Aesthetic Guidelines for PROW permits) and return to City Council for adoption as soon as possible.  
**Financial Implications:** See report  
Contact: Susan Wengraf, Councilmember, District 6, 981-7160  
**Action:** Approved recommendation as revised in Supplemental Communications Packet #1 to include supporting materials.

## Council Consent Items

10. **Support for AB 302 (Parking for Homeless Community College Students)**  
**From: Councilmembers Robinson, Kesarwani, and Davila**  
**Recommendation:** Send a letter to Senator Skinner, Assemblymember Wicks, and Assemblymember Marc Berman supporting AB 302, which would include in the Education Code a requirement that community colleges provide overnight parking access to any enrolled homeless student, and request expansion of the bill to cover UCs and CSUs.  
**Financial Implications:** None  
Contact: Rigel Robinson, Councilmember, District 7, 981-7170  
**Action:** Councilmember Hahn added as a co-sponsor. Approved recommendation.
11. **Support for AB 1076 (Ting) - Automatic Relief of Criminal Records**  
**From: Councilmembers Robinson and Davila**  
**Recommendation:** Send a letter to Assemblymember Ting supporting AB 1076, which would make the withholding of disclosure of criminal records for certain eligible arrests and convictions automatic, instead of requiring the individual to petition the court.  
**Financial Implications:** None  
Contact: Rigel Robinson, Councilmember, District 7, 981-7170  
**Action:** Councilmembers Hahn and Bartlett added as co-sponsors. Approved recommendation.
12. **Making Berkeley City Hall a Voting Center**  
**From: Councilmember Robinson, Mayor Arreguin, and Councilmember Davila**  
**Recommendation:** Refer to the City Manager to seek approval from the County Registrar of Voters and Secretary of State to make City Hall a voting center in time for the March 2020 statewide Primary under the California Voter's Choice Act, in order to offer more voter services to Berkeley residents, including same day voter registration.  
**Financial Implications:** See report  
Contact: Rigel Robinson, Councilmember, District 7, 981-7170  
**Action:** Item removed from the agenda by Councilmember Robinson.

## Action Calendar – Continued Business

- Aa. **Resolution Assigning Socially Responsible Investment and Procurement advisory role to the Peace and Justice Commission** (*Continued from July 9, 2019.*)  
**From: Peace and Justice Commission**  
**Recommendation:** Adopt resolution assigning socially responsible investment and procurement advisory role to the Peace and Justice Commission.  
**Financial Implications:** None  
Contact: Bre Slimick, Commission Secretary, 981-7000

## Action Calendar – Continued Business

**Ab. Companion Report to Peace and Justice Commission’s Resolution Asking to be an Assigned Advisory Role in Consulting on Socially Responsible Investments and Procurement** *(Continued from July 9, 2019.)*

**From: City Manager**

**Recommendation:** Continue to allow the City Council Budget and Finance Committee to provide investment policy oversight.

**Financial Implications:** See report

Contact: Dave White, City Manager's Office, 981-7000

**Action:** 5 speakers. M/S/C (Arreguin/Bartlett) to adopt Resolution No. 69,028–N.S. in Item Aa as revised in the supplemental material introduced by Mayor Arreguin.

**Vote:** Ayes – Davila, Bartlett, Harrison, Hahn, Robinson, Arreguin; Noes – Droste; Abstain – Kesarwani, Wengraf.

**B. Housing for a Diverse, Equitable and Creative Berkeley: Proposing a Framework for Berkeley’s Affordable Housing** *(Continued from July 9, 2019.)*

**From: Mayor Arreguin, and Councilmembers Hahn, Harrison, and Robinson**

**Recommendation:** Refer to the Housing Advisory Commission, the Measure O Bond Oversight Committee, and the Homeless Services Panel of Experts to consider the proposed Housing for a Diverse, Equitable and Creative Berkeley framework (the “Framework”) and return comments for consideration at a Special Meeting of the City Council in September, to inform a final version the City Council will adopt to govern Berkeley’s affordable housing policies, programs and projects through 2030.

**Financial Implications:** See report

Contact: Jesse Arreguin, Mayor, 981-7100

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

**Vote:** Ayes – Davila, Bartlett, Harrison, Hahn, Robinson, Arreguin; Noes – Kesarwani, Wengraf, Droste.

**Action:** M/S/C (Arreguin/Hahn) to suspend the rules and extend the meeting to 11:40 p.m.

**Vote:** All Ayes.

**Action:** 6 speakers. M/S/C (Hahn/Arreguin) to refer to the Housing Advisory Commission, the Measure O Bond Oversight Committee, and the Homeless Services Panel of Experts to consider the proposed Housing for a Diverse, Equitable and Creative Berkeley framework (the “Framework”) and return comments for consideration at a Special Meeting of the City Council in the early fall, to inform a final version the City Council will adopt to guide Berkeley’s affordable housing policies, programs and projects through 2030. The item is further amended to add a “Draft” notation, remove the phrase “rather than for profit-maximizing companies” from Section II, and remove reference to the 50% goal.

**Vote:** Ayes – Davila, Bartlett, Harrison, Hahn, Robinson, Arreguin; Noes – Kesarwani, Droste; Abstain – Wengraf.

## Action Calendar – Continued Business

- C. **Adopt an Ordinance adding a new Chapter 12.80 to the Berkeley Municipal Code Prohibiting Natural Gas Infrastructure in New Buildings** *(Reviewed by the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee.) (Continued from July 9, 2019. Item contains supplemental material.)*

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

**Recommendation:**

1. Adopt an ordinance adding a new Chapter 12.80 to the Berkeley Municipal Code (BMC) prohibiting natural gas infrastructure in new buildings with an effective date of January 1, 2020.
2. Refer to the November 2019 budget process for consideration of allocating up to \$273,341 per year from excess equity to fund a two-year position in the Building & Safety Division of the Department of Planning and Development. The staff person will assist with implementing the gas prohibition ordinance and reach codes, and perform other duties as specified in the Financial Implications section of this item.

**Financial Implications:** See report

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

**Action:** M/S/C (Harrison/Hahn) to accept revised materials from Councilmember Harrison on Item C.

**Vote:** Ayes – Kesarwani, Davila, Harrison, Hahn, Wengraf, Robinson, Arreguin; Noes – None; Abstain – Droste; Absent – Bartlett.

Councilmember Bartlett absent 8:05 p.m. – 8:09 p.m.

Recess 8:50 p.m. – 9:12 p.m.

**Action:** 36 speakers. M/S/C (Hahn/Harrison) to:

1. Adopt first reading of Ordinance No. 7,672–N.S. as revised in the supplemental materials accepted at the meeting. Second reading scheduled for July 23, 2019.
2. Refer to the November 2019 budget process for consideration of allocating up to \$273,341 per year from excess equity to fund a two-year position in the Building & Safety Division of the Department of Planning and Development. The staff person will assist with implementing the gas prohibition ordinance and reach codes, and perform other duties as specified in the Financial Implications section of this item.

**Vote:** All Ayes.

## Action Calendar – New Business

13. **Annual Housing Pipeline Report**

**From: City Manager**

**Recommendation:** Review and provide input on the data included in the Housing Pipeline Report.

**Financial Implications:** None

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

**Action:** M/S/C (Arreguin/Robinson) to hold over Item 13 to July 23, 2019.

**Vote:** All Ayes.

## Action Calendar – New Business

14. **Opportunity Zone Project Guidelines for the City Manager**  
**From: Councilmembers Bartlett, Harrison, Mayor Arreguin, and Councilmember Davila**

**Recommendation:** Refer to the City Manager the priorities listed below for investment in Berkeley's Opportunity Zones for proactive outreach and marketing to investors or Opportunity Funds, and to guide any discussions or negotiations regarding development projects in Opportunity Zones. The priorities are: Construction of new Affordable Housing units or acquisition and preservation of affordable housing; Preservation of historic buildings; Cultural Institutions and Performing Arts Venues; Civic Uses (Government Offices, Libraries, Schools, Public Safety); Public Open Space and Recreation Facilities; Health Care Services; Transportation Demand Management features; and Job training or employment opportunities.

The City Manager should further incorporate these guidelines into any relevant formal document relating to projects in Opportunity Zones.

That City staff, working with non-profit organizations OR seeking technical assistance, develop a prospectus marketing community development projects in Berkeley's Opportunity Zones using the guidelines mentioned above, or any other tools to attract equitable investment in Opportunity Zones.

**Financial Implications:** See report

Contact: Ben Bartlett, Councilmember, District 3, 981-7130

**Action:** Moved to Consent Calendar. Approved recommendation.

## Information Reports

15. **Referral Response Referral to Improve Fire Safety Standards for Rebuilt Fire-Damaged Structures**  
**From: City Manager**  
Contact: David Brannigan, Fire, 981-3473  
**Action:** Received and filed.
16. **Community Environmental Advisory Commission 2019 Work Plan**  
**From: Community Environmental Advisory Commission**  
Contact: Viviana Garcia, Commission Secretary, 981-7460  
**Action:** Received and filed.
17. **Public Works Commission Fiscal Year 2020 Work Plan**  
**From: Public Works Commission**  
Contact: Nisha Patel, Commission Secretary, 981-6300  
**Action:** Received and filed.

**Public Comment – Items Not Listed on the Agenda - 0 speakers.**



## Adjournment

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

**Vote:** All Ayes.

Adjourned at 11:39 p.m.

I hereby certify that the forgoing is a true and correct record of the regular meeting of July 16, 2019 as approved by the Berkeley City Council.

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Mark Numainville, City Clerk

## Communications

### RV Permitting

1. Barbara Freeman
2. Gabriela Giacchino
3. Stan Leibowitz
4. Jessica Behrman (3)
5. Allison Kidder
6. Diana Bohn
7. Doug Kidder
8. Paola Laverde, on behalf of the Berkeley Rent Stabilization Board
9. Tamara Gurin

### Ashby BART Housing

10. Teresa Clarke, on behalf of South Berkeley Now

### 5G

11. Richard Hiersch
12. Marvin Snow
13. Chimey Lee
14. Jennifer Burt
15. Vivian Warkentin
16. Dawn Hawk
17. Marvin Snow

### Eden I&R 211Calls

18. Eden I&R

### Sacramento and University Construction

19. Jesse Goldberg (2)

### Sea Level Rise

20. Margot Smith

**Lease Proposal at 2435 and 2439 Channing Way**

21. Ian Bennett-Goldberg, on behalf of Sutter Law PC

**STEM Future Foundation**

22. Clergy for STEM

**Microbond Initiative**

23. Giap Vu

24. Max Levine

25. DBGrow, Inc.

**Traffic Circle at 62<sup>nd</sup> and King**

26. Heather McWhinney

27. Sam Kang

28. Sara Jo

29. Eric Perney

**Civic Arts Funding**

30. Janice Murota

31. Carol Lashof

**Tree Wells – Grow More Trees**

32. Nancy Bardach

**A Millisecond Left**

33. Donald Goldmacher

**West Campus Pool**

34. Summer Brenner

35. Gael

36. Stacey Singleton

37. Donna Mickleson

**No Fiscal Transparency**

38. Eric Friedman

39. Barbara Gilbert

40. Jessica Behrman

**Change.org Petition – Predatory Displacement through Receivership**

41. Unknown

**BHA Office Experience**

42. Steven Schuyler

43. William Watkins

**Adeline Corridor**

44. Friends of Adeline

**The Environment**

45. Donald Goldmacher

**Russbumer Dialogue**

46. Russbumper (12)

**Supplemental Communications and Reports 1**

**Item #9: Referral to the City Manager to Consider Amending the Language of the City's Wireless Telecommunications Ordinance and Aesthetic Guidelines**

47. Supplemental materials, submitted by Councilmember Wengraf

**Item #14: Opportunity Zone Project Guidelines for the City Manager**

48. Barbara Gilbert

**Supplemental Communications and Reports 2**

**Ceremonial Matters: Community Wildfire Safety Program**

49. PG&E

**Item #9: Referral to the City Manager to Consider Amending the Language of the City's Wireless Telecommunications Ordinance and Aesthetic Guidelines**

50. Sally Nelson

51. Regina DiMaggio

52. Linda Franklin

53. Kelly Hammargren

54. Phoebe Sorgen (2)

**Item #B: Housing for a Diverse, Equitable and Creative Berkeley: Proposing a Framework for Berkeley's Affordable Housing (Continued from July 16, 2019.)**

55. Marina Wolfe, on behalf of the Housing Advisory Commission

56. Carole Marasovic, on behalf of the Homeless Commission

57. Mariana Almeida

**Item #C: Adopt an Ordinance adding a new Chapter 12.80 to the Berkeley Municipal Code Prohibiting Natural Gas Infrastructure in New Buildings**

58. Revised material, submitted by Councilmember Harrison

59. May Simpson, on behalf of the Community Health Commission

60. Cate Leger, on behalf of the Berkeley Energy Commission

61. Tom Lent

62. Nick Young

63. Matthew Gough, on behalf of the Sierra Club

64. Bill Rathbun

65. Councilmember Harrison

- 66. Joel and Josie Gerst
- 67. Sara Kupor
- 68. Kathleen Greene
- 69. Phyllis and David Rothman
- 70. Ruby MacDonald, on behalf of The League of Women Voters
- 71. Dave Margulius

**Item #14: Opportunity Zone Project Guidelines for the City Manager**

- 72. Seventy-three communications submitted via Berkeley Considers, includes summary information

**Supplemental Communications and Reports 3**

**Item #1: Referral Response: Berkeley Municipal Code Revision Related to the Use of Gender Neutral Language**

- 73. Veronika Fukson

**Item #9: Referral to the City Manager to Consider Amending the Language of the City's Wireless Telecommunications Ordinance and Aesthetic Guidelines**

- 74. Phoebe Sorgen (2)
- 75. Ellen Marks
- 76. Sandy Nixon
- 77. Elisabeth Jewel
- 78. Sigrid and Ed Allen

**Item #Aa: Resolution Assigning Socially Responsible Investment and Procurement advisory role to the Peace and Justice Commission** *(Continued from July 9, 2019.)*

- 79. Revised material (track changes), submitted by Mayor Arreguin
- 80. George Lippman, on behalf of the Peace and Justice Commission

**Item #B: Housing for a Diverse, Equitable and Creative Berkeley: Proposing a Framework for Berkeley's Affordable Housing** *(Continued from July 16, 2019.)*

- 81. Terry Taplin
- 82. Barbara Gilbert (2)
- 83. Mark Numainville, submitted on behalf of the City Clerks Office.

**Item #C: Adopt an Ordinance adding a new Chapter 12.80 to the Berkeley Municipal Code Prohibiting Natural Gas Infrastructure in New Buildings** *(Reviewed by the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee.) (Continued from July 16, 2019. Item contains supplemental material.)*

- 84. Supplemental material, submitted by Councilmember Harrison
- 85. Presentation, submitted by Councilmember Harrison
- 86. Steve Donaldson
- 87. Jane Ellis
- 88. Kirsten MacDonald, on behalf of the Berkeley Chamber of Commerce
- 89. Paula Morgan
- 90. Bruce Karney

91. League of Women Voters

92. David Finley

**PG&E Public Safety Power Shutdown Questions**

93. Berkeley Ready

**Milan Urban Food Policy Pact**

94. Unknown

**MINUTES  
BERKELEY CITY COUNCIL  
SPECIAL MEETING**

**TUESDAY, JULY 23, 2019**

**5:00 P.M.**

**School District Board Room – 1231 Addison Street, Berkeley, CA**

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

**Preliminary Matters**

**Roll Call:** 5:10 p.m.

**Present:** Kesarwani, Davila, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin

**Absent:** Bartlett

**Public Comment - Limited to items on this agenda only:** 0 speakers

**CLOSED SESSION:**

The City Council will convene in closed session to meet concerning the following:

**1. CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION PURSUANT TO GOVERNMENT CODE SECTIONS 54956.9(a) AND 54956.9(d)(1)**

Blake v. City of Berkeley- Alameda County Superior Court Case No. RG17870367

**Action:** Staff present included Dee William-Ridley, Farimah Brown, Paul Buddenhagen, and David White. The City Attorney briefly summarized the facts of the incident and the settlement terms. M/S/C (Wengraf/Hahn) to authorize the City Attorney to settle Blake v. City of Berkeley- (Alameda County Superior Court Case No. RG17870367) for \$18,000.

**Vote:** Ayes – Kesarwani, Davila, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – None; Absent – Bartlett.

**2. CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION PURSUANT TO GOVERNMENT CODE SECTIONS 54956.9(a) AND 54956.9(d)(1)**

City of Berkeley v. Regents of the University of California, Alameda Superior Court Case No. RG19023058

**Action:** No action taken.

## OPEN SESSION:

The City Council met in closed session and authorized the City Attorney to settle Blake v. City of Berkeley - (Alameda County Superior Court Case No. RG17870367) for \$18,000.

## Adjournment

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

**Vote:** Ayes – Kesarwani, Davila, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin;  
Noes – None; Abstain – None; Absent – Bartlett.

Adjourned at 5:17 p.m.

I hereby certify that the forgoing is a true and correct record of the special closed meeting of July 23, 2019 as approved by the Berkeley City Council.

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Mark Numainville, City Clerk

**MINUTES**  
**BERKELEY CITY COUNCIL MEETING**  
**Tuesday, July 23, 2019**  
**6:00 PM**

SCHOOL DISTRICT BOARD ROOM - 1231 ADDISON STREET, BERKELEY, CA 94702

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

**Preliminary Matters**

**Roll Call:** 6:08 p.m.

**Present:** Kesarwani, Davila, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin.

**Absent:** None.

**Closed Session Announcement:**

The City Council met in closed session and authorized the City Attorney to settle Blake v. City of Berkeley - (Alameda County Superior Court Case No. RG17870367) for \$18,000.

**Ceremonial Matters:**

1. Recognition of Susan Duhan Felix, Local Activist and Arts Ambassador
2. Recognition of Empress Vintage Clothing, Local Small Business
3. Recognition of Kelly Hammargren, Local Activist
4. Recognition of Christine Schwartz, Local Activist
5. Adjourned the meeting in memory of Brian Gialketsis
6. Adjourned the meeting in memory of the 20 people that have died on the streets of Berkeley in the past year.

**City Auditor Comments:**

The City Auditor presented the Fiscal Year 2020 Audit Plan to the City Council.

**City Manager Comments:**

1. National Night Out is August 6 – registration still open for block party permits
2. Berkeley Police and Berkeley Fire Evacuation Drills on 8/4, 8/11, and 8/25 at 9:00 a.m.
3. Movie in the Park – July 26, Grove Park, 8:30 p.m.



4. Meeting on Aquatics Programs at West Campus Pool – July 27, 12:00 p.m.
5. Music in the Park – July 27, Civic Center Park, 12:00 p.m.

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

## Consent Calendar

**Public Comment on Consent Calendar and Information Items Only:** 27 speakers.

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

**Vote:** All Ayes.

## Consent Calendar – Continued Business

### A. Referral Response: Berkeley Municipal Code Revision Related to the Use of Gender Neutral Language *(Continued from July 16, 2019)*

**From:** City Manager

**Recommendation:** Adopt second reading of Ordinance No. 7,670-N.S. revising the Berkeley Municipal Code to include gender-neutral pronouns by eliminating any gender preference language within the Berkeley Municipal Code and amend Sections 1.04.020, 4.36.110, 4.38.110, 4.39.110, and 11.08.050 regarding grammatical interpretation to indicate that whenever a gender neutral personal pronoun is used, it shall be deemed to include the feminine and masculine also.

**First Reading Vote:** All Ayes.

**Financial Implications:** General Fund - \$600

Contact: Mark Numainville, City Clerk, 981-6900

**Action:** Adopted second reading of Ordinance No. 7,670-N.S.

### B. Lease Amendment: Police Department Substation, 841 Folger Street/3000 Seventh Street *(Continued from July 16, 2019)*

**From:** City Manager

**Recommendation:** Adopt second reading of Ordinance No. 7,671-N.S. authorizing the City Manager to execute an amendment to the lease agreement with Sasha Shamszad for real property located at 841 Folger Street/3000 Seventh Street for the purpose of leasing office and parking space to the Berkeley Police Department Traffic and Parking Enforcement Units for the six months following approval of this amendment by the Berkeley City Council. A holding over clause in the amendment will also allow the City to continue to lease the property on a month to month basis if needed after the expiration of the six month extension.

**First Reading Vote:** All Ayes.

**Financial Implications:** See report

Contact: Andrew Greenwood, Police, 981-5900

**Action:** Adopted second reading of Ordinance No. 7,671-N.S.

## Consent Calendar – Continued Business

- C. **Adopt an Ordinance adding a new Chapter 12.80 to the Berkeley Municipal Code Prohibiting Natural Gas Infrastructure in New Buildings** *(Reviewed by the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee.) (Continued from July 16, 2019)*  
**From: Councilmembers Harrison, Davila, Bartlett, and Hahn**  
**Recommendation:** Adopt second reading of Ordinance No. 7,672-N.S. adding a new Chapter 12.80 to the Berkeley Municipal Code (BMC) prohibiting natural gas infrastructure in new buildings with an effective date of January 1, 2020.  
**First Reading Vote:** All Ayes.  
**Financial Implications:** See report  
Contact: Kate Harrison, Councilmember, District 4, 981-7140  
**Action:** Adopted second reading of Ordinance No. 7,672-N.S.

## Consent Calendar

1. **Referral Response: Short-term referral to City Manager to amend Berkeley Municipal Code 7,441-N.S. to expand the control of flavored tobacco across the City of Berkeley toward preventing youth and young adult tobacco use**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance amending Berkeley Municipal Code sections 9.80.020 and 9.80.035, and adding sections 9.80.031 and 9.80.032 to prohibit the sale of flavored tobacco products, to require a minimum package size for cigars and little cigars, and to require a minimum price for certain tobacco products sold in the City.  
**Financial Implications:** See report  
Contact: Farimah Brown, City Attorney, 981-6950; Kelly Wallace, Housing and Community Services, 981-5400  
**Action:** Adopted first reading of Ordinance No. 7,673–N.S. amended to revise the dollar amount in Section 9.80.032.d.2 to \$8.00 per pack and revise Section 9.80.032.d.3 to read “less than \$7.00”. Second reading scheduled for September 10, 2019.
2. **Minutes for Approval**  
**From: City Manager**  
**Recommendation:** Approve the minutes for the Council meetings of June 4, 2019 (special closed), June 11, 2019 (special closed, special, and regular), June 18, 2019 (special closed and special), and June 25, 2019 (special closed and regular).  
**Financial Implications:** None  
Contact: Mark Numainville, City Clerk, 981-6900  
**Action:** Approved minutes as submitted.

## Consent Calendar

- 3. Establish 2020 City Council Meeting Schedule**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution establishing the City Council regular meeting schedule for 2020, with starting times of 6:00 p.m. and providing for ceremonial items to be taken up as special items noticed to be heard in advance of the scheduled start time of regular meetings.  
**Financial Implications:** None  
Contact: Mark Numainville, City Clerk, 981-6900  
**Action:** Adopted Resolution No. 69,029–N.S.
- 4. Voting Delegates – League of California Cities Annual Conference**  
**From: City Manager**  
**Recommendation:** Designate Councilmember Kate Harrison as the voting delegate and Councilmember Rigel Robinson as the alternate for the business meeting of the Annual League of California Cities meeting to be held on Friday, October 18, 2019, at the Long Beach Convention Center.  
**Financial Implications:** None  
Contact: Mark Numainville, City Clerk, 981-6900  
**Action:** Approved recommendation.
- 5. Affordable Housing Projects; Federal Tax Law Reimbursement Resolution**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution allowing the City to pay certain costs of affordable and moderate income housing projects prior to the date of execution, delivery or issuance of tax-exempt bonds, and to use a portion of the proceeds of the tax-exempt bonds for reimbursement of expenditures for the projects that are paid before the date of execution, delivery or issuance of the obligations. The maximum principal amount of the obligations is expected to be \$175,000,000.  
**Financial Implications:** See report  
Contact: Paul Buddenhagen, City Manager's Office, 981-7000  
**Action:** Adopted Resolution No. 69,030–N.S.
- 6. Animal Care Services Providing Mutual Aid in Disasters**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving Berkeley Animal Care Services (BACS) Mutual Aid Agreement policy to provide animal services in disaster and emergency situations.  
**Financial Implications:** See report  
Contact: Paul Buddenhagen, City Manager's Office, 981-7000  
**Action:** Adopted Resolution No. 69,031–N.S.

## Consent Calendar

7. **Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on July 23, 2019**  
**From: City Manager**  
**Recommendation:** Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager's threshold will be returned to Council for final approval.  
**Financial Implications:** Various Funds - \$1,860,000  
Contact: Henry Oyekanmi, Finance, 981-7300  
**Action:** Approved recommendation.
  
8. **Contract No. 10631A Amendment: Resource Development Associates for HOTT Evaluation Consulting Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to execute an amendment to Contract No. 10631A with Resource Development Associates (RDA) to build a database for the Mental Health Division's Homeless Outreach and Treatment Team (HOTT), in an amount not to exceed \$6,500, for a total contract amount not to exceed \$54,500.  
**Financial Implications:** See report  
Contact: Kelly Wallace, Housing and Community Services, 981-5400  
**Action:** Adopted Resolution No. 69,032–N.S.
  
9. **Mental Health Services Act (MHSA) Fiscal Year 2019-2020 (FY20) Annual Update**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving the Mental Health Services Act (MHSA) Fiscal Year 2019-2020 (FY20) Annual Update, which provides information on current and proposed uses of funds on mental health programming, and forwarding the MHSA FY20 Annual Update to appropriate state officials.  
**Financial Implications:** See report  
Contact: Kelly Wallace, Housing and Community Services, 981-5400  
**Action:** Adopted Resolution No. 69,033–N.S.
  
10. **Contract No. 9888A Amendment: Merritt Hawkins for Recruitment Services: Psychiatrist**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to execute an amendment to Contract No. 9888A adding \$100,000 to the expenditure contract with Merritt Hawkins for Recruitment for Psychiatrist III for a total contract limit of \$149,990 for the period beginning March 2, 2015 and ending on June 30, 2021.  
**Financial Implications:** Various Funds - \$100,000  
Contact: Kelly Wallace, Housing and Community Services, 981-5400  
**Action:** Adopted Resolution No. 69,034–N.S.

## Consent Calendar

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

**From: City Manager**

**Recommendation:** Adopt seven Resolutions authorizing the City Manager or her designee to execute amendments for the following contracts that are funded through Mental Health Services Act (MHSA) Prevention and Early Intervention (PEI), and Community Services and Supports (CSS) increasing the contract amounts as outlined below, and extending the contracts through June 30, 2020:

1. Increasing PEI Contract No. 8573I with Albany Unified School District (AUSD) by \$64,192 from Mental Health Services Act Fund Account #:315-51-503-526-2016-000-451-636110, for a total contract amount not to exceed \$566,508 for services to Asian Pacific Islander, Latino, and African American youth;
2. Increasing PEI Contract No. 8801H with Center for Independent Living (CIL) in the amount of \$32,046 from Mental Health Services Act Fund Account #:315-51-503-526-2016-000-451-636110, for a total contract amount not to exceed \$256,584 for supports for senior citizens;
3. Increasing PEI Contract No. 8560I with G.O.A.L.S. For Women, Inc. in the amount of \$32,046 from Mental Health Services Act Fund Account #:315-51-503-526-2016-000-451-636110, for a total amount not to exceed \$283,104 to serve African American women and their families;
4. Increasing PEI Contract No. 8516J with Pacific Center for Human Growth in the amount of \$32,046 from Mental Health Services Act Fund Account #:315-51-503-526-2016-000-451-636110, for a total contract amount not to exceed \$283,104 to serve Lesbian, Gay, Bi-sexual, Transgender, Queer/Questioning, and Intersex (LGBTQI) individuals;
5. Increasing PEI Contract No. 8606I with Covenant House California-YEAH! Program, in the amount of \$32,046 from Mental Health Services Act Fund Account #:315-51-503-526-2016-000-451-636110, for a total contract amount not to exceed \$283,104 for support groups for Transition Age Youth (TAY);
6. Increasing PEI Contract No. 8975G with Berkeley Unified School District (BUSD) in the amount of \$55,000 from Mental Health Services Act Fund Account #:315-51-503-526-2016-000-451-636110, for a total contract amount not to exceed \$435,000 for elementary school youth; and
7. Increasing CSS Contract No. 9553E with Covenant House California-YEAH! Program by \$122,856 from Mental Health Services Act Fund Account #: 315-51-503-526-2017-000-451-636110 for a total contract amount not to exceed \$755,286 for services for transition age youth.

**Financial Implications:** See report

Contact: Kelly Wallace, Housing and Community Services, 981-5400

**Action:** Adopted Resolution No. 69,035–N.S. (AUSD); Resolution No. 69,036–N.S. (CIL); Resolution No. 69,037–N.S. (G.O.A.L.S.); Resolution No. 69,038–N.S. (Pacific Center); Resolution No. 69,039–N.S. (Covenant House - PEI); Resolution No. 69,040–N.S. (BUSD); Resolution No. 69,041–N.S. (Covenant House - CSS).

## Consent Calendar

- 12. Contract: AMCS for Zero Waste Management Software System**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract with AMCS for software hosting, implementation, maintenance and related services for a Zero Waste Management Software System for an amount not to exceed \$1,363,735 for the period commencing on July 24, 2019 through June 30, 2024.  
**Financial Implications:** Various Funds - \$1,363,735  
Contact: Savita Chaudhary, Information Technology, 981-6500  
**Action:** Adopted Resolution No. 69,042–N.S.
- 13. Contract: Assetworks for Fleet Management Software & Implementation Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract with Assetworks for software hosting, implementation, maintenance and related services for a Fleet Management Software, for an amount not to exceed \$487,249 for the projected period commencing on July 24, 2019 through June 30, 2024.  
**Financial Implications:** Various Funds - \$487,249  
Contact: Savita Chaudhary, Information Technology, 981-6500  
**Action:** Adopted Resolution No. 69,043–N.S.
- 14. Contract Amendment 11005: Communication Strategies for Consulting Services for Voice Over IP (VoIP) Support and Maintenance**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend a contract with Communication Strategies for Consulting Services for developing requirements and conducting needs assessment for Voice over IP (VoIP) Support and Maintenance, increasing the contract amount by \$42,216 for a total not-to-exceed amount of \$76,811 from July 1, 2017 to June 30, 2020.  
**Financial Implications:** See Report  
Contact: Savita Chaudhary, Information Technology, 981-6500  
**Action:** Adopted Resolution No. 69,044–N.S.
- 15. Special Use Permit for Berkeley Tuolumne Camp**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a Special Use Permit, and any amendments thereto, with the United States Forest Service to construct, operate, maintain, and improve Berkeley Tuolumne Camp located in the Stanislaus National Forest for a period of thirty years.  
**Financial Implications:** See report  
Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700  
**Action:** Adopted Resolution No. 69,045–N.S.

## Consent Calendar

16. **Contract: Left Coast Land Clearing for Berkeley Tuolumne Camp Sun City Hazard Mitigation**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Left Coast Land Clearing in an amount not to exceed \$365,000 to provide hazard mitigation services for the Berkeley Tuolumne Camp Sun City Project for the period July 24, 2019 through July 24, 2020.  
**Financial Implications:** See report  
Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700  
**Action:** Adopted Resolution No. 69,046–N.S.
17. **Contract: Leslie Heavy Haul, LLC for Berkeley Tuolumne Camp Tree Hazard Mitigation**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Leslie Heavy Haul, LLC in an amount not to exceed \$584,354 to provide tree hazard mitigation services for the Berkeley Tuolumne Camp Project for the period July 24, 2019 through July 24, 2020.  
**Financial Implications:** See report  
Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700  
**Action:** Adopted Resolution No. 69,047–N.S.
18. **Contract: McNabb Construction, Inc. for George Florence Park Playground Renovation**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution:  
1. Approving the plans and specifications for the George Florence Park Playground Renovation project, Specification No. 19-11301-C; and  
2. Accepting the bid of the lowest responsive and responsible bidder, McNabb Construction, Inc.; and  
3. Authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project in accordance with the approved plans and specifications, with McNabb Construction, Inc., for the George Florence Park Playground Renovation project at 2121 Tenth Street, Berkeley, CA 94710, in an amount not to exceed \$538,706, which includes a contract amount of \$468,706 and a 15% contingency in the amount of \$70,000.  
**Financial Implications:** See report  
Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700  
**Action:** Adopted Resolution No. 69,048–N.S.

## Consent Calendar

- 19. Grant Application: Prop 84 Urban Greening Grant Program – Trees Build Communities Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to submit a Prop 84 Urban Greening grant application for the “Trees Build Communities: A Berkeley Urban Forest Expansion Project” in the amount of \$725,878; to accept the grant; to execute any resultant revenue agreements and amendments; and authorizing the implementation of the project and appropriation of funding for related expenses, subject to securing the grant.  
**Financial Implications:** See report  
Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700  
**Action:** Adopted Resolution No. 69,049–N.S.
- 20. Contract No. 31900125 Amendment: First Serve Productions for Additional Asphalt Repairs and Resurfacing at City Parks**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 31900125 with First Serve Productions for additional asphalt repairs and resurfacing at City parks by increasing the construction contract amount by \$55,000 for a not-to-exceed amount of \$250,000.  
**Financial Implications:** Parks Tax Fund - \$55,000  
Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700  
**Action:** Adopted Resolution No. 69,050–N.S.
- 21. Contract: Contract for John Hinkel Park Improvement Project \*\*\*Item Removed by the City Manager\*\*\***  
**From: City Manager**  
Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700



## Consent Calendar

- 22. Authorizing the modification of the Measure T1 Phase 1 project list: removal of the King School Park Bioswale project and addition of alternate Green Infrastructure projects**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing:
1. Removal of the King School Park Bioswale project from the list of approved Measure T1 projects ; and
  2. Addition of the following priority sites as T1 Phase 1 projects, identified by the Green Infrastructure (GI) plan at the Council worksession on June 18, 2019 and the Public Works Commission: Page Street between Fourth Street and the RR Tracks; Jones Street between Fourth Street and RR Tracks; Channing Way at the RR Tracks; Heinz Avenue near RR Tracks; Dwight Way between Fourth Street and the RR Tracks; Grayson Street near the RR Tracks; Tenth Street at Codornices Creek; Ninth Street at Codornices Creek; Piedmont Avenue Median between Durant Avenue and Channing Way; Piedmont Avenue Traffic Circle; San Pablo Park at Ward Street; and the evaluation of the Sacramento Street center median.
- Financial Implications:** See report  
Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700; Phillip Harrington, Public Works, 981-6300  
**Action:** Adopted Resolution No. 69,051–N.S.
- 23. Revenue Grant: California Office of Traffic Safety (OTS) for the 2020 "Selective Traffic Enforcement Program (STEP)" Grant**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to accept the "Selective Traffic Enforcement Program (STEP)" Grant and enter into the resultant grant agreement and any amendments, with the California Office of Traffic Safety (OTS) to fund increased levels of impaired or distracted driving enforcement, nighttime seatbelt enforcement, motorcycle safety enforcement, and educational programs regarding bicycle and pedestrian safety. The approved OTS grant is for \$200,000 for the period of October 1, 2019 through September 30, 2020 which is Federal Fiscal Year 2020.
- Financial Implications:** See report  
Contact: Andrew Greenwood, Police, 981-5900  
**Action:** Adopted Resolution No. 69,052–N.S.
- 24. Revenue Grant: Fiscal Year 2019-20 Alcoholic Beverage Control Grant**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager, and/or the Chief of Police, to execute a grant contract and any subsequent amendments with the State of California Department of Alcoholic Beverage Control (ABC) in the amount of \$64,000 for one fiscal year, July 1, 2019 through June 30, 2020.
- Financial Implications:** See report  
Contact: Andrew Greenwood, Police, 981-5900  
**Action:** Adopted Resolution No. 69,053–N.S.

## Consent Calendar

25. **Contract No. 9635 Amendment: Restoration Management Company for On-Call Remediation and Restoration Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 9635 with Restoration Management Company, to increase the current contract by \$50,000 for a total not to exceed amount of \$100,000 and to extend the contract term to June 30, 2021.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, 981-6300  
**Action:** Adopted Resolution No. 69,054–N.S.
26. **Purchase Order: Stockton Tri Industries, Inc. for Front Loading and Rear Loading Container Purchase**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to accept a bid from Stockton Tri Industries, Inc. for front-loading and rear-loading containers and execute a purchase order in an amount not to exceed \$450,000 for fiscal years FY 2020 – FY 2023.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, 981-6300  
**Action:** Item removed from the agenda by the City Manager.
27. **Contract No. 10485 Amendment: Fehr & Peers, Inc. for On-Call Transportation Planning Services \*\*\*Item Removed by the City Manager\*\*\***  
**From: City Manager**  
Contact: Phillip Harrington, Public Works, 981-6300
28. **Contract No. 121345-1 Amendment: W.A. Rose Construction, Inc. for Exterior Stucco Demolition Work at the Central Library**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 121345-1 with W.A. Rose Construction, Inc. to complete exterior stucco demolition work at the Central Library, increasing the amended contract amount of \$320,156 to a not to exceed amount of \$351,317 plus an allowable contingency amount of \$6,000 and to extend the term of the contract to December 31, 2019.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, 981-6300; Elliot Warren, Library, 981-6100  
**Action:** Adopted Resolution No. 69,055–N.S. amended to set the not to exceed amount at \$357,317.44.

## Consent Calendar

29. **Agreements: Joint Exercise of Powers Agreement Establishing and Governing Operation of the Collection System Technical Advisory Committee and Defendants' Side Agreement to Facilitate Consent Decree Compliance**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute the Joint Exercise of Powers Agreement with the City of Alameda, City of Albany, City of Berkeley, City of Emeryville, City of Oakland, City of Piedmont, the Stege Sanitary District, and East Bay Municipal Utility District, establishing and governing operation of the Collection System Technical Advisory Committee and the Defendants' Side Agreement to facilitate Consent Decree Compliance.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, 981-6300  
**Action:** Adopted Resolution No. 69,056–N.S.
30. **Residential Preferential Parking (RPP) Program: Summer 2019 Update**  
**From: City Manager**  
**Recommendation:** Direct staff to conduct analysis of Fiscal Year (FY) 2020 Residential Preferential Parking (RPP) Program costs and revenues and return to Council early 2020 with updated fee increase proposal(s) to be effective April 1, 2020 for the FY 2021 permit year for Program enhancement and expansion.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, 981-6300  
**Action:** Item held over to September 10, 2019.

## Council Consent Items

31. **Implementing Vision Zero: Prioritizing High Collision Streets**  
**From: Mayor Arreguin, Councilmembers Droste, Hahn, and Wengraf**  
**Recommendation:** As street lights are being replaced and transportation infrastructure improvements are made throughout the City, and as work plans and schedules are developed, priority should be given to high-collision streets, as identified in the Pedestrian Master Plan and Vision Zero program. Examples include but are not limited to improving lighting, updating signage, and painting of crosswalks.  
**Financial Implications:** See report  
Contact: Jesse Arreguin, Mayor, 981-7100  
**Action:** Approved recommendation.

## Council Consent Items

- 32. Authorizing Transfer of Funds to Rent Board for Eviction Defense Contracts**  
**From: Mayor Arreguin**  
**Recommendation:** Adopt a Resolution authorizing the transfer of \$550,000 for Fiscal Years 2020 and 2021 to the Rent Stabilization Board to amend its contracts with the Eviction Defense Center and East Bay Community Law Center to provide eviction defense and various other anti-displacement services to low and moderate-income Berkeley residents.  
**Financial Implications:** See report  
Contact: Jesse Arreguin, Mayor, 981-7100  
**Action:** Councilmember Bartlett added as a co-sponsor. Adopted Resolution No. 69,057–N.S.
- 33. Designating Berkeley’s portion of Ohlone Greenway and the West Street Bike Path as linear City parks**  
**From: Councilmember Kesarwani**  
**Recommendation:** Adopt a resolution designating the Berkeley-owned portions of the West Street Bike Path and the Ohlone Greenway as linear City parks and formally dedicate these sites for permanent recreational use. The City-owned portion of the West Street Bike Path begins adjacent to the basketball courts at Virginia Gardens and travels southward ending at Delaware Street. The City-owned section of the Ohlone Greenway begins northwest of the North Berkeley BART station at Cedar Street and continues north to the City’s border with Albany.  
**Financial Implications:** See report  
Contact: Rashmi Kesarwani, Councilmember, District 1, 981-7110  
**Action:** Councilmembers Harrison and Wengraf added as co-sponsors. Adopted Resolution No. 69,058–N.S.  
**Vote:** Ayes – Kesarwani, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – Davila.
- 34. Letter of Support for California Bill SB 464, the Dignity in Pregnancy and Childbirth**  
**From: Councilmembers Bartlett and Davila**  
**Recommendation:** That the Mayor and Berkeley City Councilmembers support the Senate Bill 464 (SB 464) otherwise known as the California Dignity in Pregnancy and Childbirth Act and write a letter of support to Senator Holly J. Mitchell. Senate Bill 464 would attempt to find data relating to implicit bias and racial disparities in maternal mortality rates and institute measures to ensure equal treatment of all pregnant patients.  
**Financial Implications:** None  
Contact: Ben Bartlett, Councilmember, District 3, 981-7130  
**Action:** Councilmembers Hahn and Wengraf added as co-sponsors. Approved recommendation.

## Council Consent Items

35. **Resolution in Support of AB 1279 – Planning and zoning: housing development: high-resource areas**  
**From: Councilmember Harrison, Mayor Arreguin, and Councilmember Bartlett**  
**Recommendation:**
1. Adopt a resolution in support of AB 1279, which requires that housing development projects be issued a by-right use permit in designated high resource areas and mandate that they include a percentage of affordable units. If these affordability requirements are not met, developers would be charged fees that would be deposited in a local affordable housing fund.
  2. Send letters of support to Assemblymember Wicks, Senator Skinner, and Governor Newsom.
- Financial Implications:** None  
Contact: Kate Harrison, Councilmember, District 4, 981-7140  
**Action:** 1. Adopted Resolution No. 69,059–N.S. 2. Approved recommendation.  
**Vote:** Ayes – Davila, Bartlett, Harrison, Robinson, Arreguin; Noes – None; Abstain – Kesarwani, Hahn, Wengraf, Droste.

## Action Calendar – Public Hearings

36. **Amendments to the Berkeley Election Reform Act; Amending BMC Chapter 2.12**  
**From: Fair Campaign Practices Commission**  
**Recommendation:** Conduct a public hearing and upon conclusion, adopt an ordinance amending the Berkeley Elections Reform Act, Berkeley Municipal Code Chapter 2.12, regarding the public financing program.  
**Financial Implications:** None  
Contact: Emma Soichet, Commission Secretary, 981-6950
- Public Testimony:** The Mayor opened the public hearing. 1 speaker. M/S/C (Arreguin/Wengraf) to close the public hearing.  
**Vote:** All Ayes.
- Action:** M/S/C (Arreguin/Hahn) to adopt the first reading of Ordinance No. 7,674–N.S. Second reading scheduled for September 10, 2019.  
**Vote:** All Ayes.

## Action Calendar - Public Hearings

**37. Substantial Amendments to the PY2018 and PY2019 HUD Annual Action Plans for Use of ESG Funds**

**From: City Manager**

**Recommendation:** Conduct a Public Hearing on substantial amendments to the PY2018 and PY2019 Annual Action Plans for use of Emergency Solutions Grant (ESG) funds, allocating the maximum allowable amount towards shelter and street outreach, and away from rapid rehousing, and adopt a Resolution authorizing the City Manager to submit the Substantial Amendments to the PY2018 and PY2019 Annual Action Plans to the U.S. Department of Housing and Urban Development (HUD).

**Financial Implications:** See report

Contact: Kelly Wallace, Housing and Community Services, 981-5400

**Public Testimony:** The Mayor opened the public hearing. 0 speakers. M/S/C (Arreguin/Wengraf) to close the public hearing.

**Vote:** All Ayes.

**Action:** M/S/C (Hahn/Wengraf) to adopt Resolution No. 69,060–N.S.

**Vote:** All Ayes.

Recess 8:48 p.m. – 9:02 p.m.

## Action Calendar

**38. Basic Criteria for Two-Week RV Permitting Process** *(Reviewed by the Health, Life Enrichment, Equity & Community Committee)*

**From: Health, Life Enrichment, Equity & Community Committee:**

**Councilmembers Hahn, Bartlett, and Kesarwani**

**Recommendation:** Refer to the City Manager to develop a two-week permit and system for recreational vehicle (RV) parking based on recommendations from the Health, Life Enrichment, Equity & Community Committee.

**Financial Implications:** Staff time

Contact: Health, Life Enrichment, Equity & Community Committee members:

Sophie Hahn, Committee Chair, District 5, 981-7150; Ben Bartlett, Councilmember,

District 3, 981-7130; Rashi Kesarwani, Councilmember, District 1, 981-7110

**Action:** Moved to the Consent Calendar and take no action on the item.

**39. Identifying Locations for Managed Safe Recreational Vehicle (RV) Parking on City-Owned Land, Development of a Three-Month “Grace Period” Permit Program, and Requesting that the State Lands Commission Permit a Temporary Safe Parking Site at the Berkeley Waterfront**

**From: Mayor Arreguin, Councilmembers Kesarwani and Harrison**

**Recommendation:**

1. Direct the City Manager to identify one or more locations on city-owned land, including at the Berkeley Waterfront, for the establishment of a managed safe RV

## Action Calendar

parking site for individuals currently sheltering in an RV or oversized vehicle on the public right-of-way in the City of Berkeley. The site(s) shall be available specifically for individuals identified through outreach as meeting the priority populations criteria designated by City Council in its March 26, 2019 action and are therefore eligible for the city's three-month Grace Period Permit Program.

A three-month Grace Period Permit (with possibility for renewal under limited specified circumstances) will be offered on a one-time basis to existing Berkeley RV dwellers who meet the priority populations criteria adopted by Council on March 26, 2019. The three-month Grace Period Permit will allow RV dwellers to park in a designated off-street safe location within City limits. As adopted and specified on March 26th, a safe parking location should be provided to priority populations prior to enforcement of RV parking regulations under Ordinance No. 7,643-N.S. (BMC Section 14.40.120) and shall include services to ensure health and safety, including sanitation services.

2. Once locations are identified, the City Manager should report back to the City Council on proposed locations and a proposed program model for the three-month Grace Period Permit program including a non-profit operator, service model, security measures, and sanitary facilities such as portable restrooms and hand-washing stations. The Council may at that time express its intent to allocate additional funding through Measure P tax receipts or other General Fund revenues to establish a long-term safe parking program for individuals who meet priority populations criteria and who have not previously received a three-month Grace Period Permit.

Program participants should be actively engaged with rehousing and other services, and their stay will be short-term while they are seeking permanent housing and/or a long-term off-street location to which they can relocate, such as an RV park.

3. The City Manager should explore all possible locations on city-owned land, including all vacant or partially-occupied city properties, "dead-end" streets, and the Berkeley Waterfront.

4. Direct the City Manager to submit a formal request to the California State Lands Commission for permission to establish a temporary safe parking location on City land at the Berkeley Waterfront based on the City of Berkeley's declaration of a Homeless Shelter Crisis.

**Financial Implications:** See report

Contact: Jesse Arreguin, Mayor, 981-7100

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

**Vote:** Ayes – Kesarwani, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – Davila.

**Action:** M/S/C (Arreguin/Hahn) to suspend the rules and extend the meeting to 11:45 p.m.

**Vote:** Ayes – Kesarwani, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – Davila.

## Action Calendar

**Action:** M/S/C (Harrison/Davila) on the severed portion to add back paragraph 4 regarding the State Lands Commission.

**Vote:** Ayes – Davila, Bartlett, Harrison, Robinson, Arreguin; Noes – Kesarwani, Wengraf, Droste; Abstain – Hahn.

**Action:** 43 speakers. M/S/C (Harrison/Davila) to:

1) Adopt the item as revised in Supplemental Communications Packet #2 with paragraph 4 added back as written below.

*Direct the City Manager to request that the State Lands Commission indicate whether a temporary safe parking location on public land at the Berkeley Waterfront, based on the City of Berkeley's declaration of a homeless shelter crisis, may be permissible. Also, if it is permissible, request information on the process to make an official request.*

2) Direct the City Manager to explore all options for an off-street safe parking location, including property owned by Bayer, UC Berkeley, BART, Alta Bates, Caltrans, and EBMUD.

3) To clarify to concerned marina stakeholders that nothing is under consideration at this time and further clarify that Berkeley only does well-managed facilities, with the Stair Center as an example, and that stakeholders would have the opportunity to tour the Stair Center if desired.

4) Amend paragraph 3 in the recommendation in Supplemental Communications Packet #2 to read:

*The City Manager should explore all possible locations on public/city-owned land for temporary pilot safe RV parking, including all vacant or partially-occupied city properties that could be used for 24-7 or overnight parking. As an alternative, limited use of certain streets in non-residential zones may be considered as a designated location for temporary overnight safe RV parking under the three-month Grace Period Permit Program, if no off-street location can be identified.*

**Vote:** Ayes – Davila, Bartlett, Harrison, Hahn, Robinson, Arreguin; Noes – None; Abstain – Kesarwani, Wengraf, Droste.



## Action Calendar

- 40. Referral Response: Update on Various Referrals and Recommendations Regarding Stop Data Collection, Data Analysis and Community Engagement**  
*(Reviewed by the Public Safety Committee)*  
**From: Public Safety Committee: Councilmembers Bartlett, Wengraf, and Robinson**  
**Recommendation:** That the City Council, with a qualified positive recommendation, for the Mayor to convene the task force, as outlined in Councilmember Harrison's amended referral (4/24/18), in an expeditious manner and to request that adequate budget resources be allocated to allow the task force to complete its work regarding the City Manger's Referred April 30th, 2019 item: Review and provide feedback on the Berkeley Police Department responses to inter-related Council and Police Review Commission referrals, reports and recommendations, including the Center for Policing Equity report recommendations, regarding stop data collection, data analysis, community engagement, and related topics.  
**Financial Implications:** See report  
Contact: Public Safety Committee members: Ben Bartlett, Committee Chair, District 3, 981-7130; Susan Wengraf, Councilmember, District 6, 981-7160; Rigel Robinson, Councilmember, District 7, 981-7170  
**Action:** Moved to the Consent Calendar and no action taken on the item. The Mayor announced that he will convene an ad hoc task force on the issue.
- 41. Repealing and Reenacting BMC Chapter 13.104, Wage Theft Prevention**  
*(Continued from June 25, 2019)*  
**From: Mayor Arreguin and Councilmember Harrison**  
**Recommendation:** Adopt second reading of Ordinance No. 7,668-N.S. repealing and reenacting BMC Chapter 13.104, Wage Theft Prevention to improve enforcement of the ordinance by requiring a signed acknowledgement of ordinance requirements and signed attestation at completion of the project.  
**First Reading Vote:** All Ayes.  
**Financial Implications:** Staff time  
Contact: Jesse Arreguin, Mayor, 981-7100  
**Action:** Item held over to September 10, 2019.

## Action Calendar – Continued Business

- D. Annual Housing Pipeline Report** *(Continued from July 16, 2019)*  
**From: City Manager**  
**Recommendation:** Review and provide input on the data included in the Housing Pipeline Report.  
**Financial Implications:** None  
Contact: Timothy Burroughs, Planning and Development, 981-7400  
**Action:** Item moved to the Consent Calendar.

## Information Reports

### Information Reports

- 42. City Council Short Term Referral Process – Monthly Update**  
**From: City Manager**  
Contact: Mark Numainville, City Clerk, 981-6900  
**Action:** Received and filed.
- 43. Update on Measure T1**  
**From: City Manager**  
Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700; Phillip Harrington, Public Works, 981-6300  
**Action:** Received and filed.
- 44. Audit Status Report - PRW On-Call Program**  
**From: City Manager**  
Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700  
**Action:** Received and filed.
- 45. LPO NOD: 1619 Walnut Street -- #LMIN2019-0001**  
**From: City Manager**  
Contact: Timothy Burroughs, Planning and Development, 981-7400  
**Action:** Received and filed.
- 46. LPO NOD: 1915 Fourth Street/#LMSAP2019-0003**  
**From: City Manager**  
Contact: Timothy Burroughs, Planning and Development, 981-7400  
**Action:** Received and filed.
- 47. LPO NOD: 2580 Bancroft Way/#LMSAP-2019-0006**  
**From: City Manager**  
Contact: Timothy Burroughs, Planning and Development, 981-7400  
**Action:** Received and filed.
- 48. FY2020 Public Art Plan and Budget**  
**From: Civic Arts Commission**  
Contact: Jennifer Lovvorn, Commission Secretary, 981-7530  
**Action:** Received and filed.
- 49. Report on B.M.C. 13.79.050 (“Buyout Offers and Agreements”)**  
**From: Rent Stabilization Board**  
Contact: Jay Kelekian, Rent Stabilization Board, 981-7368  
**Action:** Received and filed.

## Information Reports

50. **Zero Waste Commission 2019-20 Work Plan**  
**From: Zero Waste Commission**  
Contact: Heidi Obermeit, Commission Secretary, 981-6300  
**Action:** Received and filed.
51. **City Auditor Amended Fiscal Year 2019 Audit Plan and Fiscal Year 2020 Audit Plan**  
**From: Auditor**  
Contact: Jenny Wong, Auditor, 981-6750  
**Action:** Received and filed.

**Public Comment – Items Not Listed on the Agenda - 0 speakers.**

## Adjournment

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

**Vote:** All Ayes.

Adjourned at 11:44 p.m.

I hereby certify that the forgoing is a true and correct record of the regular meeting of July 23, 2019 as approved by the Berkeley City Council.

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Mark Numainville, City Clerk

## Communications

### Item #38: Basic Criteria for Two-Week RV Permitting Process

1. Robert Gable
2. Change.org
3. Kimberly Kradel
4. Perla Barrientos
5. Peter Schiller
6. Alfred Manning
7. Anna Boersma

### 5G/Big Telecom

8. Wanda Warkentin
9. Anne Herrick
10. Carol Wolman (2)
11. Phoebe Anne Sorgen (2)
12. Gar Smith

- 13. Joel Moskowitz
- 14. Ellen Marks
- 15. Lloyd Morgan
- 16. Adam Clayton

**East Bay Community Energy Newsletter**

- 17. East Bay Community Energy

**Blue Parking Zones at the Marina**

- 18. Jutyblue
- 19. Martin Nicolaus

**4<sup>th</sup> Street and Solano Vacancies**

- 20. Barbara Gilbert

**State Salary Database**

- 21. April Gilbert
- 22. Jessica Behrman

**West Campus Pool**

- 23. Howard Goldberg

**Safety at Harriet Tubman Terrace**

- 24. Darinxoso Oyamasela

**Dwight Way and California Street Intersection**

- 25. Ormit Oppenheimer

**EBMUD Leak on the 1700 Block of Francisco Street**

- 26. David Lerman

**Change.org – Predatory Displacement**

- 27. Unknown

**Cannabis Event at Cesar Chavez Park**

- 28. Carol Denney

**North Berkeley BART**

- 29. Jessica Fain
- 30. Noah Nathan
- 31. Elie Hassenfeld

**Bay Trail Garbage**

- 32. Richard Raushenbush

**Climate Change Related**

- 33. Donald Goldmacher
- 34. James McFadden
- 35. Councilmember Harrison

**Russbumper Dialogue**

- 36. Russbumper (23)

**Supplemental Communications and Reports 1**

**Item #37: Substantial Amendments to the PY2018 and PY2019 HUD Annual Action Plans for Use of ESG Funds**

- 37. Supplemental material, submitted by Health, Housing & Community Services

**Item #39: Identifying Locations for Managed Safe Recreational Vehicle (RV) Parking on City-Owned Land, Development of a Three-Month “Grace Period” Permit Program, and Requesting that the State Lands Commission Permit a Temporary Safe Parking Site at the Berkeley Waterfront**

- 38. Stephen LaMond
- 39. Barbara Gilbert
- 40. Jefferson Douglas
- 41. Jessica Behrman (2)
- 42. Barbara Freeman
- 43. Katherine Alba
- 44. Maureen Burke
- 45. Carla and Dolph Rempp
- 46. John Rice
- 47. Change.org (2)
- 48. Cecilia Gaerlan, on behalf of the Shasta Neighborhood Group

**Supplemental Communications and Reports 2**

**Item #A: Referral Response: Berkeley Municipal Code Revision Related to the Use of Gender Neutral Language**

- 49. Dale Amann
- 50. Ed Hankinson (2)
- 51. Gerald
- 52. Mark Goodin
- 53. Lynn Brown
- 54. Gunnar Thorsen
- 55. George Horestta
- 56. Annie Mick
- 57. Don Wendelken
- 58. Jas Lafontaine
- 59. Rick Hodgins
- 60. Jennifer Albright
- 61. Aaron
- 62. Jane Holmes
- 63. Faustin Reeder

64. Ren Haines
65. Larry Woll
66. Pat Myers
67. John O'Neill
68. James Woodard
69. Edward Hyatt
70. Sissy Mandel Brothers
71. Brandon DeZonia
72. Tom
73. Ken Langford
74. Dan Reuter
75. Nedra Holmes
76. Sara Parlove
77. Jack Hoyne
78. Carole Brown
79. Kelly Edmunson
80. arejayel@
81. Michael Welch
82. Solitarie One
83. M.R. Gray
84. Lawrence Oswald
85. Bbyrnes2@ (2)
86. Michael Hassett
87. Cathy Damazio
88. Terence Rice
89. Ron Ledgerwood
90. Colonel Speirs
91. cmcossey@
92. Michael Moser
93. Bill Ellis
94. Robert Butterfield
95. Boone Harper
96. Rocky
97. Zen Pro Racing
98. Nick Saunders
99. Michelle Strickland
100. Norman Tregunno
101. Peter Keaveney
102. Dave Bell
103. Michele Norwood
104. Rich Bailey
105. Daniel Kingery

**Item #C: Adopt an Ordinance adding a new Chapter 12.80 to the Berkeley Municipal Code Prohibiting Natural Gas Infrastructure in New Buildings**

106. Katherine Rinne

- 107. Charlene Woodcock
- 108. Darrell Decow
- 109. Thomas Lord

**Item #1: Referral Response: Short-term referral to City Manager to amend Berkeley Municipal Code 7,441-N.S. to expand the control of flavored tobacco across the City of Berkeley toward preventing youth and young adult tobacco use**

- 110. Phillip Gardiner, Co-Char African American Tobacco Control Leadership Council
- 111. Bharat Tekhatri
- 112. Joe Johal, on behalf of the American Petroleum and Convenience Store Association

**Item #27: Contract No. 10485 Amendment: Fehr & Peers, Inc. for On-Call Transportation Planning Services \*\*\*Item Removed by the City Manager\*\*\***

- 113. Margot Smith

**Item #36: Amendments to the Berkeley Election Reform Act; Amending BMC Chapter 2.12**

- 114. Trent Lange, on behalf of California Clean Money Campaign

**Item #39: Identifying Locations for Managed Safe Recreational Vehicle (RV) Parking on City-Owned Land, Development of a Three-Month "Grace Period" Permit Program, and Requesting that the State Lands Commission Permit a Temporary Safe Parking Site at the Berkeley Waterfront**

- 115. Revised material, submitted by Councilmember Kesarwani
- 116. Eric Friedman
- 117. April Gilbert
- 118. John Arnold
- 119. Mark Schimmelman
- 120. Rachel Hensley
- 121. Margy Wilkinson
- 122. Dan Bohn
- 123. Dave Collins
- 124. Carla Soracco
- 125. John Church
- 126. Bonnie and Rich Cerruti
- 127. Kate Beck
- 128. Rebekah Punak
- 129. Isabelle Gaston
- 130. Lisa Miller
- 131. Anne Boersma
- 132. Jessica Behrman (6)
- 133. Drew Levister Abbott
- 134. Janet Cobb
- 135. Andrew Buck
- 136. Christina Polito Halter
- 137. Pat Hill

- 138. Robert Ofsevit
- 139. Scott Walters
- 140. Erwan Illian
- 141. Steve Colitz
- 142. Pam Speich
- 143. Janice Schroeder
- 144. Leonard and Nancy Becker
- 145. Change.org
- 146. Alfred Manning
- 147. Diana
- 148. Lisa Bullett
- 149. Paula Bradford
- 150. Christine Schwartz

**Item #40: Referral Response: Update on Various Referrals and Recommendations Regarding Stop Data Collection, Data Analysis and Community Engagement**

- 151. Revised material, submitted by Councilmember Bartlett

**Item #39: Identifying Locations for Managed Safe Recreational Vehicle (RV) Parking on City-Owned Land, Development of a Three-Month “Grace Period” Permit Program, and Requesting that the State Lands Commission Permit a Temporary Safe Parking Site at the Berkeley Waterfront**

- 152. 1004 communications submitted via Berkeley Considers, includes summary information

**Supplemental Communications and Reports 3**

**Item #A: Referral Response: Berkeley Municipal Code Revision Related to the Use of Gender Neutral Language** *(Continued from July 16, 2019)*

- 153. Larry Woll (6)

**Item #C: Adopt an Ordinance adding a new Chapter 12.80 to the Berkeley Municipal Code Prohibiting Natural Gas Infrastructure in New Buildings** *(Reviewed by the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee.) (Continued from July 16, 2019)*

- 154. Curtis Caballos

**Item #1: Referral Response: Short-term referral to City Manager to amend Berkeley Municipal Code 7,441-N.S. to expand the control of flavored tobacco across the City of Berkeley toward preventing youth and young adult tobacco use**

- 155. Cynthia Hallett, on behalf of Americans for Nonsmoker’s Rights

**Item #15: Special Use Permit for Berkeley Tuolumne Camp**

- 156. Pil Lee Orbison

**Item #36: Amendments to the Berkeley Election Reform Act; Amending BMC Chapter 2.12**



157. Daniel Newman, Co-Chair, Berkeley Fair Elections Coalition

**Item #39: Identifying Locations for Managed Safe Recreational Vehicle (RV) Parking on City-Owned Land, Development of a Three-Month “Grace Period” Permit Program, and Requesting that the State Lands Commission Permit a Temporary Safe Parking Site at the Berkeley Waterfront**

- 158. Shirley Dean
- 159. Nasira Abdul-Aleem
- 160. Marian Wolfe
- 161. Erica Etelson
- 162. Andy Hacket
- 163. Charles Bullett
- 164. Elizabeth Ferguson
- 165. Linda Franklin
- 166. Janet Cobb
- 167. Scott Cooksey
- 168. Jason Bartlett
- 169. George Torgun
- 170. Adam Santaniello
- 171. Rebecca Kaplan
- 172. Linda Franklin, on behalf of Berkeley Citizens Action Committee
- 173. Cynthia Papermaster
- 174. Jane Ellis
- 175. Sabine Lucile Scott
- 176. P. Larkin
- 177. Chimey Lee
- 178. Kevin Duffus

**Item #40: Referral Response: Update on Various Referrals and Recommendations Regarding Stop Data Collection, Data Analysis and Community Engagement**

- 179. Linda Franklin, on behalf of Berkeley Citizens Action Committee

**Item #51: City Auditor Amended Fiscal Year 2019 Audit Plan and Fiscal Year 2020 Audit Plan**

- 180. Communication, submitted by the City Auditor

**Miscellaneous Communications**

**UC Employs a Known Abuser**

- 181. Unknown





Office of the City Manager

CONSENT CALENDAR  
September 10, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Mark Numainville, City Clerk

Subject: Contract No. 9754 Amendment: Konica Minolta Business Solutions, Inc. for Electronic Content Management System and Agenda Management and Workflow System

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 9754 with Konica Minolta Business Solutions, Inc. for software maintenance, and related services for OnBase, an Electronic Content Management System (ECMS) and agenda management and workflow system, to increase the not-to-exceed amount by \$175,000 for a total not to exceed amount of \$541,004 to pay for regular annual maintenance costs and version updates, and authorize annual renewals for maintenance services through September 18, 2024.

FISCAL IMPACTS OF RECOMMENDATION

Funds to cover the cost of this contract for FY 2020 will be allocated in budget code 011-32-313-000-0000-000-411-613130. Allocations of funds for subsequent years will be subject to adoption of the Annual Appropriations Ordinance for that fiscal year.

CURRENT SITUATION AND ITS EFFECTS

The City currently uses OnBase software for its document management and agenda workflow system, which includes the imaging and electronic document repository that supports the Records Online function. The agenda workflow system is used to route council reports for review and compile the agenda packet for City Council meetings.

Konica Minolta implemented and configured the OnBase application for the City and has provided ongoing maintenance and support since the “go-live” date in January 2016. The increase in the not to exceed amount is needed to cover five additional years of annual maintenance (\$125,000) and costs for two potential future version upgrades (\$25,000 per upgrade).

BACKGROUND

In September 2014 the City entered into Contract No. 9754 with Konica Minolta Business Solutions for the purchase of the OnBase for agenda workflow and Enterprise Content Management System (ECMS). Enterprise Content Management encompasses

the technologies used to capture, manage, store, preserve, and deliver content and documents related to organizational processes. Also included in the system is a workflow process that was customized for the City's agenda review and compilation process.

ENVIRONMENTAL SUSTAINABILITY

Increased use of digital solutions to reduce the use of paper copies creates an environmental benefit for the City.

RATIONALE FOR RECOMMENDATION

A robust, efficient, and easy to use ECMS and agenda workflow system is critical to staff's ability to provide the public with access to City records through the digital repository and the City Council agenda.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Mark Numainville, City Clerk, City Clerk Department, 981-6900

Attachment:

1: Resolution

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

CONTRACT NO. 9754 AMENDMENT: KONICA MINOLTA BUSINESS SOLUTIONS, INC. FOR ONBASE, AN ELECTRONIC CONTENT MANAGEMENT AND AGENDA WORKFLOW SOFTWARE SYSTEM

WHEREAS, the City of Berkeley entered into Contract No. 9754 with Konica Minolta Business Solutions, Inc. in September 2014 with a not-to-exceed amount of \$366,004; and

WHEREAS, ongoing costs for software maintenance and version upgrades require that the not-to-exceed amount be raised.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to execute an amendment to Contract No. 9754 with Konica Minolta Business Solutions, Inc. for software maintenance, upgrades, and related services for a agenda workflow and electronic document management software system, to increase the not-to-exceed amount by \$175,000 for a total not to exceed amount of \$541,004, and authorize annual renewals for maintenance services through September 18, 2024.





Office of the City Manager

CONSENT CALENDAR  
September 10, 2019

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Mark Numainville, City Clerk  
 Subject: 2019 Updated Commissioners' Manual

RECOMMENDATION

Adopt a Resolution approving the updated 2019 edition of the Commissioners' Manual to include the Council direction to enhance the requirements for the public availability of written materials distributed to the commission after the agenda packet is published, making additional clarifying, non-substantive corrections, and rescinding Resolution No. 68,487-N.S.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

On June 11, 2019 the City Council approved a recommendation from the Open Government Commission to revise the Commissioners' Manual to require that written materials distributed after the agenda packet is published are more easily accessible to the public. This change is included in Chapter V., Section E.

Other clarifying changes in the 2019 version are listed below. To view all proposed edits to the Manual, please see the track changes version in Attachment 2.

Preface: ADA Notification – Alternative formats available

- Updated Disability Services Program contact email address

Chapter 1, Introduction

- Corrected the commission type for the Police Review Commission

Chapter 2, Serving on a Commission

- Accommodations for Commissioners with Disabilities - Updated location of the ADA Appendix and page number

Chapter 5, Commission Procedures

- Clarifying the applicability of ADA requirements to board and commission meetings
- Updating the commissioners' teleconferencing procedure
- Clarifying the submission of revised and supplemental agenda materials procedure

Chapter 6, Council Reports and Reports to Council

- Updated the agenda subscription notification hyperlink

Appendices

- Appendix H, Responding to Requests for Accommodations for Persons with Disabilities; this procedure was updated by the Disability Services Program.

Index

- Included an Index entry for Work Plans

BACKGROUND

The Commissioners' Manual is a valuable tool for commissioners, commission secretaries, city staff, and the public. The Manual is provided to new commissioners, new commission secretaries, and it is accessible to the public via the City Website. As state and local laws are changed and put into practical application, updates and clarification is required. The Manual was last updated in June 2018, Resolution No. 68,487-N.S.

ENVIRONMENTAL SUSTAINABILITY

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

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

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

Attachments:

1: Resolution

Exhibit A: Updated Commissioners' Manual

2: Track Changes Version (2018 Version and 2019 Version)



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

ADOPTING THE UPDATED EDITION OF THE COMMISSIONERS' MANUAL AND  
RESCINDING RESOLUTION NO. 68,487-N.S.

WHEREAS, the City of Berkeley Commissioners' Manual is an important resource for commissioners, commission secretaries, city staff, and the public; and

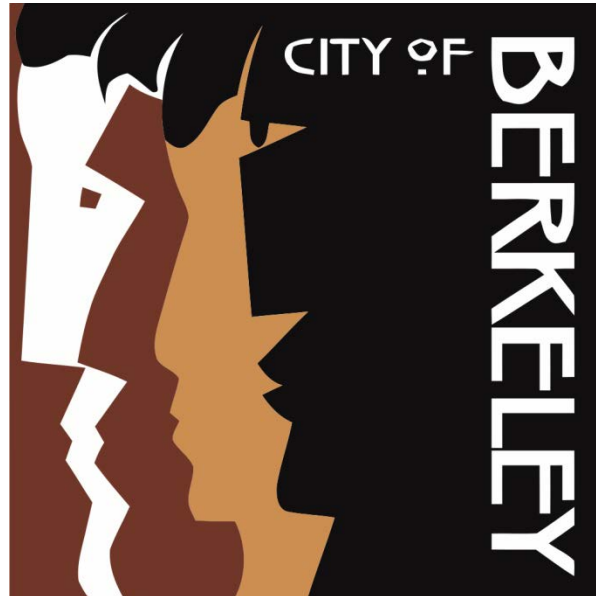
WHEREAS, the updated Commissioners Manual will provide commissioners and commission secretaries with relevant and current reference materials regarding policies, regulations and the conduct of meetings; and

WHEREAS, the Commissioners Manual was last updated in June 2018.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City of Berkeley Commissioners' Manual (Exhibit A) is hereby adopted and set forth as the official policy of the City of Berkeley with regards to the service of board members and commissioners, board and commission procedures, and the conduct of meetings.

BE IT FURTHER RESOLVED that Resolution No. 68,487-N.S. is hereby rescinded.

Exhibit A: Updated Commissioners' Manual



# COMMISSIONERS' MANUAL

## 2019 EDITION

BACKGROUND INFORMATION  
RULES AND PROCEDURES



AMENDED AND OFFICIALLY ADOPTED BY RESOLUTION NO. **N.S. (2019)**

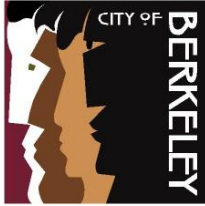
This material is available in alternative formats upon request. Alternative formats include audio-format, braille, large print, electronic text, etc. Please contact the Disability Services Specialist and allow 7-10 days for production of the material in an alternative format.

Dominika Bednarska - Disability Services Specialist

Email: [ada@cityofberkeley.info](mailto:ada@cityofberkeley.info)

Phone: 1-510-981-6418

TTY: 1-510-981-6347



MESSAGE FROM THE CITY CLERK:

*Members of boards and commissions provide an invaluable service to our City. They advise the City Council on a wide variety of subjects by making recommendations on important policy matters. Without the assistance of the various boards and commissions, the City Council could give many complex and significant matters only a perfunctory review. The detailed studies and considered advice of boards and commissions are often catalysts for innovative programs and improved services.*

*Serving on a board or commission can be a rewarding experience for community service-minded residents. It is an excellent way to participate in the functioning of local government and to make a personal contribution to the improvement of our community. Making local government effective and responsive is everybody's responsibility.*

*On behalf of the City Council, I wish to thank all commissioners for their service and extend an invitation to all residents of the City to give serious consideration to serving on an advisory body.*

*This Manual is revised from the previous version, and we hope these improvements will make the Manual a more useful tool. Some of the notable improvements are listed below:*

- *The Manual now clarifies ADA requirements for board and commission meetings.*
- *The Disability Services Program procedure has been updated.*
- *Information on teleconferencing for commissioners pursuant to an ADA accommodation has been included.*
- *The agenda subscription hyperlink has been updated.*

*Again, thank you for your service to the City of Berkeley.*

*Berkeley City Clerk*

### **Acknowledgement**

*Special thanks to the following team for their collaboration and ideas on the Manual revision project and for their dedication to the Boards and Commissions of the City of Berkeley:*

*David Brannigan, Tamlyn Bright, Sarah Bunting, Matthai Chakko, Amy Davidson, Christina Erickson, Ronna Gonsalves, Savith Iyengar, Farid Javandel, Greg Powell, Sheila Soo, and Rose Thomsen.*

*Special thanks are also extended to the commissioners and officials that provided feedback on this revision and helped make this manual a more useful tool for commissioners and staff.*

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#### **A. PUBLIC PARTICIPATION**

Berkeley’s system of boards and commissions provides members of the public who have special experience or interests a method to participate in the City’s decision-making process by advising the City Council on numerous issues.

It is not only the right but also the duty of residents to participate in planning for their future, and the City has a responsibility to provide commissioners with the tools to carry out their charge. That responsibility includes training and useful written procedures. This handbook attempts to fulfill the latter requirement.

The board and commission system provides the opportunity to interact with people of all ages, interests, and backgrounds. A better democracy can be realized when people are able to come together across neighborhood and economic lines to assist in making the community decisions that will shape all of their lives. While commissioners are themselves appointed from within the community, it is important that they in turn ensure that a wide variety of viewpoints from the rest of the community are considered when they make recommendations to the Council. Commissioners should treat these widely varying viewpoints of other commissioners and members of the public with respect so that all residents are encouraged to participate in government.

The City of Berkeley enjoys a wide variety of Council-appointed boards, commissions, and committees that advise the Council on numerous issues. As resident participation has evolved into a vital and integral part of local government, the number of commissions<sup>1</sup> has steadily grown. There are now approximately 35 such bodies functioning within the City of Berkeley. The Board of Education and the Rent Stabilization Board are separately elected, independent of the City Council, and are not within the purview of this manual.

The roster of commissioners is a public document available in the Office of the City Clerk. The roster includes the name, residential or mailing address, and either a home or business phone number of each commissioner.

#### **B. COMMISSION ORIGINS**

Commissions originate from four different sources: the Charter, Council action, federal or state mandate, and vote of the people.

All commissions listed above share a common characteristic: Some or all commissioners are appointed either by the Council as a whole, or by each individual Councilmember in accordance with the Fair Representation Ordinance,

---

<sup>1</sup> Throughout this manual, the word “commission” is used to denote all boards, commissions, and committees.

Berkeley Municipal Code (BMC) Sections 2.04.030–2.04.070 and 2.04.080–2.04.130.

**1) Charter**

The present charter, first adopted in 1909, initially authorized a Personnel Board, a Civic Arts Commission, a Welfare Commission, and a Board of Library Trustees.

**2) Council Action**

Indefinite Tenure

The overwhelming majority of commissions are created by ordinance or resolution to perform defined duties within a sphere of interest for an indefinite period of time. From time to time, the Council may create a new commission or consolidate or eliminate commissions as needed.

Limited Tenure

The Council may establish a commission or task force for a specific purpose and a limited period of time. The Council can take action to extend the tenure of a limited tenure commission.

Examples include the Downtown Street and Open Space Improvement Plan Joint Subcommittee and the Joint Subcommittee for the Implementation of State Housing Laws.

**3) Federal and State Mandate**

Certain commissions are required by federal or state law, and the purposes and duties are specified by said law.

Examples include the Housing Advisory Commission, Human Welfare & Community Action Commission, and Mental Health Commission.

**4) Ballot Measure Approved by Voters**

Three bodies derive authority from ordinances resulting from measures adopted by the voters. These are the Fair Campaign Practices Commission (FCPC), the Police Review Commission (PRC), and the Sugar-Sweetened Beverage Product Panel of Experts (SSBPPE). The FCPC and the PRC are exempt from attendance rules cited in Chapter II but are bound by rules contained in each of their initiative ordinances, the Conflict of Interest program, and procedural rules devised to meet state open meeting standards. The SSBPPE follows the rules in this manual.

There are several local and regional advisory bodies to which the Council may appoint only one or two members. The remainder are appointed by other agencies. Appointees may be Councilmembers, staff members, or members of the public. This category includes but is not limited to the Mosquito Abatement District Board, 2x2 Committee (city-school), 4x4 Joint Task Force Committee (city-Rent Board), Alameda County Waste Management Commission, Association of Bay Area Governments, and League of California Cities (East Bay Division). These bodies are not subject to the guidelines in this handbook.

**C. COMMISSION TYPES**

Commission activities are varied but generally fall into four categories.

**1) Quasi-Judicial**

Certain commissions have the authority to make binding decisions that require or restrict the action of individuals. Aggrieved parties have the right to appeal the commission decisions to the City Council. Quasi-judicial commissions have provisions in the Municipal Code to hold noticed public hearings. For more information regarding public hearings, see pages 33, 43, and 59.

Quasi-Judicial Commissions:

- Fair Campaign Practices Commission
- Housing Advisory Commission (building official appeals)
- Landmarks Preservation Commission
- Planning Commission
- Police Review Commission
- Zoning Adjustments Board

**2) Administrative**

This type of commission has administrative powers to manage the subject under its purview.

Administrative Commission:

- Board of Library Trustees

**3) Advisory to the City Manager**

These commissions make recommendations to the City Manager..

Advisory to the City Manager:

- Personnel Board
- Police Review Commission

**4) Advisory to Council**

All commissions listed below advise the City Council concerning policies and programs, within the limitations of their enabling legislation.

Advisory to Council:

- Animal Care Commission
- Cannabis Commission
- Children, Youth, and Recreation Commission
- Civic Arts Commission
- Commission on Aging
- Commission on Disability
- Commission on Labor
- Commission on the Status of Women
- Community Environmental Advisory Commission
- Community Health Commission
- Design Review Committee
- Disaster and Fire Safety Commission

- Elmwood Business Improvement District Advisory Board
- Energy Commission
- Homeless Commission
- Housing Advisory Commission (policy)
- Human Welfare & Community Action Commission
- Loan Administration Board
- Mental Health Commission
- Open Government Commission
- Parks and Waterfront Commission
- Peace & Justice Commission
- Police Review Commission
- Public Works Commission
- Solano Avenue Business Improvement District Advisory Board
- Sugar-Sweetened Beverage Product Panel of Experts
- Transportation Commission
- Youth Commission
- Zero Waste Commission

#### **D. COMMISSION PURVIEW**

Every commission is created by enabling legislation, which may take the form of an ordinance or resolution. The enabling legislation defines the role, scope, and responsibilities of the commission. The enabling legislation is how the City Council assigns and defines what types of work each commission may undertake and limits on what type of recommendations each commission may make.

In order for commission recommendations to have significant meaning in the eyes of the City Council, all commissions should take special care to ensure that they remain within their subject area purview and the constraints of their enabling legislation. Occasionally two or more commissions will have overlapping subject matter. In these cases, the secretaries should work together to ensure the subject is handled by the proper commission (see Chapter III, Section C, page 38).

#### **E. DEVELOPMENT OF A WORK PLAN**

In 2016, the City Council took formal action directing all commissions, except Board of Library Trustees (BOLT), Design Review, and Zoning Adjustments Board (ZAB), to submit an annual work plan at the start of each fiscal year to the Council in the form of an Information Report. A commission work plan should contain the commission's mission statement, goals, resources, activities, outputs, and desired outcomes. This planning document specifies how and when the commission plans to accomplish its objectives (by specifying outcomes) during the fiscal year. Goal statements explain the nature and scope of the work to be performed and the time needed to accomplish the goal.

Designing yearly work plans or goal statements may be done in conjunction with the development of the relevant departmental work plan so that the work of the department and the commission will complement each other throughout the year.

When developing a work plan, commissions should take special care to ensure that they remain within the subject area purview of their enabling legislation.



CHAPTER II. SERVING ON A COMMISSION

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A. MEMBERSHIP

1) Residency Requirements and Affidavit of Residency

As required by BMC Section 2.04.140, commissioners appointed by the Council or individual Councilmembers shall be residents of the City unless the commissioner is required by federal or state law or the ordinance establishing the commission to represent a specified organization, agency, group, category, or profession and residency is not required.

Pursuant to BMC Section 2.04.145, most commissioners are required to execute an Affidavit of Residency prior to appointment. The appointing Councilmember submits the executed affidavit with the appointment form. Appointments to the FCPC and PRC and appointments made by the Berkeley Unified School District are exempt from the Affidavit of Residency requirement.

Commissioners must inform the secretary if they are no longer residing in the City of Berkeley. The secretary of the commission shall inform the City Clerk in writing within one week after receiving such notification from a commissioner. The term of the commissioner shall expire on the date the notice is received by the City Clerk. If, however, a commissioner states that he or she is temporarily moving out of Berkeley and fully intends to reestablish residency in Berkeley within six months, the commissioner may continue to serve on the board or commission. At the end of the six months, the commissioner must inform the secretary whether the commissioner has reestablished residency in Berkeley. If the commissioner has not reestablished residency, automatic termination of membership will occur upon receipt of notification by the City Clerk. Commissioners are required to notify the City Clerk and secretary of contact information changes.

2) City Employees

BMC Section 3.80.030 prohibits City employees from being appointed to or sitting on Boards and Commissions as of December 1, 2016 except as specifically provided for in the Charter or BMC.

3) Application Procedure

Commission appointments are made in most cases by individual Councilmembers and sometimes by the Council as a whole. A comprehensive list of current boards and commissions and the applications to apply are available in the City Clerk Department. This information may also be obtained through the City's website at [www.cityofberkeley.info/commissions](http://www.cityofberkeley.info/commissions). Completed application forms must



be returned to the City Clerk. The City Clerk will forward the applications to each member of the City Council. Councilmembers will contact applicants in whom they are interested to discuss appointment or other participation opportunities.

#### 4) **Appointments**

Appointments to most commissions are regulated by BMC Sections 2.04.030–2.04.130, commonly referred to as the Fair Representation Ordinance, or “FRO”. This voter initiative, adopted in 1975, requires that Councilmembers have equal representation on boards and commissions. Most commissions created by the Council are governed by the Fair Representation Ordinance.

Commissions responsible for appointing commissioners to other commissions must follow the rules for appointments in this Manual and the Municipal Code. Furthermore, these appointments to other commissions that arise from membership on a parent commission are terminated if the commissioner is terminated or resigns from the parent commission.

**Example:** If a ZAB commissioner who is also the ZAB’s appointee to the Design Review Commission is terminated, his or her term on the Design Review Committee also terminates.

Generally, the appointment process begins when a Councilmember submits an appointment form and an Affidavit of Residency to the City Clerk. The City Clerk determines if the person is eligible to serve and processes the appointment. The Clerk then notifies the commission secretary that the appointment is valid. A commissioner may not serve at any commission meeting until the commission secretary receives approval from the City Clerk Department and the commissioner has taken the Oath of Office.

Participation of commissioners not deemed eligible by the City Clerk may result in nullification of commission actions.

After a new commissioner is appointed, the City Clerk Department will mail a packet of important information to the commissioner. If the appointment is made less than two days prior to the first meeting of service, the commissioner may make arrangements to pick up the packet in person or obtain the materials from the commission secretary.

**Requirement:**


Commissioner appointments must be submitted to the City Clerk before 5:00 p.m. the day of the meeting and prior to the beginning of the meeting, to ensure the commissioner will be eligible to participate in the meeting.

**Consequence:**

Failure to notify the City Clerk Department of commissioner transactions in a timely manner will result in a delay in the effective date of the transaction. This may lead to unexcused absences, nullification of commission votes, or possible termination from the commission.

**5) Oath of Office**

Before commissioners can participate as voting members of their commissions, they must take the Oath of Office as required by law (City Charter Article V, Section 18) at the City Clerk Department or through their commission secretaries. Failure to take the Oath of Office within 30 days of the appointment date is cause for automatic termination. Commissioners must take the Oath of Office for every temporary appointment they accept, unless they are appointed as Alternate Commissioners (see page 22).

 Secretaries must check with the City Clerk Department prior to the commission meeting to verify that all newly appointed commissioners have taken the Oath of Office before allowing them to be seated. If the secretary is unable to verify if the oath has been taken, they must administer the oath prior to allowing the commissioner to be seated. It is the secretary's responsibility to forward completed oaths of office to the City Clerk Department upon completion.

**Requirement:**

All commissioners must complete and sign the Oath of Office within 30 days of the appointment date *and* prior to serving in their official capacity.

**Consequence:**

If a commissioner fails to take the Oath of Office within 30 days, his or her appointment will be automatically terminated. Serving at a meeting without having taken the Oath of Office may result in nullified votes and items that have to be re-agendized.

**6) Terms of Office**

Most Berkeley commissioners have both “term minimums” and “term maximums.”

**Term Minimum**

The term minimum ensures that, regardless of the date of appointment, a commissioner cannot be replaced by a Councilmember prior to December 1 in the year in which he or she was appointed.



If the appointing Councilmember dies, resigns, or is recalled prior to December 1, the term minimum of appointees of that Councilmember expires on the date of death, resignation, or recall (BMC Section 2.04.075).

Commissioners who have reached the term minimum may continue to serve at-will, and retain full voting rights after December 1 until they are replaced, terminated, resign, or reach their eight-year term limit.

Commissioners serve at the pleasure of the Councilmember who appointed them. As a matter of courtesy, it is recommended that the Councilmember should set the date a commissioner is to be replaced on a commission and communicate that date to the commissioner at least two weeks prior to the official date of replacement.

Question:

A commissioner resigned to take a job out of state in March. The Councilmember appointed a new commissioner to the position. In April, the original commissioner returned to Berkeley and requested his or her appointment back. May the Councilmember terminate the newly appointed commissioner and reappoint the original one?

Answer:

No. The new commissioner serves under the term minimum policy until December 1 of that year. He or she may only be removed from office through resignation or failure to meet terms of service (i.e., residency violations).

Term Maximum

Commissioners who have served the maximum of eight years on a commission shall not be eligible to serve on that commission until a two-year break in service has occurred (BMC 3.02.040). The City Clerk will notify the commissioner and the secretary in advance of the expiration of the eight-year limit.

The eight year limit is not affected by interruption of service due to (BMC 3.02.040):

- Absence from the commission due to termination for excessive absences, from missing three consecutive meetings, or from missing 50% or more regular meetings in a six-month period (BMC 3.02.020).
- Absence from the commission due to any leave(s) of absence (BMC 3.02.030).
- Absence from the commission due to termination pursuant to the provisions of the City's Conflict of Interest Code or for failure to file the required Statement of Economic Interests.

**Question:**

If a commissioner begins his or her term on April 1, 2005, is terminated for lack of attendance on July 1, 2008, and reappointed on October 1, 2008, does his or her eight-year clock reset with the new appointment date?

**Answer:**

No. According to BMC, 3.02.040, despite the three-month gap in service in 2008, the commissioner's term expires on April 1, 2013.

**7) Vacancy**

Each vacancy on a commission is to be filled through appointment or reappointment by the Councilmember to whom the vacancy is credited. In the case of newly elected first-time Councilmembers, the appointee of the newly elected Councilmember shall replace the appointee of the Councilmember from the same Council district who was not reelected, and the appointee of a newly elected Mayor shall replace the appointee of the outgoing Mayor.

A temporary appointment may not be made to fill a vacancy on any board or commission.

**8) Commissions with Special Regulations**

Several commissions require special qualifications for appointment. For example, some appointees to the Community Health Commission, Cannabis Commission, Mental Health Commission, and the Sugar-Sweetened Beverage Product Panel of Experts must satisfy occupational or specific category requirements under state or local law.

Other commissions have unique terms of appointment, such as the PRC (BMC 3.32.030), which sets terms of two years, and the Youth Commission (BMC 3.42.030), which sets terms of one year. The FCPC (BMC 2.12.175) sets terms the same as the appointing Councilmember or Mayor. Appointments to the Mental Health Commission are made by the Council as a whole for three-year terms (Resolution No. 65,945-N.S.). If specific rules deviating from the norm concerning appointments and terms exist, these are contained in the BMC sections or resolution that establishes the commission.

**9) Attendance Requirements**

Failure to comply with attendance rules and other requirements can result in automatic termination and/or lack of a quorum. It is important to note that all commissions, regardless of the frequency of meetings, are subject to these attendance regulations.

Commissioners must attend all meetings in order to avoid being marked absent. A commissioner is determined to be "absent" unless he or she 1) has been granted an excused absence because the meeting conflicts with a religious or cultural holiday (see below); or 2) The commissioner has obtained an approved leave of absence from their appointing

councilmember or commission (see page 20). Commissioners who have excused absences, or an approved leave of absence, or who attended, will not be marked as absent.

Commissioners should inform the secretary as far in advance as possible if they cannot attend a meeting. Secretaries should advise these commissioners to request a leave of absence for the meeting.

A commissioner must be present at least one hour, or 50% of the entire meeting, whichever is less, to be counted as present for purposes of attendance.

#### Excused Absences

An “excused absence” is only granted when a commissioner must miss a meeting due a religious or cultural holiday. To encourage full participation in commission meetings by all commissioners and the public, the Council encourages commissions to refrain from scheduling meetings on cultural and religious holidays. Commissioners may make a written request in advance of a meeting that an absence be excused due to a conflict between a scheduled commission meeting and a cultural or religious holiday. If received by the secretary prior to the scheduled meeting, the secretary will then excuse the absence and note the excused absence in the semi-annual attendance report sent to the City Clerk (BMC 3.02.030).

#### Absence from Three Consecutive Meetings

If a commissioner is absent from three consecutive meetings his or her appointment to the commission will be automatically terminated. If a commissioner has been absent from two consecutive regular meetings, the secretary will advise the commissioner that absence from three consecutive regular meetings of the body will result in automatic termination. Within one week of the third consecutive absence, the commission secretary will notify the City Clerk in writing of the dates of the three absences. The appointment expires on the date the fact of the third absence is reported to the City Clerk. Within one week, the City Clerk will notify the commissioner that he or she has been terminated and notify the Councilmember or Council, as appropriate, that a vacancy exists on the commission and that an appointment may be made to fill such vacancy (BMC 3.02.020). Attendance at Special Meetings (any meeting outside the standard meeting schedule) does not count toward attendance requirements.

#### Absence from 50% of All Regular Meetings


If a commissioner has been absent from 50% or more of all regular meetings held within the reporting period, his or her appointment to the commission will be terminated (BMC 3.02.020). The secretary of each commission shall report the full attendance record of each commissioner to the City Clerk at the end of each six-month period (June 30 and December 31) on a form provided by the City Clerk. The appointment of the commissioner will terminate on the date the attendance is reported to the City Clerk. Within one week of receiving such attendance report, the City Clerk will notify any commissioner whose appointment has been terminated

and report to the appointing Councilmember, or Council, that a vacancy exists and that an appointment may be made to fill the vacancy.

A commissioner appointed in January to a commission that held six regular meetings in the January to June reporting period must attend four regular meetings in order to comply with the attendance rules.

Newly appointed commissioners must attend more than half of all regular meetings held during the reporting period since being appointed in order to avoid termination.

#### Commissions That Meet on a Reduced Schedule

 Per Resolution No. 68,258-N,S. and its successors, some commissions have a fewer number of meetings allowed in a year (less than the standard 10 meetings per year). Secretaries of commissions that meet on a reduced schedule will advise any commissioner who has been absent (as defined above) from one regular meeting that absence from two consecutive regular meetings of the body will result in automatic termination by the same mechanism described above.

The reporting period for a commission that meets on a reduced schedule is the full calendar year. Commissioners on these commissions will be terminated if they are absent from 50% or more of all regular meetings in the calendar year.


#### Fair Campaign Practices Commission and Police Review Commission

Both the FCPC and the PRC were created by ballot measures that were adopted prior to the addition of the automatic termination rules to the Municipal Code. Members of the FCPC are exempt from these provisions. The PRC is exempt as well; however, the measure that created the PRC does provide for termination after three consecutive unexcused absences from regular or special meetings (BMC 3.32.040).

The SSBPPE was created by a ballot measure adopted after the automatic termination provisions were added to the BMC and, thus, the rules for Council-created advisory commissions also apply to the SSBPPE.

#### No Quorum—Meeting Cancelled

When it is expected that there will be sufficient commissioners to hold a meeting but at the actual time of the meeting a quorum cannot be assembled and the meeting is cancelled, those commissioners who are absent will have an absence counted against them. Commissioners who have excused absences, or an approved leave of absence, or who attended will not be marked as absent.

 If it is known that a quorum will not be achieved, the secretary will notify all commissioners that the meeting will be cancelled. No absence will be recorded against any commissioner. See Chapter IV, Section H for more details on procedures when lack of quorum occurs.

**10) Leaves of Absence (BMC 3.02.030)**

An appointing Councilmember may grant a leave of absence (LOA) for a specific meeting, or a period not to exceed three months. Written notice of the LOA must be filed by the Councilmember with the City Clerk prior to the actual absence. For meetings held after business hours, the notice of leave must be received by the City Clerk before 5:00 p.m. on the day of the commission meeting in order to count for that meeting. In the case of commissioners who are appointed by the Council as a whole, a LOA of a period not to exceed three months may be granted by the Council; the secretary shall submit a consent item to the agenda process for the Council to approve the absence prior to the actual absence.



A leave of absence may not be granted or applied retroactively.

Commissioners may seek to be reinstated prior to the end date of their LOA. This request must be made to the appointing Councilmember. If this request is granted, the Councilmember must submit a written request to the City Clerk to terminate the LOA. Once the leave is terminated, any temporary appointee shall have no further right to serve, and the regular commissioner will resume his or her duties on the commission. The City Clerk will notify the secretary of these transactions.

As stated above, a LOA may be granted for a period not to exceed three months. A subsequent LOA may not be granted to the commissioner if it will extend the total uninterrupted leave beyond three months. The commissioner will be marked absent from any meetings missed beyond the end of the three-month maximum leave. A commissioner must attend at least one meeting in between LOAs.

Youth and Peace and Justice Commissioners appointed by a School Board Director must request a LOA from their appointing Director.

Exception for Design Review Committee

Members of the Design Review Committee must request any LOA from the appointing commission. The request must be submitted through the agenda process by the commission secretary of the appointing commission.

Example: If a commissioner is a member of both the Zoning Adjustments Board (ZAB) and the Design Review Committee, that commissioner must obtain a LOA from his or her appointing Councilmember for ZAB and also have the ZAB grant a LOA for his or her position on the Design Review Committee.

Question:

If a commissioner is granted a LOA for June 1 through July 31 and the commission does not meet in August, may the commissioner request a LOA for the September meeting?

Answer: No. A single LOA or consecutive leaves of absence may not extend longer than three months.

**11) Temporary Appointments**

During the commissioner's authorized LOA, the commission treats the absence as a vacancy; that is, the number required for a quorum drops accordingly (see Chapter V, Section A, page 54-55, for details). The appointing Councilmember or the Council may fill such vacancy by a temporary appointment for a period not to exceed the period of the temporary vacancy. Specific rules for temporary appointments include:

- A temporary appointee cannot obtain a LOA during his or her tenure.
- A temporary appointee can be terminated for missing three consecutive meetings.
- A temporary appointee can be terminated for non-filing of a required Form 700 within 30 days of appointment.
- If the commissioner on an approved LOA resigns or is terminated, the associated temporary appointee is automatically terminated.
- A temporary appointment may not be made to a vacant seat on any board or commission.

A temporary appointee does not assume any appointments of the regular commissioner such as chair, vice-chair, or seats on other committees or subcommittees.

**12) Automatic Terminations**

The importance of complying with the requirements of being a commissioner cannot be emphasized enough. Failure to recognize these requirements will result in automatic termination. The following are reasons why commissioners are automatically terminated.

- Absence from three consecutive meetings (see Section A.9, page 17, of this chapter for details).
- Absence from 50% or more of all regular meetings in a six-month period (see Section A.9, page 17, of this chapter for details).
- The non-filing of required Conflict of Interest Disclosure statements (see Section E.2, page 26, of this chapter for details).
- Failure to take the Oath of Office within 30 days of the appointment date (see Section A.5, page 15, of this chapter for details).
- Non-residency (see Section A.1, page 13, of this chapter for details).
- Failure to meet any eligibility requirements of the ordinance, resolution, or other law establishing the commission or regulating its membership.

A commissioner may not be reappointed to any commission for a period of one year if he or she is terminated more than four times for any of the above reasons.

If a commissioner is terminated more than four times due to any of the above reasons or a combination of the above reasons, he or she is terminated from all commissions and subcommittees and may not be appointed again to any commission for one year.

No commissioner may be appointed to any commission if there are outstanding Conflict of Interest statements or fines, and no commissioner may be appointed to any commission for a period of one year if terminated from any commission more than once for failure to file such statements.

**13) Resignation Procedure**

A commissioner wishing to resign shall submit a written resignation directly to the City Clerk and to the appointing Councilmember or the Council, as appropriate. Either an electronic or a hard copy resignation will be accepted.

Once submitted, a letter of resignation cannot be withdrawn. The effective date of the resignation is the date it is received by the City Clerk unless a future date is indicated. The City Clerk shall then notify the Councilmember, or Council, and the secretary of the commission that a vacancy exists.

**B. ALTERNATE COMMISSIONERS**

In 2015, Council amended Berkeley Municipal Code Chapter 3.02 to allow each Councilmember and the Mayor to appoint a pool of five Alternate Commissioners to serve on designated commissions when their regular appointee is on an approved leave of absence.

Per Resolution No. 67,205–N.S., the designated commissions on which Alternate Commissioners may serve are the Housing Advisory Commission, Landmarks Preservation Commission, Planning Commission, Police Review Commission, Sugar-Sweetened Beverage Product Panel of Experts, and the Zoning Adjustments Board. The Council may add to or remove commissions from this list at its discretion.

All regulations and requirements of the BMC that apply to a Commissioner as defined in 3.02.010.A also apply to Alternate Commissioners except BMC Section 3.02.040 (term maximum).

For any commission with specific requirements for membership, the Alternate Commissioner must meet the same special category requirements in order to serve.

Alternate Commissioners are subject to the December 1 term minimum. Alternate Commissioners must complete the Oath of Office and file a Form 700 at the time of their appointment as an Alternate Commissioner and not for each temporary appointment to one of the designated Commissions.

The appointment of an Alternate Commissioner to serve as a temporary appointee must be filed by the appointing Councilmember or Mayor with the City Clerk prior to the meeting at which the Alternate Commissioner is to serve. For meetings held after business hours, the temporary appointment must be received by the City Clerk before 5:00 p.m. on the day of the commission meeting in order to be effective for that meeting.

**C. ACCOMMODATIONS FOR COMMISSIONERS WITH DISABILITIES**

Members of boards, commissions, and the public who have a disability have a right to reasonable accommodations necessary for them to participate in City meetings and programs. The Americans with Disabilities Act (ADA) and other laws mandate that the City provide programmatic access and effective communication in order for people with disabilities to be able to participate in the City's programs, services, and activities including public meetings. More information is available on page 48 and in Appendix H on page 89.



Individuals with disabilities who need accommodations to participate at a City of Berkeley meeting should make their requests to the commission secretary who will work with the Disability Compliance Program to evaluate the individual's request and will determine the appropriate method, if any, of accommodation. Individuals must make a disability-related accommodation request at least 72 hours in advance of meetings to ensure that the City has an adequate opportunity to provide reasonable accommodation.

**D. STIPEND INFORMATION**

In order to remove economic hardship barriers from public participation, the City Council, by Resolution No. 64,831-N.S., authorizes payment in lieu of certain expenses to commissioners of all Council-appointed boards, commissions, committees, task forces, and joint subcommittees who meet certain household income criteria. Subcommittees of commissions designated by the advisory body and not by Council appointment are not eligible for reimbursement.

Eligibility criteria for stipend and reimbursement:

- Persons eligible to receive reimbursement in lieu of expenses are those board, commission, or committee members whose annual family income reported individually or as filed jointly for federal income tax purposes is below \$20,000 per year.
- Commissioners who are minors (under 18 years old) must have eligibility declaration forms cosigned by a parent or legal guardian attesting that the combined household income is under \$20,000.
- To establish eligibility, commissioners must file the Annual Declaration form in Appendix H with the secretary of their board, commission, or committee. Commissioners must file a new declaration form annually prior to May 31 in order to maintain eligibility.

An eligible commissioner is authorized to receive:

- \$40 for each official meeting attended, not to exceed four meetings each month.
- Reimbursement for actual childcare expenses incurred while he or she attends meetings.
- Reimbursement for actual expenses paid to an attendant to provide care for a dependent elderly person while the commissioner attends meetings.
- Reimbursement for actual expenses incurred for disabled support services necessary to participate fully in board, commission, or committee meetings.



If a commissioner is paid \$600 or more in stipend payments in one calendar year, an IRS Form 1099 will be generated by the Finance Department.



It is the responsibility of the commission secretary to submit quarterly stipend forms to the Accounts Payable Division. Additional stipend policy and instructions are in Administrative Regulation 3.2, which is included in Appendix H.

Pursuant to BMC Section 3.32.060, Police Review Commissioners shall receive \$3 per hour for their time and work investigating complaints, reviewing policies and practices, and attending meetings, but in no case shall compensation for any one commissioner exceed \$200 per month.

## **E. CONFLICT OF INTEREST PROHIBITED**

Members of Berkeley's commissions provide advice to the City Council, study various matters and, in the case of certain commissions, function in a quasi-judicial capacity. All members of commissions should be aware of the need to avoid any instances of conflict of interest. Conflict of interest standards are generally applicable to all commissions. Additional requirements may be applicable to particular boards and commissions.

### Government Code Section 1090

Government Code Section 1090 prohibits public officers, acting in their official capacities, from making contracts in which they are financially interested. Violations of Section 1090 are felonies. A memo from the City Attorney regarding how to avoid conflicts of interest under Section 1090 is included as Appendix D. Making recommendations to Council regarding City contracts is considered part of making the contract.

### State Political Reform Act and Berkeley Conflict of Interest Code

The state Political Reform Act, Government Code Sections 81000 et seq., and the Berkeley Conflict of Interest Code adopted pursuant to the Act prohibit a commissioner from making, participating in making, or attempting to influence the making of any City decision if the commissioner knows or has reason to know that it is reasonably foreseeable that the decision will have a material financial effect on specified interests of the commissioner or a member of the commissioner's family distinguishable from its effect on the public generally. The state Fair Political Practices Commission (FPPC) enforces these procedures, and the scope of these prohibitions is delineated in FPPC regulations and advice letters. Commissioners may seek the advice of the City Attorney as to whether they should disqualify themselves. However, only a formal advice letter from the FPPC will insulate a commissioner from enforcement actions by the FPPC. Commissioners must seek the advice of the City Attorney or FPPC well before they are required to participate in a matter that would create a possible conflict of interest.

Contact the City Attorney's Office at [Attorney@cityofberkeley.info](mailto:Attorney@cityofberkeley.info) or at 510-981-6950 at least two days in advance of a meeting if you think there may be a potential conflict on a matter under consideration by the commission. Contact the FPPC advice line at 1-866-ASK-FPPC for general questions.

In addition to filing required disclosure statements described below, any such conflict of interest must be publicly disclosed and noted in the official record of the commission meeting. In such cases, the commissioner completes the positive act of verbal disclosure, recuses himself or herself, and refrains from voting.

#### Recusal for Conflict of Interest

Recusal is the affirmative action of removing oneself from consideration, discussion, and voting on an issue in which a conflict of interest exists. Commissioners must make the required disclosure above and then physically remove themselves from the proceedings. Recusal requires that the commissioner leave the room where commission discussion is occurring. The commissioner may not reenter the meeting space until after the consideration (including any votes taken) of the issue has concluded. The number of votes needed for action is not reduced when a commissioner who has a disqualifying conflict of interest is recused.

#### Scenario:

The Energy Commission has worked for over a year to develop a recommendation to Council to approve a low-cost contract with a solar panel company. One of the commissioners owns stock in the solar panel company but forgot about it, as it was just a small amount.

When the recommendation came before Council, the commissioner's relationship with the recommended vendor was discovered. Council was forced to disregard all of the work the commission did when considering the contract, thus wasting many hours of hard work.

#### **1) Influencing the Making of Contracts and Affecting Other Financial Interests**

Section 36 of the Berkeley City Charter and BMC Chapter 3.64 prohibit a commissioner on an advisory body from having an interest in any work or business of the City if the commission of which he or she is a member has had any role in influencing the making of the contract. These roles would include reviewing the contract itself, reviewing bid specifications, reviewing requests for proposals, discussing funding of the activity that is the subject of the contract, or making other kinds of policy recommendations that directly affect the making of the contract. A commissioner cannot satisfy the Berkeley City Charter and BMC Chapter 3.64 simply by disqualifying himself or herself when the vote or discussion on the contract is taking place. The law prohibits the contract itself.

However, some exceptions to this rule exist. For example, if the commissioner is an officer, member, director, or employee of a nonprofit corporation that is to receive the contract in question, the law does not prohibit the contract itself. The commissioner must disclose his or her interest, the minutes of the commission must reflect this disclosure, and the individual commissioner must disqualify himself or herself from participating in any manner, either directly or indirectly, in making or influencing any decision related to the contract.

**2) Disclosure Statements Required (Form 700)**

The Government Code of the State of California requires that designated commissioners file a Form 700 Statement of Economic Interests in which they disclose specified financial interests. The Berkeley Conflict of Interest Code specifies each commission that is subject to this requirement and the interests that must be disclosed.

Failure to file Assuming Office and Annual Form 700s on time will result in termination from the commission. Failure to file any required Form 700 by the deadline (Assuming, Annual, Leaving) may result in the assessment of fines.

An Assuming Office Form 700 must be filed with the City Clerk Department within 30 days of appointment. Annual Form 700s must be filed by April 1 of each year. Finally, a Leaving Office Form 700 is required within 30 days of leaving office.

The City Clerk will routinely advise all commissioners affected of these requirements and deadlines. Not all commissioners are required to report at the same degree of disclosure. The Conflict of Interest Code is designed to require only that degree of disclosure needed to protect the public interest while balancing that need with an individual's right to privacy.

If a commissioner serving on a commission specified in the Code fails to file an Assuming Office Form 700 within 30 days of his or her appointment, his or her appointment will automatically terminate. Failure to file an Annual Form 700 within 30 days of the City Clerk issuing specific written notice of non-filing will also result in termination of a commissioner's term.

If a person has been terminated from a commission for any reason and a Councilmember wishes to appoint that person again, the commissioner must first file a Leaving Office statement prior to the new appointment. He or she is then required to file another Assuming Office statement within 30 days of the date of reappointment. If the commissioner is reappointed within 30 days of termination, there is no filing obligation.

No commissioner may be appointed to any commission if there are outstanding Conflict of Interest statements or fines, and no commissioner shall be appointed to any commission for a period of one year if terminated from any commission more than once for failure to file such statements.

**Scenario:**

A commissioner was terminated in January for failing to file her Assuming Office Form 700 within 30 days of appointment. The Clerk Department processed the termination, noting that she was terminated for the same issue a few months prior. In September of that year, her Councilmember wanted to appoint her to serve on another commission. The appointment was denied because she may not serve on any commission for one year after termination more than once due to non-filing of Form 700.

**3) Incompatible Public Offices**

The common law doctrine of incompatible public offices prohibits a public official from occupying two public offices that are incompatible in terms of their duties and/or the likelihood of divided loyalties. However, in Berkeley, serving on two or more City boards or commissions, including quasi-judicial bodies, is permitted (BMC Chapter 3.80). A commissioner who already occupies an elected or appointed office other than a City board or commission and wants to apply for appointment to a City commission should seek the City Attorney's advice as to whether the two offices may be deemed incompatible.

**4) Incompatible Activities for Compensation**

Government Code Section 1126 prohibits a public official from engaging in activities for compensation that are incompatible with his or her public office. A commissioner engaged in compensated activities that may be incompatible with his or her duties as a commissioner should consult the City Attorney.

**5) State-Mandated Ethics Training**

State law (AB 1234) requires certain local agency officials to receive training in ethics. In Berkeley, the officials identified for requirement are Mayor and City Council, City Auditor, Rent Stabilization Board Commissioners, Board of Library Trustees, and Police Review Commissioners.

These officials will receive a notice from the City Clerk advising them of the required training. The training may be completed on the FPCC website. The training must be completed within one year of the date of appointment and every two years thereafter. A certification of completion must be filed with the City Clerk. For more information, please contact the City Clerk Department.

**F. COMMISSION ORGANIZATION****1) Election of Officers and Terms of Office**

Unless otherwise provided by ordinance,<sup>2</sup> the chair and vice-chair are elected by the majority of the commission for a one-year term and hold office until their successors are elected or until their terms as members of the commission expire. No commissioner shall serve as chair for more than two consecutive years. There is no term limit for vice-chair.

Unless otherwise provided for in the enabling legislation, the annual election of commission officers should occur during the month of February. The election of officers must be listed as an item on the agenda.

Two meetings prior to the meeting at which officers will be elected, commissions are encouraged to list as an agenda item a discussion of the election, to inform all commissioners of the opportunity to seek nomination and election for the offices of chair and vice chair, to discuss and agree to the nomination process and timing for nominations (if no policy has been enacted by the commission), and to add clarity for commissioners and the

<sup>2</sup> Election of officers to the Police Review Commission, Board of Library Trustees, and Landmarks Preservation Commission are regulated by BMC Sections 3.32.050, 3.04.040, and 3.24.030, respectively.

public. In order to facilitate an orderly and fair nomination process, commissions may open nominations at the January meeting (or the meeting prior to the February meeting) and then hold the vote on officers at the February meeting. A Commission may enact a policy on officer elections in conformance with the requirements stated below, specifying the timing for nominations, the order in which nominations will be voted upon, and any other details that support a fair, orderly and transparent process for election of officers.

If there are multiple nominees for chair or vice-chair, the commission may wish to use a process by which all nominations can be made prior to voting. Full discussion of nominations is recommended, including the ability of nominees to speak on behalf of their own candidacy.

Additional regulations for officer elections:

- Nominations for chair and vice-chair require a motion (with second).
- A commissioner may nominate himself or herself.
- Any member of the commission, regardless of length of tenure on the commission may be elected chair or vice-chair.
- There is no automatic succession from vice-chair to chair.
- Motions to nominate must be voted on in the public forum, and no secret ballots are allowed.
- A roll call vote is recommended for votes on commission officers, and is required if any commissioner requests a roll call vote.
- The results of the vote must be publicly announced and the vote recorded in the minutes (Resolution No. 60,531-N.S.).
- A commissioner may not be elected chair if he or she will not be able to finish the term due to the two-year limitation.

Terms of office for officers are determined by the date the election regularly occurs, not by the date it may have actually occurred. If there is a slight variation in the date of the election, the sitting chair may serve on an interim basis provided that they do not exceed the two-year limit.

**Scenario:**

The chair is elected in February 2016. The chair resigns in April 2016. A new chair is elected in May 2016. The newly elected chair will serve from May 2016 to February 2017, when the next regular election is held.

**2) Mandatory Annual Training for Chairs and Vice-Chairs**

Chairs and vice-chairs are required to complete mandatory annual training. Resolution No. 63,876-N.S. was adopted by the City Council to implement video training for commission officers to satisfy the requirements of Resolution No. 60,531-N.S.

The chair and vice-chair must view, in its entirety, a training video on commission procedures and legal requirements. Upon completion, the chair and vice-chair must file with the City Clerk an Affirmation of Completion.

This training video must be viewed and the Affirmation of Completion must be filed with the City Clerk no later than 60 calendar days from the date of election as chair or vice-chair. Failure to complete the video training and file the Affirmation of Completion within 60 days of election will result in the immediate forfeiture of the position of chair or vice-chair.

Commission officers must file an Affirmation of Completion within 60 days from the date of election or forfeit their seat as chair or vice-chair.

While not mandatory for commissioners other than the chair and vice-chair, completion of this training is encouraged for all commissioners.

The required training video may be viewed online through the city website - <https://www.cityofberkeley.info/commissions/> or a DVD may be obtained from the City Clerk Department at 2180 Milvia Street, 1<sup>st</sup> Floor. The City Clerk also offers a video terminal at its office for commissioners to view the training video.

### 3) **Duties of Officers**

The “presiding officer” (chair or, in his or her absence, the vice-chair), performs the following duties.

- Presides at all meetings of the commission and ensures that the work of the commission is accomplished. To this end, the chair must exert sufficient control of the meeting to eliminate irrelevant, repetitious, or otherwise unproductive discussion. At the same time, the chair must ensure that all viewpoints are heard and are considered in a fair and impartial manner.
- Ensures that commission bylaws, if any, and procedures are followed. The chair cannot make rules related to the conduct of meetings; only the full commission may do so.
- Appoints commissioners to temporary subcommittees subject to the approval of the full commission.
- Approves the agenda prior to distribution. This is limited to the structure and order of the agenda and does not grant the chair the authority to remove an item submitted by commissioners or staff if submitted by the established deadline.
- Signs correspondence on behalf of the commission.
- Represents the commission before the City Council. Other commissioners may be the representative with the formal approval of the commission by motion and vote.
- Approves commission reports to Council. The chair cannot modify content that was approved by the full commission.
- The chair or a quorum of the commission may call a special meeting.
- The chair and vice-chair have full rights to vote and to make or second motions.

**4) Transfer of Chair**

In the absence of the chair or his or her inability to act, the vice-chair presides in place of the chair, but does not assume the office of chair. In the event of the absence or the inability to act of both the chair and the vice-chair, the remaining commissioners elect one of their members to act as temporary chair.

If a chair is terminated from the commission for any reason, or resigns, the office is vacated, and a new election for chair must be held to fill the office. The vice-chair does not assume the office of chair, rather they preside over the meetings and execute the chair's duties as the vice-chair. If a vice-chair is terminated, the office is vacated, and a new election would be held to fill the office. If an officer is terminated and subsequently reappointed to the commission, he or she shall not resume the office and must be reelected to the office by the majority of the membership.

In the event a chair leaves the commission prior to the end of his or her term, the vice-chair performs the duties of chair but does not assume the office of chair. An election must be agendized and a new chair must be elected at a subsequent meeting. The vice-chair may be elected as chair, as may any other commissioner, but the commission must vote on the election.

**5) Temporary Subcommittees/Ad Hoc Subcommittees**

From time to time, the commission or the chair, with the confirmation of the commission, may appoint several of its members, but fewer than a quorum of the present body, to serve as a temporary subcommittee. Commissions are limited to the creation of ad hoc single purpose subcommittees. Ad hoc subcommittees are treated as if they are legislative bodies under City policy and, as such, are required to comply with the requirements in the Brown Act.

Ad hoc subcommittees are defined by all of the following characteristics.

- Composed of less than a quorum of the parent body.
- Composed of only members of the parent body (no members of other commissions or any other persons may be included).
- Have a finite purview established by the parent body.
- Have a set target date to report back to the parent body.
- Terminate within one year, unless the parent body reviews and extends the timeline.
- Have no regular meeting schedule set by the parent body (all subcommittee meetings are "special meetings").
- Have no alternate commissioner assigned to attend meetings, even as an observer, if his or her presence would create a quorum of the parent body.

Subcommittees are advisory only to their parent commission, not to Council. Subcommittees are tasked with the study of a specific issue and with making a recommendation to their parent commission. The parent commission has the opportunity for input when the subcommittee reports

its findings and makes the recommendation(s). The parent commission has final decision-making authority on the disposition of the subcommittee's work.

The parent commission must adopt subcommittee recommendations before they can be forwarded to Council. A subcommittee may not represent the parent commission before the Council or other city legislative bodies unless it has first received the authorization of the parent commission to do so.



Only commissioners may become members of the subcommittee; however, the subcommittee should seek input and advice from the public, commissions with relevant subject matter jurisdiction, and other groups. Subcommittees must be reviewed annually by the commission to determine if they should continue their work. The commission secretary should track the creation of subcommittees and notify the commission of the pending expiration a subcommittee. The commission may request that renewal be agendized at a future meeting.

Please consult Chapter IV for noticing and agenda requirements applicable to subcommittees.

Extensive collaboration between commissions can be accomplished through concurrent meetings of subcommittees, meaning subcommittees meet in the same place at the same time, each noticed and conducted appropriately. In almost every case, concurrent meetings facilitate collaborative goals. Rarely, the City Council may choose to approve a joint subcommittee with the members designated by the City Council in accordance with the Fair Representation Ordinance, BMC Sections 2.04.030–2.04.070 and 2.04.080–2.04.130.

Subcommittees shall conduct their meetings in public and in accessible locations that are open to the public. Meetings may be held at privately owned facilities provided that the location meets all the requirements of the Brown Act, including the following:

- The location is open to all who wish to attend and there is no requirement for registration or purchase to attend.
- No prohibition on attendance based on a protected class (e.g. race, ancestry, gender)
- Must be accessible to the disabled.
- The agenda must be publicly viewable at the meeting location for the full 24 hours prior to the meeting.

Agendas for subcommittee meetings must be posted in the same manner as the agendas for regular commission meetings (posting board, website, meeting location) except that subcommittee agendas may be posted with 24-hour notice instead of 72-hour notice.



**Question:**

If a subcommittee plans to hold a meeting in a local shop that will allow members of the public in without charge and will post the agenda 24 hours in advance on the bulletin board in the back of their dining room, would this be a legal subcommittee meeting?

**Answer:**

Potentially not. The agenda must be posted where it is viewable by the general public for the full 24-hour posting period. If the shop closes at night and the agenda can't be viewed from outside the store, then the meeting was not properly noticed and cannot be held.

The secretary is not required to attend or take minutes of meetings of subcommittees. City staff may attend and participate in subcommittee meetings. Depending on the desires of the subcommittee members, City staff may participate the same as members of the public or may be asked to offer insights or provide information during discussion.

Subcommittees must be comprised of at least two commissioners. If only two commissioners are appointed, then both must be present in order for the subcommittee meeting to be held. In other words, the quorum for a two-member subcommittee is always two. A quorum of a subcommittee is prohibited from engaging in an illegal meeting; please refer to Chapter IV of this manual for more information regarding serial meetings.

A temporary appointee does not assume the subcommittee membership(s) of the commissioner for whom he or she is substituting on the full commission. A subcommittee member who is terminated from the parent commission and subsequently reappointed to the parent commission does not automatically resume membership on the subcommittee; he or she may, however, be reappointed to the subcommittee by action of the parent commission.



CHAPTER III. COORDINATION WITH COUNCIL, STAFF, AND OTHERS

CHAPTER III. INDEX

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A. COORDINATION WITH CITY COUNCIL

1) Relationship to City Council

The role of a commission is to advise the City Council. The exception is for quasi-judicial commissions that can act under their authorized ordinances or advise the City Council as appropriate. The City Council is responsible for accepting, rejecting, or modifying commission recommendations. The Council relies on the various commissions to increase the variety of viewpoints and talents brought to bear on City problems. By concentrating on specific areas, commissioners use their expertise and conduct detailed analyses that the Council itself may not have the time to pursue. It is expected that commissions will adopt positions of advocacy within their specific purview. However, the City Council's role is to take into consideration the many varied and sometimes conflicting public needs and render its judgment of what will best serve the public good. The Council must weigh the effect of any given recommendation, not only on the particular area of interest but on all other City goals and programs.

Just as the commissions advise the City Council concerning policy but do not create policy, the commissions advise the City Council concerning various programs run by the City but do not themselves operate programs. It is the responsibility of the City Manager and the City staff to operate programs authorized by the City Council. The exception to this rule is the Board of Library Trustees.

2) Referrals from the City Council

The Council may transmit referrals for information or action through formal action on an agenda item. These actions are recorded in the minutes of the Council meeting. The secretary notifies the commission of any such referrals from the Council. When appropriate, the Council may indicate a desired date for response and specify which commissions will be consulted.

Each referral response presented to the City Council on the Council agenda, shall indicate to whom the item was referred, the date of referral, and any other responses. Each commission may elect to respond by means of a separate report or communication.

3) Communicating to the City Council

A commission transmits its findings, responses to referrals, and other recommendations to the Council through the Council agenda. Upon the final vote of a commission to send an item to Council, the secretary submits a completed commission report for the Council agenda to the agenda process no later than three weeks after receiving the final text from the commission. The commission is responsible for providing the content of the report to the secretary. The report will be placed on an upcoming Council agenda based



on City Manager timelines and the Council Rules of Procedure for scheduling matters on the agenda. All reports are due to the City Clerk Department 33 days prior to the meeting date. Departments may have internal deadlines that require reports to be processed earlier.

Commissions may also transmit their findings or recommendations to the Council in the form of a letter. This type of communication is more timely; however, the Council cannot take any official action based solely on a written communication from a commission. Sending a letter to the City Council requires the authorization of the commission. Once approved by the commission, the secretary submits the letter to the City Clerk.

The chair, or an authorized representative of the commission, may officially speak on behalf of the commission at public comment on an issue before the City Council. Other commissioners may speak on the item as private citizens. As is the case with a written communication, the Council cannot take an official action based solely on verbal comments from the commission.

For more information on commission reports to Council, see Chapter VI.

**4) Council Meeting Procedures and Commission Participation**

Regular City Council meetings are generally held twice monthly on Tuesdays. The schedule is established annually, taking into consideration holidays and election dates. Chapter VI has detailed information about how to place items on the agenda.

Council meeting agendas have a specific order: Consent, Public Hearings, and then Action. Information items are not usually discussed or acted on but can be commented on during Public Comment. Many circumstances can change the order in which an item is heard. Council may move items from Consent to Action or from Action to Consent, or they may even move Information items to Action.

Question:

If a commission places a report on the Council agenda as a Consent item, will it be heard at the beginning of the meeting?

Answer:

Not necessarily. The Consent Calendar is heard toward the beginning of meetings, right after procedural and ceremonial items. However, items can be pulled off the Consent Calendar by Council to be discussed and acted on later in the meeting.

The chair, or an authorized representative of the commission, has the right to address the City Council at the time the commission's item is heard. The Chair or the commission's designated representative may address Council from the staff table. Commissioners not delegated to speak as the official representative may utilize the Public Comment period to present information to Councilmembers.

**Scenario:**

A commission placed an item on the Consent Calendar for a Council meeting. The commission assumed that since the item was on Consent, there would be no discussion or questions and did not send a representative. At the meeting, a Councilmember had some questions and moved the item to Action. Because there was no one from the commission present and no subject matter expert, the Council ended up holding the item over to a future meeting.

**B. COORDINATION WITH STAFF****1) Duties of Secretary**

The commission secretary is a City employee designated by the City Manager (except for BOLT). The secretary represents the City Manager and assists the commission in its functions and advises the commission of staff's recommendations. Secretaries perform technical and basic administrative functions as outlined below and do not vote. In addition, as City professionals, they have the responsibility to ensure that the commission is apprised of laws and administrative processes affecting proposed policy recommendations and operational recommendations.

While other staff members may assist the commission from time to time, clerical staff will not be assigned to attend meetings without approval of the City Manager. The commission secretary's presence is only required at commission meetings. Secretaries are not required to attend subcommittee meetings.



It is a secretary's responsibility to:

- Prepare commission agenda packets and minutes pursuant to the Brown Act and City procedures.
- Post draft minutes within two weeks after the commission meets.
- Notify commissioners of meetings.
- Maintain an accurate subscription mailing list for agendas.
- Attend commission meetings. City staff are not required to attend subcommittee meetings.
- Follow the established Council agenda process to submit reports to Council based on the text approved by the commission.
- Advise the City Manager or department director of any requests for extensive staff work or report preparation.
- Notify other commission secretaries regarding items of shared purview.
- Report commissioner attendance to the City Clerk.
- File Commissioner's Annual Declaration Reimbursement (stipend) forms with the Auditor.
- Submit annual stipend forms and quarterly payment requests.
- Administer the oath to newly appointed commissioners if needed and file completed oath forms with the Clerk.
- Post agendas in hard copy and to the web per Brown Act requirements.
- Post commission meetings to the online Community Calendar.

- Forward final, adopted versions of the minutes to the Records e-mail inbox.
- Submit an information report to the City Council whenever a commission cancels two consecutive meetings for lack of quorum, per Resolution No. 65,127-N.S. (and its successors).
- Retain all documents related to the functions of the commission in accordance with the Citywide Records Retention Schedule. Of primary importance is the proper retention of minutes. Secretaries must sign the hard copy of the final adopted minutes and retain these records permanently. Secretaries may also consult with the Records Coordinator in their department for guidance on records retention.
- Advise the commission of staff's recommendations regarding matters before the commission, and represent council priorities and administrative policies of the City.
- Consider the policy and fiscal impacts of proposals and provide commissioners with early and timely information about the fiscal and policy impacts of proposals and their relationship to department and Citywide priorities.
- Compile communications from the public.
- Inform the commission of subcommittee expiration as needed.

The list of duties above is representative of the requirements placed upon commission secretaries. It is not intended to be exhaustive. Requirements change over time and vary from commission to commission. Secretaries must familiarize themselves with the Brown Act and relevant City policies to ensure they are properly fulfilling their duties.

The secretary may also post information that is of particular interest to the commission web page including the commission work plan, specific projects, vacancies, and other general information. When posting additional information, it is important that the information be timely and relevant to commission business.

Secretaries should inform commissioners about activities, projects, and work taking place within the organization and among other commissions when the information is available and relevant. This information may be obtained by reviewing agendas or minutes from other commissions and maintaining contact with other secretaries.

Secretaries are encouraged to work with their supervisors or department heads to identify and train an alternate to ensure the critical work continues if they are on vacation or leave.

## 2) **Relationship Between Secretary and Commission**

The two main responsibilities of the commission secretary are to assist the commission in its functions and to represent the City Manager.

Generally, the commission secretary is appointed from the department that most nearly encompasses the commission's activities. As a representative of the City Manager, the commission secretary also advises the commission of staff's recommendations. In this sense, the secretary is an active

participant with the commission, although without a vote, rather than merely a passive transmitter of information.

While the secretary's role is to assist the commission, the secretary and other staff assistants are not employees of the commission. At all times, the staff is directly responsible to the department director and City Manager.

The following are some ways to avoid misunderstandings and to keep the channels of communication open. Commissioners must adhere to the following rules for communication with staff.

- Ensure all contacts from the commission to any member of the staff, including those to a higher-level employee (e.g., the City Manager), are transmitted through the secretary. Conversely, all contacts from staff to the commission go through the secretary.
- Keep all contacts with staff members clearly in the framework of the commission assignment.
- Do not ask for individual reports, favors, or special considerations.
- Direct complaints from the public directly to the secretary, who will respond on behalf of the City.
- Realize that the assigned secretary reports directly to a supervisor and may not be able to carry out every request that the commission may have.

The Commission secretary must also follow the guidelines below to ensure clear communication.

- Keep the commissioners informed of the purpose and goals of the commission.
- Take the initiative to inform commissioners about relevant activities, projects, and work that is taking place elsewhere in the city government and among other commissions.

If a commission desires information, analysis, or other work that will require an excessive amount of staff time, the commission should present the request to the Council for approval in the form of a report. The Council may then consider the request in the context of the citywide work plan and determine the urgency and priority of the request. Following this procedure will prevent staff from being diverted from priority projects.

All appearances by staff before the commission are scheduled through the secretary so that they may be placed on the agenda. A staff person appearing before, or communicating with, a commission as a private individual must advise the commission that he or she is not acting in an official capacity.

Staff secretaries are professionals who are required to provide their best technical and professional advice both to the commission and to the City Manager. Staff is there to provide information and expertise, not to make



decisions or judgments. Occasionally, this will result in staff making an alternate recommendation to that of the commission or suggesting that additional information is needed. In these situations, staff prepares a City Manager Companion Report capturing the alternative recommendation or additional information. Please see Chapter VI, Section C, page 66 for more information.

### 3) **Relationship with the City Manager**

The City Manager has a direct interest in the work of all commissions as they often advise the City Council on issues that will affect the use of staff time and City resources. Commission secretaries are responsible to the City Manager as well as the commission, and they keep the City Manager informed of significant issues that come before their commissions.



For the commissions that are advisory to the City Council, the City Manager is not able to alter commission reports and recommendations, however, the City Manager may propose an alternative to the commission report if he or she believes that the Council needs additional information or to pursue a different course. Please see Chapter VI, Section C, page 61 for more information.

As a partner in the public process, the City Manager seeks to work cooperatively with commissions to achieve the best outcome for the community.

## C. **EXTERNAL RELATIONSHIPS**

### 1) **Meetings with Other City Commissions**

In order to develop a useful liaison between commissions, each commission should determine which other bodies regularly deal with overlapping subject matter. Commissions with issues that regularly overlap should request agenda, minutes, and relevant reports from each other through the commission secretaries. Where an issue arises that is of concern to two (or more) commissions, they should review the issue with each other before submitting a report to Council as outlined above.

Occasionally, two or more commissions may consider an issue that is within the purview of both. One of the secretary's duties is to collaborate with the other secretaries to ensure they are abreast of potential crossover subject matters. It's important that secretaries are aware of these situations in time for the commissions to address them as outlined below.

Commissions may hold concurrent meetings with other Council-created committees. This is often referred to as a "joint meeting" between two commissions, but in reality, it is a *concurrent* meeting. Both commissions will publish separate agendas, take separate votes, and produce separate minutes. However, the concurrent meeting allows them to hold a joint discussion about the matter at hand.

The secretaries of the involved commissions should work together to ensure both commissions can communicate with Council as needed. If one commission is going to recommend action regarding an item of interest to



another commission, the secretaries must collaborate to ensure both commissions have the opportunity to submit reports to Council representing their purview.

Requests for information or review of proposals from one commission to another are transmitted through the respective secretaries of each commission.

## 2) **Outside Agencies**

Commissions function in an advisory capacity and, in the absence of an explicit delegation of the role to act on the City's behalf by the Council on a particular issue, they may not directly communicate with outside agencies.

Unless specifically authorized by the Council, commissions may not represent the City or its policies or positions to outside agencies either on their own behalf or on behalf of the City.

If a commission wishes to support or object to a particular policy or program run by an outside agency, it should frame this action as a motion and a recommendation to the City Council. If adopted, the communication to the outside agency will be from the City Council.

When a commission requests that the City Council support or oppose legislation, policies, or actions, the position of the City is generally contained in a letter. The commission must attach the text of the letter to the report to Council. Resolutions are not needed for this type of action. However, should a resolution be requested of Council, such resolution must be in the proper format and attached to the Council report, ready for Council action.

If a request for an official policy statement is received from an outside jurisdiction, the commission may analyze and study the request. It can then make a recommendation to the Council for a response. All communications from outside agencies are transmitted through the secretary.

Furthermore, commissions may not take any action that commits or indicates an intention to commit the City without authorization by the Council and coordination with the City Manager, such as endorsing grant applications, receiving donations and gifts, sponsoring community events, or approving use of City property, facilities, or other resources.

The commission may not act as a sponsor of or participate in (such as having an information booth) community events without the authorization of the City Council.



Commissions cannot hold a joint meeting or joint event with an outside agency. If information from an outside agency is desired, the commission may request that the secretary invite the outside agency to make a presentation and field questions at a regular commission meeting.



### 3) **General Public**

The most direct way for the general public to communicate with commissions/commissioners is to attend commission meetings.



Members of the public may also communicate with commissions by sending a letter or an e-mail to the secretary, who will forward the e-mail to the commission in the agenda packet. If the communication is submitted after the packet is published, copies may be distributed to the commissioners and placed in the public viewing binder.

All communications from the commission to members of the public are transmitted through the commission secretary. Similarly, arriving communications are received by the secretary and relayed to the commission through the agenda packet. The secretary is responsible for including all communications received in the agenda packet according to publication deadlines. If the commission wishes to recommend Council action in response to a public comment or communication, the topic must be agendized at a future meeting for commission discussion and action.

Commissioners may interact with the public; however, if commissioners are contacted by the public outside of a meeting, commissioners should encourage them to send their comments to the secretary for distribution to all commissioners or come to a commission meeting and speak at public comment. This will allow the full commission to hear and consider all pertinent information and points of view.



Commissions may not, without approval of Council, represent City policy or communicate in an official manner outside of Commission meetings. This prohibition includes any type of public surveys and/or polling of the public, distributing informational flyers, newsletters, mass e-mails, or other similar media.

### 4) **Individual Commissioners**

Commissioners may not represent their Commission or the City to the general public or the media unless the Council authorizes the commission to authorize the individual commissioner to do so. Similarly, commissioners may not use city logos, branding, or collateral to represent themselves externally. Please see Chapter V, Section G for more detail. A commission may authorize one of its members to appear before another City commission without Council approval.

Any time a commissioner uses their commission title or references their membership on a city commission when speaking publically, they must state the following:

“I am speaking in an individual capacity and not representing the [Commission Name] or the City of Berkeley.”

Each commissioner also has the obligation to work cooperatively with other commissioners. Commissioners should exercise self-discipline and strive always to be objective, fair, and courteous with each other as well as with staff and the public. A healthy respect for the time of other commissioners, staff, and the public is of critical importance.

**5) Press and Other Media**

Inquiries from the media should be handled only by the chair or a representative designated by the commission, who may clarify actions taken by the commission, fairly and accurately recap commission conversations, or outline next steps. The Chair or designee must not editorialize, offer personal opinions, or speculate on future actions when speaking in an official capacity. Any commissioner may recite commission actions taken and state factual accounts of those actions.

**6) Election-Related Activity**

While potential ballot measures are under consideration for inclusion on the ballot, commissioners may communicate with Council, but they should limit themselves to advisory comments only. If a commission wishes to recommend a ballot item to Council, they should discuss it at a commission meeting, which offers the public a chance to participate, and then make their recommendation to Council via normal channels. Once a measure is placed on the ballot, Council has already taken action, so a commission, as an advisory body to Council, may not endorse or oppose the measure.

Commissions may not take official positions or host a public forum or debate for measures or candidates. Commissioners may engage in election-related activity as community members, and may use their commission title(s), current or former, for identification purposes, so long as they affirmatively declare that they do not represent the City or any legislative body of the City.

**7) Summary**

When considering the appropriateness of communicating publically as a commissioner, remember these simple guidelines.

- The City Council speaks for the City
- Commissions speak to the Council
- Commissioners speak as private individuals

CHAPTER IV. PUBLIC MEETINGS

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This chapter describes the key steps necessary for complying with the Brown Act and City policy for public meetings of boards and commissions.

The Brown Act (Government Code Sections 54950 et seq.<sup>3</sup>) is the state's open meetings act. It is intended to ensure that the public has adequate notice of what actions its elected and appointed local decision makers may take and that those decisions and the deliberations leading to them occur in public.

**A. LEGISLATIVE BODIES**

The Brown Act applies to any legislative body. This includes all City of Berkeley boards and commissions.

City of Berkeley commissions can only create ad hoc (or temporary) subcommittees. Ad hoc committees are not legislative bodies under the Brown Act, but they must follow Brown Act procedures per City policy.

**B. MEETINGS**

Any contact between a quorum of the legislative body, either directly or through intermediaries, to hear, discuss, deliberate, or take action “on any matter within the subject matter jurisdiction” of the City or commission is a meeting. All meetings must be conducted in compliance with the Brown Act. Meetings include retreats, forums, workshops, and similar types of events. A meeting can be in person, by telephonic or other electronic medium, or through intermediaries. With a few narrow exceptions not applicable to most commissions, all meetings of legislative bodies must be open to the public (Government Code Section 54953).

**1) Types of Meetings**

Regular Meetings

Regular Meetings occur at the dates, times, and locations set by formal action of the commission at the beginning of each year to follow for the next 12 months. Regular meetings require 72-hour notice that includes the time and location of the meeting. Commissions may change the meeting schedule by formal action. Council sets the maximum number of meetings the commission may have during a calendar year.

<sup>3</sup> All statutory references in this Chapter are to the Government Code unless otherwise noted.

If a committee needs to change the meeting schedule after it is approved, it must agendaize and readopt the new schedule at a meeting.

### Special Meetings

Special Meetings are called by the chair or a quorum of the commission to hear a specific item or items. Special meetings require 24-hour notice. Council establishes the number of meetings each commission is allowed to have in a given year. Special meetings count against that total. Absences from special meetings do not, however, affect commissioner attendance records. Any meeting not on the regular meeting schedule is a special meeting.

### Subcommittee Meetings

Subcommittees are less than a quorum of the parent committee, designated by action of the commission for a specific task and a limited duration. Subcommittees shall conduct their meetings in public and in accessible locations that are open to the public. Meetings may be held at privately owned facilities provided that the location meets all the requirements of the Brown Act, including the following:

- The location is open to all who wish to attend and there is no requirement for registration or purchase to attend.
- No prohibition on attendance based on a protected class (e.g. race, ancestry, gender)
- Must be accessible to persons with disabilities.
- The agenda must be publicly viewable at the meeting location for the full 24 hours prior to the meeting.

Agendas for subcommittee meetings must be posted in the same manner as the agendas for regular commission meetings (posting board, website, meeting location) except that subcommittee agendas may be posted with 24-hour notice instead of 72-hour notice.

### Public Hearings

Public hearings are held when required by law. Generally, the need for a public hearing is limited to the quasi-judicial commissions: Zoning Adjustments Board, Landmarks Preservation Commission, Housing Advisory Commission, Fair Campaign Practices Commission, Police Review Commission, and Planning Commission. Advisory commissions do not generally require public hearings.

Public hearing noticing practices are specified by law and must be adhered to. Noticing beyond the legal requirements is permitted but is not required.

Please see page 59, for proper public hearing procedures. If needed, the City Attorney's Office or the City Clerk Department can work with a commission secretary determine if a public hearing is required.

**Note:** In the event that a public hearing is continued to a later meeting date, a commissioner who missed the first meeting should review the transcript or video of the previous meeting prior to voting.



### Concurrent Meetings of Commissions

Two or more commissions may hold concurrent meetings to discuss an issue that falls under their purview. Such meetings should not be noticed as “Joint Meetings,” but as two separate meetings occurring at the same place and time. The secretaries of the commissions must each prepare and post separate agendas. During the meeting, each commission must vote independently on each agenda item. The secretary for each commission must prepare separate minutes for the meeting of his or her commission as well.

## 2) **Exceptions**

### Gatherings That Are Not Meetings

Certain gatherings of a quorum of a legislative body are not considered meetings under the Brown Act.

- *Attendance by One Legislative Body at a Meeting of Another*  
Attendance at a meeting of another commission or the City Council does not need to be separately noticed, provided that a quorum of the attending body does not discuss privately among themselves, other than as part of the scheduled meeting, business of a specific nature that is within the subject matter jurisdiction of that body (Government Code Section 54952.2(c)(4)). This exception includes noticed meetings of legislative bodies of other public agencies, not just those of City commissions or the Council.
- *Attendance at Conferences and Other Gatherings Open to Members of the Public*  
Attendance at a public conference is permissible as long as a quorum of the body do not discuss among themselves specific business that is within the subject matter jurisdiction of the City.
- *Purely Social or Ceremonial Occasions*  
Attendance at purely social or ceremonial occasions are not considered meetings as long as the participants do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the City (Government Code Section 54952.2(c)(5)).
- *Open and Public Community Meeting Organized by An Entity Other Than the City to Address a Topic of Local Community Concern*  
Attendance at a meeting organized by persons or groups other than the City to address a subject of local community concern may be attended without noticing the meeting as long as members of the legislative body only participate in the public program and do not discuss among themselves matters of specific business within the jurisdiction of the City.

Any activity that involves a quorum discussing commission business is a meeting and must be compliant with all Brown Act requirements.

### 3) **Violations and Danger Areas**

#### Serial Meetings

One type of illegal meeting is a “serial meeting.” A serial meeting is one in which a quorum of a legislative body communicates with each other, directly or indirectly, through whatever medium, to develop collective concurrence.

There are many types of serial meetings, all of which are prohibited.

A literal serial meeting is one in which members of a legislative body constituting a quorum meet in smaller groups, serially, or a single member meets with enough other members to constitute a quorum individually, one after the other.

A communication from staff asking a quorum of a legislative body for comment can lead to a serial meeting if feedback from commissioners assists staff in developing a policy or taking an action that takes into account their points of view.

However, a staff member may have separate conversations or communications with members of a legislative body in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the commission if that staff person does not communicate to members of the legislative body the comments or position of any other member or members of the legislative body.

#### Special Note:

It is acceptable for staff to provide information to commissioners, communicate meeting information, and answer questions as long as staff does not share commissioners’ opinions with other commissioners.

Another type of serial meeting can result—sometimes unintentionally—from improper use of e-mail. E-mail communication between a quorum of a legislative body to develop a collective concurrence constitutes an illegal serial meeting (Government Code Section 54952.2(b)). To avoid this problem, members of legislative bodies should never use the “reply to all” function to an e-mail that may be addressed (even via “bcc”) to a quorum of the legislative body. Since it is not always possible to know who might receive a “reply to all,” it is better to simply never use the function. Of course, a serial meeting can occur from forwarding an e-mail as well.

Question:

If a commission secretary sends an e-mail to a quorum of his or her commissioners requesting feedback on a subject under the commission's purview, is it a violation of the Brown Act?

Answer:

It could be. If the secretary shares answers among the commissioners, it could be construed as a serial meeting. If the feedback from the commission assists staff in developing a policy or taking an action, it could be considered collective concurrence.

Question:

If a commissioner is unable to attend a commission meeting but has valuable information for the commission to consider, may he or she send an e-mail to the full commission?

Answer:

E-mail communication between a quorum of a legislative body can constitute an illegal serial meeting (Government Code Section 54952.2(b)). In this case, it would be best for the commissioner to share his or her information with the secretary, who can then disseminate it to the full commission and the public.

Retreats, Forums, Workshops

Retreats, forums, study sessions, workshops, and similar are considered meetings. Any such activity, where a quorum of the commission is present and discussing commission business, **is a meeting**. It must meet all the requirements for notice, public participation, location, and accessibility. Any such meeting would count toward the limit on the number of meetings set by Council.

Lobbying

Serial lobbying by members of the public of all commission members is not prohibited *as long as they are not acting as intermediaries between members of the legislative body* (Govt. Code Section 54952.2 (c)(1)).

Question:

A member of the public who is not a member of the commission contacts the chair and advocates for an item the commission will hear at the next meeting. The member of the public states that he already has the support of four out of nine commissioners and asks if he can count on the chair's vote. Is this a Brown Act violation?

Answer:

It is not illegal for a member of the public to advocate for an agenda item. However, when this person tells commissioners about other commissioners' intentions, he or she may be considered as acting as an intermediary. In this scenario, the chair should suggest the member of the public send an e-mail through the secretary for all the commissioners and the public to read.

## C. PUBLIC COMMENT AT MEETINGS

Every agenda for a regular meeting must allow the public to speak on any item in the commission's purview as well as on each specific item of business before the commission. Per the Brown Act, no member of the public can be required to give his or her name in order to attend or speak at a meeting.

### 1) Public Comment on Items Not on the Agenda

Members of the public must be allowed to speak on any item under the commission's purview, even if it is not on the agenda. The time allowed for these comments is the same as that for Action or Discussion items (generally two or three minutes per speaker). Non-agenda comments may be at the beginning or end of the meeting depending on the preferred agenda sequence of the commission.

### 2) No Discussion of Items Raised at Public Comment

Public comment on items that are not on the agenda cannot be used to start a discussion between commissioners or to take action in response to comments. Government Code Section 54954.2 does allow members of the legislative body or its staff to make brief responses to comments made during non-agenda public comment. It is also permissible for a member of a legislative body to ask a question for clarification, make a brief report on his or her own activities, and make a referral to staff or ask that an item be placed on a future agenda.

### 3) Public Comment Must be Allowed Prior to the Vote

For items on the agenda, the Brown Act requires that public comment be permitted prior to the commission voting on the item. The procedure for public comment should be the same for all meetings and adopted as a commission policy or in the commission bylaws, if any. Generally, two or three minutes per speaker is allowed.

### 4) Limiting the Time for Public Speaking

Government Code Section 54954.3(b) allows a commission to adopt reasonable regulations to govern public comments. Typical of such rules are time limits on individual speakers and overall time limit on public comment. The commission should decide whether to set an overall time limit and/or limit per speaker and are encouraged to adopt it in the bylaws, if any, or as a commission policy, to be followed consistently.

### 5) Distinction Between Public Comment at Regular Meetings Versus Special Meetings

Government Code Section 54954.3(a) requires public comment at special meetings as well as regular meetings. At special meetings, the comment must be confined to the subject matter to be considered at the special meeting. There is no non-agenda public comment at special meetings.

### 6) Formal Participation by the Public/Presentations

An individual wishing to formally address the commission or make a presentation should prepare a written request to the secretary to be scheduled on a future agenda. The request is discussed at the next meeting, and the commission may grant or deny the request.



**7) Recording Meetings**

Audio or video taping of the meeting must be allowed except when the legislative body finds that the recording is performed in a manner that constitutes “a persistent disruption of the proceedings” (Government Code Section 54953.5(a)).

**D. MEETING LOCATION AND ACCESSIBILITY**Location

Meetings of legislative bodies are generally held in public buildings. Meetings may be held in a privately owned building or facility provided that all Brown Act requirements for noticing and accessibility are met. In addition, no member of the public shall be required to make a purchase or meet any other requirement of the private establishment as a condition of attending and participating in the meeting.

Meetings must be held within City limits unless a meeting falls within one of the exceptions in Government Code Section 54954(b).

Consult the City Clerk or City Attorney if there is some special reason to have a meeting outside City limits.

Accessibility

The Americans with Disabilities Act (ADA) has always been applicable to the manner in which the City conducts its public meetings, and provisions of the ADA have been expressly incorporated into the Brown Act.

In addition, Council policy requires that all meetings be held in accessible facilities. This includes the approach to the facility, entry, path of travel within the facility, and restrooms. Secretaries should contact the Disability Compliance Program manager for recommended locations or for a location assessment, if necessary. Secretaries should be aware of commission items related to accessibility or persons with disabilities to prepare for accessible participation needs in advance of the meeting.

Pursuant to City of Berkeley Administrative Regulation 1.12 - Communication Access Policy, all boards and commissions must provide communication access in the form of accommodation to members of the public who have disabilities so that they may have an equal opportunity to participate in and benefit from board and commission meetings. This particularly affects members of the public who are vision or hearing impaired and may involve requests for such accommodations as providing meeting agendas in large print or braille, utilizing the City's assistive listening devices, or the provision of a sign language interpreter at the meeting itself.

Upon request, it is the responsibility of the Disability Compliance Program to arrange for reasonable accommodation at no cost to the requesting individual. Although A.R 1.12 states that three working days advance notice will ensure accommodation availability, every attempt will be made to arrange accommodation even on short notice. Although primary consideration should go to the disabled individual's preferred type of accommodation, when a particular type of accommodation is not available on short notice, an alternative type of



accommodation may be considered. For example, if braille or large print isn't available on short notice, staff may read the document to the vision-impaired person as an alternative.

Commissioners with disabilities will receive accommodation through the Disability Compliance Program upon request. Review Appendix I for more information.

## **E. AGENDA AND NOTICE REQUIREMENTS**

The agenda for all regular, special, and subcommittee meetings shall specify the time and location of the meeting, the business to be transacted, and shall be posted in the following locations:

1. On the bulletin board at Old City Hall at 2134 Martin Luther King Jr. Way.
2. At the location the meeting will be held.
3. On the City of Berkeley website.

Commission Secretaries must also ensure that commission meetings are posted to the online Community Calendar.

No business, other than that included on the agenda, can be considered by the commission at any type of meeting.

### **1) Regular Meetings**

At least 72 hours before a regular meeting, the commission secretary shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words.



### **2) Special Meetings**

Special meetings may be called by the chair or a majority of commissioners. The notices and agendas must be posted no less than 24 hours prior the meeting.

### **3) Subcommittee Meetings**

Subcommittee meetings fall under this special meeting rule and their agendas must be posted at least 24 hours prior to their meetings.

### **4) Media List for Meetings**

In order to give proper notice of a meeting, it is important to ensure that the commission secretary maintain a current list of media. The City Clerk has developed a list of media that is used to give notice of City Council meetings. This list may be used along with any other media outlet that may have requested notice of a particular commission's meetings.



### **5) Agenda Titles/Purpose**

The purpose of the agenda is to inform the public regarding the issues to be discussed. Government Code Section 54954.2 of the Brown Act requires that agenda item titles fully describe the issue or action to be discussed

and/or taken. This requirement, therefore, precludes such agenda titles as "University Avenue Improvements" or listing a topic on every meeting agenda to cover the "possibility" of discussion.

In preparing the agenda, consider the position of a member of the public and determine if a reasonable person could determine from the agenda title what the commission is discussing and what action is being proposed.

For example: "University Avenue Improvements" listed on an agenda by itself does not provide enough information. An appropriate title might be:

**"Adopt a Recommendation to the City Council to Proceed with the Proposed \$5 million University Avenue Landscaping Improvements"**

Another example: "Earth Day" listed on an agenda by itself is too vague. An appropriate title might be:

**"Discussion of Recommendation to Council to Sponsor Earth Day Parade"**

The agenda must be clear on what action, if any, may be taken on an item. The agenda should list the recommendation or action proposed using the 20-word guideline. By using a full explanation in the item title (never use acronyms), members of the public who may be in favor of or opposed to such an issue will know to be present at the commission meeting to discuss their views.

## 6) **Agenda Format/Headings**



Prior to each meeting of the commission, the secretary prepares and distributes an agenda, which usually includes but is not limited to the following: Roll Call, Public Comment, Approval of Minutes, Public Hearings, Old Business, New Business (with appropriate description of the item under the headings of Public Hearings, Old Business, and New Business), Information Items, Communications, and Adjournment. The agenda must be approved by the chair prior to distribution.

Commission agendas may vary to suit commission needs, but the Council agendas provide a good guideline.

Every regular and special meeting agenda, including subcommittee meetings, must include the following.

- Name of the commission
- Type of Meeting (regular or special)
- Day, date, time, and location of the meeting
- A brief, general description of each item of business, including the recommended action
- Public comment period
- Communication access information (A.R. 1.12) and ADA disclaimer:



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

- **SB 343 Disclaimer:**  
 “Any writings or documents provided to a majority of the commission regarding any item on this agenda will be made available for public inspection at \_\_\_\_\_ Department located at \_\_\_\_\_.”
- **Communications Disclaimer:**  
 “Communications to Berkeley boards, commissions or committees 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 a City board, commission, or committee, will become part of the public record. If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission, or committee. 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 secretary to the relevant board, commission, or committee for further information.”

Agendas may include the following if applicable:

- **Accessibility of Meeting Facilities**  
 All meeting facilities must be accessible. If, however, the accessible entry or path of travel is other than the main or common entrance or path to the meeting location, such information and directions must be so noted on the agenda.
- **Use of Dates**  
 Items for which material was included in the past and which are not duplicated again as part of the agenda packet should contain the date of the previous agenda packet for reference.
- **Identification of Written Reports**  
 It is always best practice to have complete reports published when the agenda packet is distributed. If reports on agenda items will be delivered at the meeting, they should be identified in the following way: “(to be delivered).”
- **Oral Reports**  
 Agenda items for which there will only be an oral report will be identified in the following way: “(oral report)”.

**F. SUBMISSION OF COMMISSION AGENDA REPORTS**

Any commissioner may submit items to appear on the commission agenda. Commissions should formally adopt procedures and guidelines in their bylaws, if any, or through adoption of a policy, for submitting items to the commission agenda that include, at a minimum these requirements:

- Items will be submitted as is – commissioners are responsible for typing their own items.
- The subject of the item must be within the commission’s purview.
- The item must be submitted at least 10-14 days prior to the meeting in order to provide adequate time to compile and distribute the agenda packet seven days prior to the meeting.

Commissions may adopt procedures for late submissions if desired. The Chair approves the agenda prior to distribution. This authority is limited to the structure and order of the agenda and does not grant the chair the authority to remove any items submitted by commissioners or staff by the established deadline.

**G. DISTRIBUTION OF COMMISSION AGENDA PACKETS**

When all necessary documents are submitted from the commissioners by the deadlines noted above, the secretary will mail complete agenda packets, first-class postage, to commissioners no later than seven days before the meeting. All written communications sent to the commission shall be distributed to all commissioners in the packet or at the next meeting. Any commissioner may opt to receive the agenda packet in electronic format only. This request must be made in writing to the secretary of the commission.

Complete agenda packets must be available in the office of the secretary prior to the meeting and be available at the meeting for public perusal. Any supplemental items must also be included in the packet for public perusal at the meeting.

An agenda without supporting materials may be distributed to other commissions or City departments whose area of interest is complementary or whose work directly impinges on the subject to be discussed.

Secretaries must maintain a list of persons requesting mailed notice and agenda packets pursuant to Government Code Section 54954.1. These rules require that any person who requests a copy of the agenda and agenda packet in writing must be mailed a copy of the agenda and packet at the time that the agenda is posted or a distribution is made to a majority of the commission. Such a written request for agendas and packets is effective for the calendar year in which it is requested and must be renewed January 1 of each year. Failure to follow this requirement will not result in the invalidation of the action taken by the legislative body. Per City policy, a fee to cover the cost of mailing and such agendas and supporting documents should be charged. The Brown Act requires that the secretary maintain a continuously updated list of persons who have requested agendas and agenda materials in writing.

**H. NOTICING FOR CANCELLED AND ADJOURNED MEETINGS****1) Cancellation of Meetings**When the Meeting Is Cancelled Prior to the Meeting Date

General practice is to post a notice of cancellation, stating that the meeting has been cancelled, in all the locations that the notice and agenda are regularly posted (at the meeting location, on the bulletin board at Old City Hall at 2134 Martin Luther King Jr. Way, and on the commission web page). Any persons or members of the media on a subscription list for notices and agendas should be notified as soon as possible. This should be done as soon as it is known that the meeting will be cancelled. The secretary may cancel a meeting if there is no quorum upon polling the commission.

When the Meeting Must Be Cancelled Due to Lack of a Quorum

When less than a quorum of a body appears at a noticed meeting, the body may meet as a committee of the parent body, adjourn to a future date pursuant to the provisions of Government Code Sections 54955 or 54954.2(b)(3), or simply consider the meeting to be cancelled. If no members of the legislative body appear at a noticed meeting, the secretary may adjourn the meeting to a future date, determined by the secretary, and provide notice to members of the legislative body and to the media in accordance with the special meeting notice provisions set forth in Government Code Section 54956. The meeting may be cancelled for lack of quorum after waiting for 15 minutes past the noticed start time.



Although it is generally not advisable for the present commissioners to continue in the meeting as a committee because the committee cannot make recommendations to the Council, it may be advisable under some circumstances. For example, when members of the public are present and want to give their input on a policy matter pending before the commission, the commissioners present may wish to continue as a subcommittee in order to obtain the input from the public so as to not inconvenience the members of the public who came to give testimony.

Per Resolution No. 65,127-N.S. (and its successors), commission secretaries must submit an Information Report to the City Council whenever a commission cancels two consecutive meetings for lack of a quorum.

When a Meeting Is Adjourned to a Subsequent Date

Notice of the adjournment, including the date to which the meeting is adjourned, must be conspicuously posted on or near the door of the place where the meeting was held within 24 hours after the time of the adjournment.

Rescheduling a Cancelled Meeting

In order to reschedule a meeting, the commission must act to modify the meeting schedule through the commission agenda. A special meeting called to replace a cancelled regular meeting counts toward the annual meetings per year limit set by Resolution No. 68,258-N.S. and its successors. Most commissions are limited to 10 meetings per year. Any meeting not on a regular meeting date is a special meeting unless the commission formally voted to amend the annual meeting schedule.

CHAPTER V. COMMISSION PROCEDURES

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Following proper procedures will ensure the validity and integrity of commission actions. It is essential that secretaries and commissioners remember that the standards of conduct and transparency are higher for public legislative bodies. These procedures ensure clear and efficient conduct of commission business and facilitates a productive public process.

A. POLLING, QUORUM, AND VOTING

1) Polling

The commission secretary should poll commissioners at least three days before the agenda is created to determine if there is a quorum for the meeting and communicate this information to the chair.

2) Polling for Special Meetings

In instances where the Council desires a prompt advisory recommendation and there is no time to consider the Council's request at a regular meeting, a special meeting should be called by the chair or a majority of the commission. If a quorum cannot be assembled for a special meeting, the commission secretary so advises the City Manager and indicates the date that the commission is expected to be able to consider the issue.

3) Quorum

A quorum is the minimum number of commissioners or subcommittee members who must be present for the valid transaction of business. In order to take any action, a quorum of commissioners must be present. For the purposes of these guidelines, a quorum means a majority of Actual Appointees. Thus, if a commission has nine Actual Appointees (out of a potential of nine), five commissioners constitute a quorum. If there are only five Actual Appointees (out of a potential of nine), three commissioners constitute a quorum.

Vacancies and commissioners who have been granted a Leave of Absence (LOA) are subtracted from the total number of seats to determine the number of Actual Appointees (see table). The number of Actual Appointees is not reduced when a temporary appointee is absent from a meeting or when a commissioner fails to attend and does not have a LOA.

4) Voting

The number of affirmative votes needed to pass a motion is the same number that constitutes a quorum—a majority of Actual Appointees. This



ensures that a majority of those actually appointed to a commission endorse the action being taken. If one were to allow a majority of a quorum to take action (instead of a majority of those actually appointed), formal action could be taken by a very low percentage of those actually appointed (e.g., if there were five Actual Appointees to a nine-member body, a quorum would be three, and action could be taken by two appointees).

Occasionally, a particular enabling ordinance or resolution may create a different requirement. The enabling legislation that established the commission should be consulted for particular requirements.

Three exceptions to the table below include:

1. The Police Review Commission, established by Ordinance No. 4,644-N.S. (BMC Chapter 3.32), which states: "A majority of the appointed commissioners shall constitute a quorum for the transaction of business, and the affirmative vote of a majority of those present is required to take action."
2. The Zoning Adjustments Board, governed by BMC Chapter 23B.04 which states: "A majority of the appointed members shall constitute a quorum."
3. The Transportation Commission, established by Resolution No. 55,751-N.S. which states: "A quorum shall consist of a majority of commissioners actually appointed."

The following chart indicates the numbers needed to take action.

| <b>Total Number of Seats*</b> | <b>Actual Appointees</b> | <b>Quorum**</b> | <b>Votes Needed for Action</b> |
|-------------------------------|--------------------------|-----------------|--------------------------------|
| 9                             | 9                        | 5               | 5                              |
| 9                             | 8                        | 5               | 5                              |
| 9                             | 7                        | 4               | 4                              |
| 9                             | 6                        | 4               | 4                              |
| 9                             | 5                        | 3               | 3                              |
| 9                             | 4                        | 3               | 3                              |
| 9                             | 3                        | 2               | 2                              |

*\*This refers to the authorized membership under the commission's enabling legislation.*

*\*\*Quorum rules apply to subcommittees. If a commissioner on a subcommittee of four is on an excused LOA, the actual appointees becomes three, and the quorum becomes two. No subcommittee may operate with less than two Actual Appointees. Remember, a temporary appointee does not assume the subcommittee memberships of the commissioner for which they are serving.*



Scenario 1

A commission with nine seats. Two commissioners have a LOA, and one seat is vacant. For one seat, a temporary appointment has been made for the commissioner on leave. The number of Actual Appointees is seven, the quorum is four, and the number of votes needed for action is four.

Scenario 2

A commission with nine seats. Three commissioners do not attend and do *not* have leaves of absence. One seat is vacant. The number of Actual Appointees is eight. The quorum is five. The number of votes needed for action is five.

In Scenario 2, there are five commissioners in attendance, and the votes needed for action is five. All votes must be unanimous in order to complete commission business. This highlights the importance of requesting a LOA in advance of a meeting. Had the three absent commissioners obtained a LOA, the number of Actual Appointees would have dropped, thus lowering the quorum and the votes needed to take action.

**B. BASIC RULES AND PROCEDURES OF COMMISSION MEETINGS**

With a few narrow exceptions not applicable to most commissions, all meetings of legislative bodies must be open to the public (Government Code Section 54953).

No one can be required to give his or her name in order to attend or speak at a meeting.

Audio or videotaping of the meeting must be allowed except when the legislative body finds that the recording is performed in a manner that constitutes “a persistent disruption of the proceedings” (Government Code Section 54953.5(a)).

Teleconferencing by commissioners is not permitted for requests based on travel, vacation, work conflict or any other unforeseen situation. Teleconferencing by commissioners is only permitted when provided as a reasonable accommodation under the American with Disabilities Act (ADA) as determined by the Commission Secretary and Disability Services Program personnel. Teleconferencing is approved on a case-by-case basis and is dependent upon accommodation resources available at the meeting location. Pursuant to the Brown Act, the address from which the commissioner is teleconferencing must be included on the relevant meeting agenda and the meeting agenda must be posted at the teleconferencing location.

**1) Establishment of Meeting Rules**

The chair will control the debate among commissioners so that everyone has a chance to speak before others speak for a second time and to expedite the business at hand. To this end, commissions may establish their own rules to limit debate.

## 2) Motions

A motion is required in order for the commission to take action. If public comment is taken on each item as it is heard, a motion on an agenda item typically takes place after public comment and during the commission's deliberation.

### Step One: Make the Motion

Any member of the commission, including the chair and vice-chair, may make a motion by stating, "I move to ..." and then clearly explaining the action.

### Step Two: Second the Motion

Before any debate or conversation regarding the proposed motion, another member of the commission must clearly state that he or she seconds the motion. If no commissioner seconds the motion, then the motion dies. If seconded, a motion may not be withdrawn or revised by the mover without the consent of the commissioner seconding it.

### Step Three: Debate

The chair should read the motion prior to debate to ensure the motion is understood by the commission and the public. The commission is then free to debate the motion.

### Step Four: Amend If Needed, and Restate

Sometimes the motion may be amended during debate. Amendments may be "friendly" or made by motion. A friendly amendment is an amendment that is proposed by a commissioner and then accepted by the maker and seconder of the motion without the need for a vote. If the maker and seconder do not accept the friendly amendment, the amendment may be proposed in the form of a motion, then must be seconded, and then voted upon. If passed, the amendment becomes part of the main motion.

The motion, whether amended or not, should be restated by the chair prior to the vote.

### Step Five: Vote

After discussion has ended and immediately prior to the vote, the secretary should clearly state the full motion (with any amendments). The commission is then free to vote on the matter. Motions may be adopted by the "no objection" method unless any commissioner prefers voice or roll call vote. There is no legal requirement for roll call voting unless it is in the commission's bylaws, if any, or if a commissioner requests a roll call vote. While the "no objection" method may expedite a long agenda, a roll call vote may be preferable to provide greater clarity and understanding on commission proceedings for the commissioners, the secretary, and the public in attendance.

If a roll call vote is used, the secretary then calls the roll (always calling the names in the same order). A commissioner may "pass" and vote last after the first time through the roll. The record must identify those voting aye, those voting no, those abstaining, and those absent. After all



commissioners have voted, the secretary announces the vote totals and whether or not the motion passes.

If the motion is adopted, the maker's written version of the motion, if any, should be given to the secretary for reference in preparation of the meeting minutes.

### 3) **Motion to Reconsider a Vote**

A commission may reconsider their action on a vote taken earlier in the meeting if the meeting is still in session. To reconsider a vote, a commissioner from the prevailing side of the original vote must make a motion to reconsider. Any commissioner may second the motion to reconsider. If the motion to reconsider passes, another motion restating the original motion must be made, seconded, and voted on.

Once the meeting is adjourned, an agenda item must be resubmitted for a future meeting for it to be reconsidered by the commission.

#### Scenario:

Commissioner Bob moved, and Commissioner Frank seconded, a motion to recommend the City Council approve a proposal for a new park. Vote Ayes: Bob, Frank, Millie, Anna, Ralph, Lee; Noes: Ally, Michael, Bradley. Commissioner Bradley wants to reconsider his vote. Commissioner Bob, Frank, Millie, Anna, Ralph, or Lee are able, if they choose, to make a motion to reconsider the vote. Any commissioner may second the motion. If the motion to reconsider passes, any commissioner may propose the new motion.

### 4) **Parliamentary Procedure and Robert's Rules of Order**

More detailed information on parliamentary procedure for chairs and commissioners, the precedence of motions, and voting procedures is contained in informational materials provided by the City Clerk Department. Parliamentary rules derive from Robert's Rules of Order.

## C. **ORDER AND DECORUM**

### 1) **Conduct of Public in Attendance**

Persons attending the meeting should observe the rules and procedures of the commission and should not disrupt commission business, for example, by shouting; making disruptive noises, such as boos or hisses; creating or participating in a physical disturbance; speaking out of turn or in violation of the commission's procedures or rules; preventing or attempting to prevent others who have the floor from speaking; preventing others from observing the meeting; entering into or remaining in an area of the meeting room that is not open to the public; or approaching the commission without consent. Any request to communicate with the commission while it is in session (outside of public comment) should be through the commission secretary.

Members of the public who do not follow the rules for decorum may be asked to leave the meeting by the chair. If a member of the public creates a significant physical disruption to the conduct of the meeting or acts in a

threatening manner toward another member of the public, staff, or commissioners, law enforcement personnel should be called by the staff or the chair to remove the individual from the premises. The Chair may call a short recess and commissioners and staff may leave the room while waiting for an individual to leave the meeting, or for law enforcement personnel to arrive.

Although not required, each person addressing the commission may give his or her name and city of residence. All remarks should be addressed to the commission as a body and not to any specific commissioner. Only comments from persons recognized by the chair are in order.

Any question asked of a commissioner must be asked through the chair. After being recognized by the chair, a commissioner may briefly respond to comments made during the public comment period or may pose a question to the person speaking at public comment or during a public hearing. See Chapter IV, Section C for public comment regulations and guidelines.

## 2) **Commission Conduct**

While the commission is in session, the commissioners should not interrupt the proceedings or any commissioner or member of the public who has the floor.

The chair or the vice-chair may participate in the debate, subject only to such limitations of debate as are imposed on all commissioners. The chair should not be deprived of any of the rights and privileges enjoyed by a commissioner by reason of his or her acting as the presiding officer.

Every commissioner desiring to speak should address the chair and, upon recognition by the chair, should confine himself or herself to the question under debate.

A commissioner, once recognized, should not be interrupted when speaking unless it is to call him or her to order or for a point of personal privilege. If a commissioner, while speaking, is called to order, he or she should cease speaking until the question of order can be determined, and, if in order, he or she should be permitted to proceed.

## D. **SPECIAL PROCEDURES**

### 1) **Public Hearings**

Public hearings are held only when required by law. When a hearing is required by law, the procedure for that hearing may also be specified by that law. In public hearings held by quasi-judicial commissions such as the ZAB, LPC, HAC, or FCPC, special rules apply.

#### Notice of Hearing

Where a public hearing is mandated by law, the form and timing of the advance notice is specified by city or state law. The commission's secretary will handle all such requirements. Noticing beyond legal requirements is permitted but not required.



Certain public hearings require a posting in the area affected by the subject matter. Again, all legal notice requirements are properly handled by the commission's secretary.

#### Conduct of Hearing

The procedure to be followed for a public hearing varies depending on the governing law or regulation. In the instances where a commission acts in quasi-judicial fashion, certain minimum standards of receiving testimony must be met. These may include, but are not necessarily limited to, an introduction of the subject by either the secretary or the chair, testimony from affected persons or interested members of the public, an opportunity for the parties to the hearing to rebut, disclosure of ex-parte communications by the commission, and receipt of any pertinent documentation. No testimony can be heard after the hearing is closed. However, commissioners may ask specific questions to the parties involved or members of the public and receive a response.

At public hearings, commissions have the responsibility to hear all viewpoints of any subject. In order to ensure that all parties are adequately heard, commissions shall follow the rules below. The commission may adopt its own procedures for public hearings in addition to those listed below, and may adopt alternate time limits for presentations by representatives and comments from the public.

1. If any commissioner must be recused for a conflict of interest, they must do so immediately when the item is taken up.
2. Commissioners shall verbally disclose all ex parte contacts concerning the subject of the hearing. Commissioners shall also submit a report of such contacts in writing prior to the commencement of the hearing. Ex parte contacts includes any contact between a commissioner and a person that is a party to the public hearing regarding the subject matter of the hearing.
3. Staff shall introduce the public hearing item and present their comments.
4. The hearing is formally declared open by the chair.
5. Five-minute presentations each by representatives of both sides of the issue. In the case of an appeal, or a single interested party, the representative shall have five minutes to present.
6. Equal rebuttal time may be afforded to both sides.
7. General public comment related to the subject of the public hearing. A speaker that spoke during the five-minute period may not speak again at the public comment portion.
8. The hearing is formally closed by commission motion and vote.

9. The commission deliberation begins after the public hearing is closed.

#### Action

Any action resulting from the hearing must be clearly stated in the form of a motion, properly seconded, and voted upon. The record must identify those voting aye, those voting no, those abstaining, and those absent. A roll call vote is the best voting method to ensure clarity for the public and the secretary. If findings are required as a part of the commission action, such findings should be clearly stated for the record. All potential conflicts of interest, whether they require recusal or not, should be stated at the commencement of the hearing.

Action must be by an affirmative vote of at least a quorum of Actual Appointees. See page 54 for more information regarding quorums.

Under state law, action is prohibited on any matters that have not been properly noticed.

If no action is to be taken at that meeting, the chair should announce this fact and continue the item, and, if possible, advise the public of the date when action may be expected.

#### Recording of Hearings and Minutes

In certain quasi-adjudicating hearings, there is a legal requirement for a public hearing to be recorded. In addition, the secretary will provide a written set of action minutes, which, when adopted by the commission, constitute the legal record.

#### Impartiality and Standards of "Fair Play"

Commissions should be aware of the need to maintain basic standards of fair play, impartiality, and the need to avoid the appearance of bias. The chair has the primary responsibility to ensure that the varying points of view are heard, that the hearing proceeds in a timely and fair manner, and that the options for future action by the commission are clearly stated. Awareness of the varying interests within the Berkeley community is essential because the City Council depends on its boards and commissions to provide thoughtful advice based on the fullest possible study of the subject and input from all relevant segments of the community.

### **2) Closed Sessions**

Closed sessions are rarely permissible for commissions. They are authorized by the Brown Act for certain specified reasons generally only applicable to the City Council. The most common reasons for closed sessions are to discuss pending or threatened litigation with legal counsel, give instructions to a labor negotiator, and to appoint, evaluate, hear charges against, or dismiss an employee. Please contact the City Attorney for advice well in advance of any proposed closed session to ascertain whether, under the particular facts, the commission is authorized to conduct a closed session and, if so, how such a closed session must be noticed and conducted.



## E. ADMINISTRATIVE PROCEDURES

### Commission and Board Documents


The agenda packet for a commission or board meeting contains the agenda, reports related to agenda items, and communications from the public received prior to the distribution of the agenda packet.

All writings or documents, including communications from the public, Commissioners and Board Members that are related to any item on an agenda and distributed to a majority of the commission or board members after the agenda packet is distributed, but before or at the meeting must be made available for public inspection at the time the writing or document is distributed to a majority of the commission or board at a designated location identified on the agenda. The commission or board secretary maintains a public viewing binder for these documents.

All writings or documents, including communications from the public, that are distributed to a majority of the commission or board members at the commission or board meeting must be made available for public inspection as quickly as possible. Members of the public and commissioners and board members submitting written communications at commission or board meetings should be encouraged to bring enough copies for all commissioners and board members, staff and at least five additional copies for members of the public (15 copies total, for most commissions and boards). The secretary is not required to immediately make copies of documents provided at the meeting when adequate copies are not provided by the submitting individual. Documents distributed at the meeting will be available in the public viewing binder the next business day.

### Minutes

Although the Brown Act does not require minutes, except for closed sessions, the Commissioners' Manual does require minutes of commission meetings but not for subcommittee meetings. When required, minutes are limited to *action minutes only*. Minutes are unofficial until approved by the commission. The minutes are converted to PDF and posted on the City's website.

 The secretary shall keep an accurate record of the commission's proceedings and transactions. The secretary shall provide action minutes similar to those provided to the Council by the City Clerk. Action minutes list the date, time, and place of the meetings; the staff in attendance; the commissioners present and absent; and a clear and concise description of final actions taken. Approved motions are indicated by "moved, seconded, and carried" and include a breakdown of the vote. The vote breakdown includes the commissioners voting yes, no, abstain, absent, recused, and reason for recusal. Reasons for making a motion, debate, content of public comments, and audience reaction are not to be included.

In quasi-judicial proceedings, if no recording is made, more detailed minutes are needed that summarize debate, list findings, tally speakers for and against, and note testimony offered by the appellant, witnesses, and other relevant information.

The secretary will present draft minutes to the commission for approval at the next regular meeting. Minutes are approved by motion with corrections noted, if any, or

if the changes are significant, the corrected minutes may be included in the agenda packet for adoption at the next regular meeting.

Commissioners not present at a meeting may vote on the approval of minutes from the meeting at which they were absent if they believe they are informed and able to consider the item.

Courtesy copies of the minutes may be distributed to other commissions or City departments whose area of interest is complementary or whose work directly relates to the subject that was discussed.

Hard copies of commission minutes must be signed by the secretary. These records are retained permanently. Commission minutes must also be e-mailed to the Records Inbox once they have become official.

#### Recording Meetings

Audio or video recordings of meetings are not required. A commission and a secretary may decide to audio or video record their meetings, if resources permit; in this case all meetings should consistently be recorded. This is particularly important if the audio is to be posted to the web. Audio should be posted within two weeks after each meeting and must be posted for every meeting once the practice is started. Recordings must be maintained in accordance with the City's Records Retention Schedule.

#### Official Commission Records

All agendas, minutes, reports, communications, audio recordings (if retained), and any other related material should be kept in an organized manner by the secretary and in such a way that these records can be easily transferred to another staff person in the event of a change in duties or termination with the City.

**The secretary is responsible for maintaining all commission records pursuant to the City's Records Retention Schedule, this Manual, and applicable Administrative Regulations.**



#### F. **BERKELEY OPEN GOVERNMENT ORDINANCE**

Adopted in 2011, the Berkeley Open Government Ordinance (BMC Chapter 2.06) provides greater access to the public than is provided by state law with regard to City business and documents. The portions of the ordinance that are specific to commissions are listed below:

- Meetings of the ZAB are recorded, televised, and video streamed live as well as archived for replay. The ordinance also states the intent to add Planning Commission, Housing Advisory Commission, and Landmarks Preservation Commission meetings to the broadcast requirement when resources permit (BMC 2.06.100).
- Disclosure of ex parte contacts prior to certain hearings as described in Chapter V. Section D (BMC 2.06.110).
- Donations to the City that may be accepted by any legislative body must be approved by the City Council at a regular meeting (BMC 2.06.150).
- Delegation of oversight functions to the Open Government Commission (OGC). The members of the FCPC also sit as members of OGC (BMC 2.06.190).



**G. USE OF THE CITY LOGO AND BUSINESS CARD POLICY**

Use of the City logo, branding or collateral is restricted to communications generated from a City department. The logo may not be used for any other purposes. Commissioners may not use the City logo for any purpose that may imply or give the impression of City approval, sponsorship, representation, or coordination of any communication or activity.

Official City stationery may be used only for official commission correspondence such as memos authored by the secretary or a commission-approved letter or report to the City Council.

The City of Berkeley does not provide business cards for members of appointed boards and commissions. Commissioners are prohibited from using the city logo, branding, or collateral to create their own business cards.

**CHAPTER VI. COUNCIL REPORTS AND REPORTS TO COUNCIL**

**CHAPTER VI. INDEX**

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**E. Resolutions/Ordinances Accompanying Reports ..... 70**

The City Council values commissions and commission recommendations are an important part of Council’s consideration of issues. Reports are how Council reviews and considers commission recommendations and these reports should reflect the care, analysis, and effort commissions put into studying and discussing the topic. High quality reports are an essential element of providing recommendations and information to Council. Following these guidelines will help commissioners create better reports.

**A. AGENDA PROCESS (OPEN GOVERNMENT ORDINANCE AND A.R. 5.1)**

Each year the Council adopts a schedule establishing the specific dates of all regular meetings and recess periods. The agenda schedule is structured to provide the City Council with copies of their agenda packet 12 days prior to the Council meeting. This allows Councilmembers and the public time to review the agenda material in order to be fully prepared to discuss and consider the agenda items.

The City Clerk is the coordinator for the agenda process. The City Clerk routes commission reports and the accompanying City Manager report, if any, to reviewers in the City Manager and City Attorney departments. The City Manager cannot prevent a commission report from going to the Council, but the review process may result in a request that the commission clarify some portion of its report in order to provide the Council with the best information possible.

The City Clerk posts City Council agendas, annotated agendas, and all reports including proposed resolutions and ordinances on the City's website. The City Clerk also provides live captioned webcast and video archives of Council meetings. The City offers e-mail subscription notification for newly posted Council information at [www.cityofberkeley.info/subscribe](http://www.cityofberkeley.info/subscribe). Commissioners who wish to be notified when new electronic copies of agendas and annotated agendas are posted may subscribe to the City's e-mail subscription service.

**B. COUNCIL AGENDA SCHEDULE**

Coordinating, organizing, and assembling the large volume of information and reports that comprise the agenda packet is a complex task. The City Manager establishes an agenda schedule setting forth the various deadlines for submittal of agenda items based on meeting dates of the Council Agenda Committee and the City Council.

Commissions must comply with the agenda submission deadlines when planning to make a recommendation to the City Council. Reports to the City Council are due to the City Clerk 33 days prior to the meeting. Reports not submitted in accordance with this schedule will be delayed to a later meeting date.

## C. COMMISSION REPORTS TO COUNCIL

### 1) Method of Communication

A commission transmits its findings and responds to referrals and other communications to the City Council through a report on the City Council agenda. Commissions must stay within their purview when making recommendations to Council.

When the City Manager differs with the recommendations of a commission or wishes to include additional or different information, the City Manager may present a City Manager Companion Report to the Council highlighting alternate recommendations or additional information. Otherwise, the City Manager section of the report should state “City Manager [concur with/takes no position on] the content and recommendations of the commission’s report.”

Alternately, commissions may relay their position on an issue to the Council in the form of a letter. These communications to Council must be approved by the full commission. The letter is then signed by the chair, and the secretary submits it to the City Clerk as a communication. These are less formal documents that do not carry the weight of an officially adopted recommendation. This type of communication is typically used when, for example, an item on the Council agenda is of interest to the commission and under their purview, but the timeline doesn’t allow the commission an adequate opportunity to prepare a formal report.

For reports on the Council agenda, commissions may prepare the types of reports described below. These reports go through the agenda review process and are distributed to Council as part of the agenda packet. All three types of commission reports to Council shall state the full commission motion and the listing of how each commissioner voted. It must also state whether or not any commissioner was recused and the reason for recusal.

#### EXAMPLE:

At the [date of commission meeting] meeting, the commission took the following action:

**Action:** M/S/C (Fernandez/Jones) to [input text of the motion...].

**Vote:** Ayes – Nguyen, Okafor, Garcia, Lee, Fernandez; Noes - Wong, Jones; Abstain – Stein; Absent – Smith (Recused: lives within 300 feet of project).

#### Information Reports

This type of report should be used when the subject matter seeks to advise or inform the Council on a subject but does not request any action by Council. Information reports do not include formal recommendations.

#### Consent Calendar Reports

This type of report must include a specific recommendation for Council approval, adoption, or authorization. All items on the Consent Calendar are



approved with a single vote of the Council. Items that are controversial or complex should not be submitted for the Consent Calendar. This type of report should be used when an item needs to be acted on by Council but is routine in nature. In a Consent item, the City Manager section of the report should state “City Manager [concurrs with/takes no position on] the content and recommendations of the commission’s report.”

### Action Calendar Reports

This type of report is for items that require a full dialogue with Council, have particularly high public interest, or are complex in nature. These reports must include a specific recommendation for Council approval, adoption, or authorization. If the City Manager submits a companion report to a commission report, typically with an alternative recommendation, both reports must be submitted for the Action Calendar and will appear together as items (a) and (b) under the same item number.

## 2) **Basic Steps for Communicating to Council**

1. An item is placed before the commission by Council referral, staff, or a commissioner.
2. The commission agendaizes the topic.
3. The commission discusses the agendaized item and votes to send its recommendation or findings to Council.
4. The commission drafts a report, approving the text by motion and vote, and sends it to the secretary (it may take several commission meetings to fully discuss an item and agree on findings).
5. The secretary enters the report into the agenda review process.



## 3) **Creating Council Reports**

The commission is responsible for drafting the text of the report and providing the final text to the secretary. With the permission of the full commission, final editing duties may be assigned to specific commissioners.

## 4) **Formatting and Submitting Council Reports**

The secretary of the commission is responsible for formatting and submitting the commission report as approved by the commission and upon final review by the commission chair or his or her designee. The chair of the commission should be listed on the report on the “Submitted by:” line in the heading. The City Manager may ask the commission for additional information and/or clarification before placing the report on the agenda.



## 5) **Timeline**

Once the commission provides the complete text of the report to the secretary, the secretary ensures that it is in the proper format and submits it through the department director to the City Clerk. The secretary must submit the commission report into the agenda workflow no later than three weeks following receipt of the final report text.



Once the commission report has been placed on a draft City Council agenda, the Agenda Committee has the following options with regards to scheduling the commission item:

1. For a commission item that does not require a companion report from the City Manager, the Agenda Committee may 1) move a commission report from the Consent Calendar to the Action Calendar or from the Action Calendar to the Consent Calendar; 2) re-schedule the commission report to appear on one of the next three regular Council meeting agendas that occur after the regular meeting under consideration. Commission reports submitted in response to a Council referral shall receive higher priority for scheduling; or 3) allow the item to proceed as submitted.
2. For any commission report that requires a City Manager companion report, the Agenda Committee will schedule the item on a Council agenda for a meeting occurring not sooner than 60 days and not later than 120 days from the date of the meeting under consideration by the Agenda Committee. A commission report submitted with a complete companion report may be scheduled pursuant to the paragraph above.

As stated above, the deadline to submit reports for the Council agenda is 33 days prior to the meeting. Departments may have additional deadline requirements. As a general guideline, a commission should allow at least three months for an item or recommendation to be considered and adopted by the commission, then entered into the Council agenda process, and ultimately be heard at a City Council meeting.

#### 6) **Votes Needed to Take Action**

On rare occasions, a commission may be unable to achieve the number of votes needed to take official action in time for consideration of an issue by the City Council. In such cases, a commission may communicate the opinion of fewer commissioners than the officially required majority. Nothing in this section shall be construed to prevent the City Manager from reporting what occurred at the commission meeting.

#### Scenario:

A commission of nine Actual Appointees, where there are only five commissioners present at the meeting (thus achieving the required quorum of five). These five commissioners disagree: three voting for a proposal and two against. If time permits, the matter would be held until all commissioners were present and a definitive recommendation voted upon. If, however, the matter is time sensitive, the commission could take action to communicate the facts to the Council and indicate those voting for each of the opposing viewpoints.

## 7) Reports to Council: Structure/Content/Format

It is the commission's responsibility to provide complete, concise, and accurate reports to the Council so that the City Council fully understands the issue and what action, if any, it is being asked to take.

It is the responsibility of the commission to ensure that each report includes:

- A clear recommendation on what action the commission is asking the Council to take.
- A realistic evaluation of the financial implications of the recommendation and, if possible, potential funding sources.
- The reason(s) for making the recommendation.
- The facts on which the recommendation was made.
- The resolution or ordinance in proper format, if needed.

High quality commission reports and recommendations take into account the Council's need to view an issue from as many perspectives as possible. The Council must fully understand the relevant background and implications, including costs, if possible, of each action it is asked to take. Submission of high quality reports will enable the City Council to act knowledgeably and expeditiously on commission recommendations and will reduce the likelihood of the Council referring the report back to the commission for clarification.

High quality reports entail the following key procedural aspects:

- Review by other affected commissions, if any, prior to submission to the City Council.
- Proper report format and preparation.
- Legal review when appropriate.
- Consideration of potential monetary costs.

The format requirements for reports to the Council are the same for commissions as for staff. It is the secretary's responsibility to follow format requirements when finalizing a commission report. Format templates and examples are available to secretaries through the City's intranet.



Commission reports may be considered incomplete in one or more of the following instances.

- When the discussion and evaluation of the financial implications and, if possible, funding sources are not included.
- When the report has not been reviewed by another commission(s) whose review is essential if the Council is to make an informed decision.
- When an improper format has been used.
- When the recommendation or implications of the recommendation are unclear because of inadequate information.
- If any attachments such as resolutions, letters, or supporting documentation are missing.

The secretary must ensure that the City Manager companion report is submitted in accordance with established timelines so that it does not delay the commission item.

**8) Review by Other Commissions**

Often the spheres of interest of various commissions overlap, depending on the specific issue. Before a commission recommends action on an issue, it should invite other commissions with an interest in the topic to review the subject and offer a response, whether or not the Council specifically requested such coordination.

Scenario 1

The Children, Youth, and Recreation Commission (CYRC) is working on a recommendation regarding a children's cycling program. The CYRC should have their recommendation reviewed by the Transportation Commission and Public Works Commission to determine if there are any safety, policy, or infrastructure improvements that might need to be considered.

Scenario 2

The Commission on Aging is planning to recommend the funding of a health care clinic for seniors. It should refer the proposal to the Community Health Commission and the Mental Health Commission.

If a referral to another commission has been made, the commission writing the report indicates at the beginning of the report the fact that it made a referral and what the response to the referral was, if any.

A typical process for commission coordination would be for Commission A to develop a draft report, pass a motion to refer the draft report to Commission B and others as necessary to review the report and submit comments back to Commission A, which incorporates comments, revises the report as necessary, and submits it to Council. All of the information sharing in this sample process is conducted exclusively through the commission secretaries.

**D. DISTRIBUTION WITH COUNCIL AGENDA PACKET**

Reports received by the City Clerk by the established deadline that are ready for inclusion in the Council packet will be distributed by the City Clerk to the City Council as part of the agenda packet.

**E. RESOLUTIONS/ORDINANCES ACCOMPANYING REPORTS**

Most actions taken by the Council do not require a resolution or ordinance. When a resolution or ordinance is absolutely necessary and required for legal or financial reasons, commission secretaries should obtain the proper template from the City Clerk for inclusion with a commission's report. These guidelines should be followed.

- The secretary will ensure that all resolutions and ordinances follow the format provided in the City Clerk Department templates posted on the intranet.



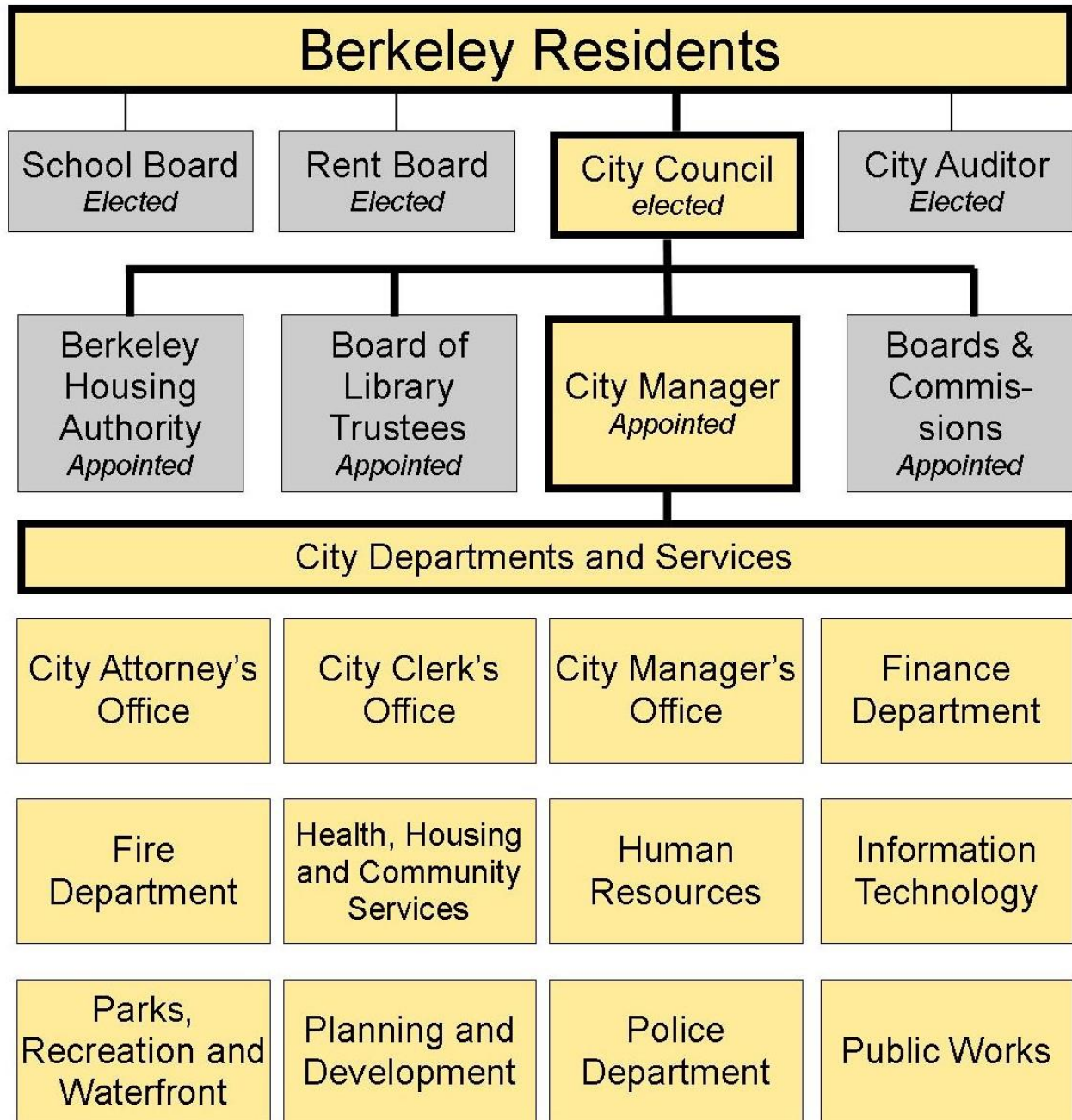
- If the Commission is proposing an ordinance for adoption that will be codified in the BMC, they must follow the formatting procedures provided by the City Clerk Department on the intranet. In addition, the ordinance must be forwarded to the City Attorney and City Clerk for review prior to submitting the final report to the City Clerk for the agenda process.
- Resolutions and ordinances must be carefully proofread for accuracy.



**APPENDICES**

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APPENDIX A. BERKELEY MUNICIPAL ORGANIZATION CHART



**APPENDIX B. BERKELEY CITY CHARTER SECTION 36****Charter of the City of Berkeley****Section 36. Officers not to be interested in contracts or franchises.**

No officer or employee shall be directly or indirectly interested in any contract, work or business of the City, or in the sale of any article, the expense, price or consideration of which is paid for from the treasury or by assessment levied by any act or ordinance; nor in the purchase or lease of any real estate or other property belonging to the City or which shall be sold for taxes or assessments or by virtue of legal process at the suit of the City. No officer shall be in the employ of any public service corporation in the City or of any person having any contract with the City or of any grantee of a franchise granted by the City.

Provided, however, the prohibitions in this Section contained shall not apply to the following:

- (a) Members of advisory Boards, Commissions, or Committees of the City, who serve without salary or other compensation; provided, however members of Boards, Commissions or Committees which perform functions other than advisory functions shall not be included within this exception.
- (b) Officers or employees of the State of California or of any department, division, or constitutionally created agency thereof.

Any contract or agreement made in contravention of this Section shall be void.

Any violation of the provisions of this Section shall be deemed a misdemeanor.

The Council shall enforce the provisions of this Section by appropriate legislation.

**APPENDIX C. BMC CHAPTER 3.64 INTERPRETING CITY CHARTER SECTION 36  
CONCERNING MEMBERSHIP ON BOARDS AND COMMISSIONS****3.64.010 Findings.**

- A. For many years the Berkeley City Council has relied on an extensive system of advisory boards and commissions in the formulation of public policy, and approximately thirty commissions, with more than two hundred fifty members meet on a regular basis to reflect and express a broad spectrum of citizen opinion on civic issues.
- B. The City benefits from this network of democratic participation because it provides a structured setting within which the viewpoints and experience of citizens can supplement the technical expertise of City staff professionals. In addition this system allows the City to benefit from the wide variety of experience and specialized knowledge of selected citizens--in Berkeley, often at the cutting edge of their fields--that are sources of innovation and sensitive response to public needs.
- C. The citizens on Berkeley's boards and commissions serve out of the desire to discharge civic responsibility. They are not (with the exception of the Police Review Commission and the Rent Stabilization Board) paid for their services and, in most cases, are not reimbursed for expenses they incur.
- D. A commissioners' responsibilities are substantial, and entail a significant expenditure of time. Often, they are called upon to make difficult judgments and arrive at unpopular conclusions.
- E. For this system of democratic participation to continue to function effectively, it is essential that citizens who volunteer their services to the City not incur unwarranted personal risk as they participate on boards and commissions.
- F. Charter Section 36 prohibits an officer from being directly or indirectly interested in any contract, work, or business of the City. Although this section exempts members of advisory boards, commissions, or committees who serve without salary or other compensation, members of boards, commissions, or committees which perform functions other than advisory functions are subject to this prohibition.
- G. Conflict of interest legal issues, especially those raised under the City Charter Section 36, are extremely complex, turn on subtle nuances of fact, and the legal terms used often have meanings different from their common sense construction.
- H. The ambiguities in Section 36 deter many qualified citizens from serving as commissioners for fear that they may inadvertently violate the Charter.
- I. There is therefore a need to clarify the provisions of the City Charter and to balance the City's interests in preventing the use of public office for private gain against the City's need for diverse community representation on its boards and commissions.
- J. City Charter Section 36 (b) authorizes the council to enact appropriate legislation to implement the provisions of City Charter Section 36 and Charter Section 118 authorizes the council to enact legislation which may be necessary and proper to carry out any of the provisions of the Charter.

- K. Enactment of legislation clarifying and implementing Section 36 is necessary and proper for the reasons set forth above. (Ord. 5694-NS § 1, 1985)

### **3.64.020 Definitions.**

For purposes of determining whether a member of a board and commission has a prohibited interest in a contract, work or business of the City within the meaning of Charter Section 36 and this chapter, the following definitions shall apply:

- A. "Advisory board" or "commission." All boards and commissions of the City shall be deemed advisory except in instances when the board or commission is performing other than an advisory function as defined in subsection B below.
- B. "Performance of other than advisory functions." A board or commission will be deemed to perform other than an advisory function and to be subject to this chapter and Section 36 only with respect to any contract, work or business of the City, the making or securing of which is influenced either directly or indirectly by the board or commission. A board or commission directly or indirectly influences the making or securing of a contract, work or business of the City whenever it engages in actions, including but not limited to, formally or informally reviewing a contract, reviewing a bid specification or request for proposal, discussing funding of an activity, discussing priorities for funding, or making general policy, implementation of which results in the making or securing of a contract, work or business for the City.
- C. "Interested; Exclusions." A City employee or member of a board or commission shall not be deemed to be "interested" in a contract, work or business of the City if his or her relationship with the contracting party or entity constitutes a "remote interest" within the meaning of Government Code Sections 1091 and 1091.5, the fact of such interest is disclosed to the department, board or commission of which he or she is a member and noted in its official records, and the employee or member with such interest disqualifies himself or herself from participating in any manner, either directly or indirectly, in making or influencing any decision related to the contract, work or business of the City in which he or she has a remote interest. (Ord. 5694-NS § 2, 1985)

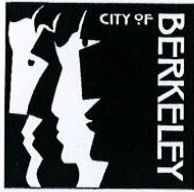
### **3.64.030 Contract, work or business of City--Prohibitions.**

No member of a board or commission shall be directly or indirectly interested in any contract, work or business of the City as defined in 3.64.020C herein if the board or commission of which he or she is a member has performed other than advisory functions as defined in Section 3.64.020B herein, with respect to such contract, work, or business of the City. (Ord. 5694-NS § 3, 1985)

### **3.64.040 Chapter declaratory of existing law.**

This chapter is declaratory of and does not constitute any change in existing law. (Ord. 5694-NS § 4, 1985)

## APPENDIX D. CITY ATTORNEY MEMO REGARDING CONFLICT OF INTEREST



Office of the City Attorney

June 4, 2015

To: Boards and Commissions

From: Zach Cowan, City Attorney 

Re: Avoiding Conflicts of Interest Under Section 1090 in the Context of Funding Recommendations

This office has been asked for advice as to the process for a board or commission should use to ensure compliance with Government Code section 1090 in making recommendations about funding community agencies or other potential recipients of City funds, including state and federal funds.

Government Code section 1090 states:

The Government Code prohibits public officers, acting in their official capacities, from making contracts in which they are financially interested. Government Code Section 1090 provides in relevant part:

Members of the Legislature, state, county, district, judicial district, and city officers or employees shall not be financially interested in any contract made by them in their official capacity, or by any body or board of which they are members.

If the officer is a member of a legislative body that executes or finally approves the contract, this prohibition extends to the entire body on which he or she serves. *Thomson v. Call* (1985) 38 Cal.3d 633, 649, cert denied (1986) 474 US 1057. Section 1090 "also applies to members of advisory bodies, if they participate in the making of a contract through their advisory function." (Conflicts of Interest (Cal. Dept. of Justice, pamph. 2010), p. 57, See *City Council (San Diego) v. McKinley* (1978) 80 Cal.App.3d 204; 82 Ops.Cal.Atty.Gen. 126 (1999).) The word "made" is used in "the broad sense to encompass such embodiments in the making of a contract as preliminary discussions, negotiations, compromises, reasoning, planning, drawing of plans and specifications and solicitation for bids." *Millbrae Ass'n for Residential Survival v. City of Millbrae* (1968) 262 Cal.App.2d 222, 237.

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TDD: 510.981.6903

Fax: 510.981.6960

Avoiding Conflicts of Interest Under Section 1090 in the Context of Funding Recommendations  
Page 2

"[S]ection 1090 is to be 'strictly enforced'." 88 Cal. Op. Att'y Gen. 106 (2005). "The consequences of a violation of section 1090 can be quite harsh: Where a prohibited interest is found, the affected contract is void from its inception and the official who engaged in its making is subject to a host of civil and (if the violation was willful) criminal penalties, including imprisonment and disqualification from holding public office in perpetuity..."

*Eden Twp. Healthcare Dist. v. Sutter Health* (2011) 202 Cal. App. 4th 208, 219-20; See 89 Cal. Op. Att'y Gen. 121 (2006).

The California Attorney General's Office has opined that an officer or employee of a nonprofit corporation that is a contracting party qualifies as a "financial interest". *Conflicts of Interest* (Cal. Dept. of Justice, pamp. 2010), p. 62. However, state law has excepted two categories of "financial interests" from the reach of Section 1090, generally referred to as "remote interests" and "noninterests." Section 1091, subdivision (b), defines a series of remote interests, including "(1) That of an officer or employee of a nonprofit entity exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code (26 U.S.C. Sec. 501(c)(3)),..." Both of the organizations at issue, BFHP and YEAH, are 501(c)(3) organizations, and the commissioners, respectively, fall into employee and board member roles with the two non-profits.

Government Code section 1091(a) provides a specific process for handling situations falling within the remote interest:

An officer shall not be deemed to be interested in a contract entered into by a body or board of which the officer is a member within the meaning of this article if the officer has only a remote interest in the contract **and** if the fact of that interest is disclosed to the body or board of which the officer is a member and noted in its official records, and thereafter the body or board authorizes, approves, or ratifies the contract in good faith by a vote of its membership sufficient for the purpose without counting the vote or votes of the officer or member with the remote interest.

Government Code section 1091(c) further conditions the remote interest exception as follows: "This section is not applicable to any officer interested in a contract who influences or attempts to influence another member of the body or board of which he or she is a member to enter into the contract." (Cal. Gov't Code § 1091.) See *Eden Twp. Healthcare Dist.*, *supra*, 202 Cal. App. 4th at p. 219-20 [Where an interest is remote, a board member may comply with section 1090 by (1) making full disclosure of the interest, noted in the entity's official records, and (2) abstaining from voting on the affected contract or influencing other board members in any way.]

The California Attorney General's Office has interpreted Section 1091 as requiring a full recusal process.

Avoiding Conflicts of Interest Under Section 1090 in the Context of Funding Recommendations  
Page 3

It is to be noted that section 1091 of the Government Code speaks in terms of a board authorizing, approving or ratifying a contract 'in good faith by a vote of its membership sufficient for the purpose without counting the vote or votes of the officer or member with the remote interest.

This office has characterized the requirements of section 1091 as meaning that the member **must not only disclose his interest in the proposed contract and refrain from attempting to influence other members, but that the member should completely abstain from any participation in the matter.** (See 65 Ops.Cal.Atty.Gen. 305, 307 (1982).)

Such complete abstention would also appear to be required to insure compliance with the PRA if the remote interest also falls within the purview of the act as a financial interest. (See Gov. Code, § 87100; FPPC Reg. § 18702.)

67 Cal. Op. Atty Gen. 369, at p. 377, fn. 8 (1984); See 78 Cal. Op. Atty Gen. 230 (1995) Under this process, simply voting to abstain is not sufficient. The officer must identify the scope of the contract "matter", and recuse him or herself from ***all*** discussions and actions that relate to the contract matter.

Section 36 of the City's Charter contains a prohibition that is similar to Section 1090:

No officer... shall be directly or indirectly interested in any contract, work or business of the City... No officer shall be in the employ of any public service corporation in the City or of any person having any contract with the City or of any grantee of a franchise granted by the City.

The City implemented Section 36 through BMC Chapter 3.64. Section 3.64.020.C further defines the recusal process for commissioners with a remote interest. "A ... member of a board or commission shall not be deemed to be 'interested' in a contract, work or business of the City if his or her relationship with the contracting party or entity constitutes a 'remote interest' within the meaning of Government Code Sections 1091 and 1091.5, the fact of such interest is disclosed to the department, board or commission of which he or she is a member and noted in its official records, **and the employee or member with such interest disqualifies himself or herself from participating in any manner, either directly or indirectly, in making or influencing any decision related to the contract, work or business of the City in which he or she has a remote interest.**"

What steps are required to comply with Section 1090 in any given case will depend on the potential conflicts that may exist. Some relevant factors are:

- Whether a commissioner is an employee of an agency that has applied for or might be a recipient of funding;



Avoiding Conflicts of Interest Under Section 1090 in the Context of Funding Recommendations  
Page 4

- Whether a commissioner is a non-compensated board member of an agency that has applied for or might be a recipient of funding;
- Whether a commissioner is a bob-compensated board member of an agency that has applied for or might be a recipient of funding;
- Whether in any instance the agency with which a commissioner is affiliated is a 501(c)(3) nonprofit agency;
- Whether the agency with which the commissioner is affiliated is competing with other agencies for the same pot of funds or whether the funds have been divided up into sub-groups for different purposes before the commissioner becomes involved;
- Other, less foreseeable issues.

In order to avoid conflicts under Section 1090, the following rules should be observed. In addition, we strongly encourage commission staff to consult with this office before beginning any funding allocation process to evaluate the best way to avoid conflicts of interest under Section 1090.

1. If an agency with which a commissioner is affiliated is identified as a potential recipient of funds, either directly or as a subrecipient, the commissioner must disclose his or her affiliation for the record (it will be noted in the minutes) and recuse his or herself before any discussion. Recusal involves announcing the potential conflict, and then leaving the room until the discussion of and any action on the commission recommendations is concluded. A commissioner is affiliated with an agency if the commissioner is a board member, officer, or employee of the agency, or a family member is an employee of the agency.
2. If an agency with which a commissioner is affiliated provides services within a funding category recommended by the commission, and the recommendation implicitly suggests an allocation of funds for that agency or could reasonably be read to do so, the commissioner must recuse his or herself, as described in paragraph 1.
3. In discussing commission recommendations that do not fall within paragraphs 1 or 2 above, if an agency with which a commissioner is affiliated provides services that could be funded by a recommendation, the commissioner should be careful not to propose or mention his or her affiliated agency. If the commissioner does mention the agency, it will be disqualified from receiving any funds.

**APPENDIX E. BMC 3.02 COUNCIL DETERMINATION AS TO INCOMPATIBILITY;  
RECUSAL; AUTOMATIC VACANCY****3.02.050**

- A. Whenever the City Attorney issues a written opinion that a member of any City board or commission is engaged in an employment, activity or enterprise for compensation which is inconsistent, incompatible or in conflict with his or her duties as a board or commission member, that opinion shall be immediately transmitted to the City Clerk and the affected board or commission member.
- B. If the affected board or commission member notifies the City Clerk in writing of his or her disagreement with the City Attorney's opinion within 14 days after the opinion is issued, the City Clerk shall place the matter on the Council's agenda at the earliest possible time and shall notify the affected board or commission member of the date and time of the meeting at which the Council will consider the matter.
- C. The Council shall allow the affected board or commission member an opportunity to address it and shall then determine whether to affirm or overrule the City Attorney's opinion.
- D. If the Council overrules the City Attorney's opinion, the affected board or commission member shall be conclusively considered not to be engaged in an employment, activity or enterprise for compensation which is inconsistent, incompatible or in conflict with his or her duties as a board or commission member and no further action shall be taken.
- E. If the Council affirms the City Attorney's opinion, the board or commission member's seat shall be deemed automatically vacated as of the date of the Council's decision, unless the City Attorney's opinion states, or the Council determines, that the incompatibility is not pervasive, in which case the board or commission member may remain on the board or commission but shall recuse himself or herself from decisions relating to his or her employment, activity or enterprise for compensation.
- F. From the date the City Attorney's opinion is issued and transmitted to the board or commission member who is its subject, until completion of Council proceedings under this section, the board or commission member shall recuse himself or herself from decisions relating to his or her employment, activity or enterprise for compensation.

Prior to accepting any appointment to any board or commission, the nominee shall disclose to the appointing Councilmember every employment, activity or enterprise for compensation that falls within the scope of the authority of the board or commission for which he or she has been nominated. (Ord. 6643-NS § 1, 2001)

**APPENDIX F. RESOLUTION NO. 53,989-N.S. NOTICE TO POTENTIAL CANDIDATES FOR BERKELEY ELECTIVE OFFICE AND INDIVIDUALS INTERESTED IN SERVING AS MEMBERS OF CITY BOARDS AND COMMISSIONS**

**RESOLUTION NO. 53,989 —N.S.**

**NOTICE TO POTENTIAL CANDIDATES FOR BERKELEY ELECTIVE OFFICE AND INDIVIDUALS INTERESTED IN SERVING AS MEMBERS OF CITY BOARDS AND COMMISSIONS**

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

WHEREAS, conflict of interest issues are often complex, creating ambiguities which may deter many qualified and interested citizens from serving as elected officials or members of the City’s boards and commissions; and

WHEREAS, there is a need to alert potential candidates for office and prospective appointees to boards and commissions of the existence of such conflict of interest laws and to encourage such individuals to seek out advice when questions arise pertaining to their particular situation.

NOW, THEREFORE, Be It Resolved by the Council of the City of Berkeley that the City Clerk be instructed to provide the following notice to individuals expressing interest in candidacy for Berkeley elective office and for appointment to the City’s boards and commissions:

“The purpose of this notice is to alert you to State and local conflict of interest provisions. These provisions may prohibit you, members of your family, or your employer, from having any financial relationship - - such as a contract or consultant position -- with the City, the Berkeley Housing Authority, and the Berkeley Redevelopment Agency, during the term of your office; for members of the City Council such prohibition can extend in certain instances for a one-year period following the conclusion of the term of office.

If a prohibited interest exists, the financial relationship may have to be terminated; for example, a contract may not be renewed or created, a consultant position may have to be withdrawn, your employer or a family member may be required to cease conducting business with the City.

Statements of Economic Interest are required to be filed by elected officials and appointed members of boards and commissions. The information disclosed in such statements provides the public with information concerning the financial interests of those serving in a public or official capacity, as well as assisting in the determination of whether certain of the interests disclosed require appropriate further action. The specific prohibitions applicable to potential conflicts of interest are not deemed “satisfied” or “cured” simply by filing the economic interest statements and disclosing the relevant financial interests; such a filing is a state-mandated requirement and is separate and distinct from any prohibitions that may be imposed as a result of an existing or future financial relationship with the City.

If you are uncertain as to whether existing or future financial interests you, your family, or your employer may have with the City constitute a potential conflict which would require termination or other remedial action upon your assuming elective office or upon your appointment to a City board or commission, you are encouraged to seek further information from the City Attorney’s Office by providing a written description of your financial interest or relationship with the City and the elective or appointive position which you are seeking. It is your obligation to seek such advice and to bring any such potential conflicts to the City’s attention. The City will not independently investigate the background or financial statements of candidates for elective or appointive office in order to detect potential conflicts of interest.”

In effect: November 3, 1987

# APPENDIX G. ADMINISTRATIVE REGULATION 3.2 GOVERNING STIPENDS FOR COMMISSIONERS

|                          |            |
|--------------------------|------------|
| <b>A.R. NUMBER:</b>      | <b>3.2</b> |
| <b>ORIGINAL DATE:</b>    | 7/01/94    |
| <b>POSTING DATE:</b>     | 5/12/2015  |
| <b>PAGE 1 OF 6 PAGES</b> |            |

## CITY OF BERKELEY ADMINISTRATIVE REGULATIONS

**SUBJECT: Stipend and Reimbursement in Lieu of Expenses for Members of Certain Boards, Commissions and Committees**

### PURPOSE

The purpose of this Administrative Regulation is to establish procedures for reimbursing expenses to certain board, commission, and committee members (including temporary appointees) who might otherwise incur an economic hardship.

### POLICY

The City Council, by Resolution No. 64,831-N.S. (known as the Stipend Resolution April 20, 2010), authorizes payment in lieu of expenses to members of all Council-appointed boards, commissions, committees, task forces and joint subcommittees who meet certain household income criteria in order to remove economic hardship barriers from citizen participation. Subcommittees of commissions, which are designated by the advisory body and not by Council appointment, are not eligible for reimbursement.

An eligible member is authorized to receive:

- a) \$40 for each official meeting attended, not to exceed four (4) meetings each month;
- b) reimbursement for actual child care expenses incurred while he/she attends meetings;
- c) reimbursement for actual expenses paid to an attendant to provide care for a dependent elderly person while he/she attends meetings; and
- d) reimbursement for actual expenses incurred for disabled support services in order to participate fully in board, commission, or committee meetings.

### DEFINITIONS AND REGULATIONS

An "official meeting" is defined as a duly noticed, properly agenzized, regular meeting or special meeting of the full board or commission at which a quorum of the full membership must be present in order for the meeting to be held.

For a meeting that is cancelled, claims may only be submitted if it is for an official meeting where the attendees and staff Secretary believed that the meeting would proceed as scheduled, and for which Commissioners and the Secretary actually showed up and waited a reasonable period beyond the meeting start time for the quorum to be met before canceling.

A receipt or invoice signed by the person providing such child care, elderly dependent care or disabled support services must accompany a request for reimbursement. Invoices must include date, services provided, vendor contact information, and dollar amount.

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The Human Welfare and Community Action Commission provides for alternate representatives of the poor to be elected or to be appointed when a vacancy occurs. Alternate representatives of the poor shall be eligible for stipend payments when serving in place of the principal member.

Pursuant to Berkeley Municipal Code Section 3.32.060 Police Review Commissioners shall receive \$3/hr for their time and work investigating complaints, reviewing policies and practices, and attending meetings, but in no case shall compensation for any one commissioner exceed \$200 per month.

The City Clerk Department is responsible for keeping this Administrative Regulation up-to-date and shall include notification of this policy with each appointment letter mailed.

### COMMISSIONER'S CRITERIA AND RESPONSIBILITIES

1. Eligibility criteria for stipend and reimbursement:
  - a) Persons eligible to receive reimbursement in lieu of expenses are those board, commission, or committee members whose annual family income reported individually, or as filed jointly for federal income tax purposes is below \$20,000 per year.
  - b) Commissioners who are minors (under 18 years old) must have eligibility declaration forms co-signed by a parent or legal guardian attesting that the combined household income is under \$20,000.
  - c) If a commissioner is paid \$600 or more in stipend payments in one calendar year, an IRS Form 1099 will be generated by the Finance Department.
2. To establish eligibility, Commissioners must file the Annual Declaration Form (attached) with the secretary of their board, commission or committee. Commissioners must file a new declaration form annually prior to May 31st in order to maintain eligibility.
3. In order to pay a Commissioner's attendant directly, a completed IRS Form W-9 must be on file in the Finance Department's General Services Division. If an attendant, support service, or child care provider is paid \$600 or more in one calendar year, a Form 1099 will be generated by Finance. In order to be reimbursed for payments made to an attendant, support service, or child care provider, a Commissioner must be set up as a vendor by Finance - General Services.
4. Eligible members who are disabled and are seeking reimbursement for support services must also complete the support services statement portion on the Annual Declaration Form. If the member's needs change, he/she must immediately notify the secretary. Otherwise, the statement certifying the need for support services will continue to be in effect for the duration of the member's term of appointment.
5. Pursuant to Berkeley Municipal Code Section 3.66.040, low-income status for members of the Commission on Disability is not a prerequisite for reimbursement of attendant care expenses.

**RESPONSIBILITIES OF SECRETARY**

1. It is the responsibility of the secretary of each board, commission, and committee to submit quarterly payment forms to the Finance, Accounts Payable Division, by the 10th of each month (January, April, July, and October). Payment forms for stipends paid for attendance at meetings held pursuant to the Mental Health Services Act are filed monthly. Every submission must include the following:
  - a) FN024 Voucher
  - b) A.R. 3.2 Payment Form
  - c) Invoices for support services, dependent care, and/or child care, if applicable.
  - d) Verification that each meeting for which reimbursement or stipend is claimed actually occurred.
  - e) A copy of the Annual Declaration Form
  - f) A spreadsheet showing the year-to-date payments for each commissioner.
2. The completed forms must be attached to a FN024 Form and forwarded for review to the Finance, Accounts Payable Division, by the 10th of each specific month so payment can be made. A separate FN024 and supporting documentation must be submitted individually for each member.
3. The secretary shall keep copies of all Annual Declaration Forms on file, attaching a copy each time an FN024 is submitted to the Finance, Accounts Payable Division, and when submitting quarterly statements.
4. Each secretary will advise the board, commission, and committee members of this policy and respond promptly to commissioner inquiries regarding payment status. Commissioners should not contact the Finance Department or City Clerk Department for payment status. (For appropriate background, secretaries should check with the City Clerk or the City website for the latest amendment of the Stipend Resolution).

|                                                                                                     |                                                                                                                                       |
|-----------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>RESPONSIBLE DEPARTMENT:</b><br/>City Clerk</p> <p><b>TO BE REVISED:</b><br/>Every 5 years</p> | <p>Approved by:</p> <p><i>Maui Murrin</i><br/>_____<br/>Department Director</p> <p><i>Clinton Dean</i><br/>_____<br/>City Manager</p> |
|-----------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------|

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**ANNUAL DECLARATION FORM RESPECTING ELIGIBILITY FOR REIMBURSEMENT OF EXPENSES AS A MEMBER OF THE**

\_\_\_\_\_  
(Board/Commission/Committee)

Inasmuch as it is in the public interest to remove barriers, particularly those creating economic hardships for citizens participating on boards, commissions and committees, the City Council has determined that it is in the public interest to alleviate this hardship by authorizing payments in lieu of expenses for certain meetings and under certain conditions as indicated in Stipend Resolution No. 64,831-N.S.

I, \_\_\_\_\_ certify to the following:

- 1) That my annual family income reported individually, or as part of a joint Federal Income Tax Return, was less than \$20,000 for the Year \_\_\_\_\_;
- 2) I will file this declaration form every year no later than May 31st with the Secretary who will forward copies to the Finance Department; and
- 3) I will notify the Secretary as soon as I am aware that my family's current year income exceeds \$20,000 and request that my eligibility be canceled:

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Signature of Parent or Legal Guardian if Member is a Minor Date

\_\_\_\_\_  
Signature of Secretary Date

\* \* \*

**SUPPORT SERVICES STATEMENT**

I, \_\_\_\_\_, certify I am disabled and require the following support services in order to participate fully in commission meetings:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature Date

A.R. NUMBER: 3.2

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A.R. 3.2 PAYMENT FORM

Name of Commission: \_\_\_\_\_

Name of Commissioner: \_\_\_\_\_

Address of Commissioner: \_\_\_\_\_

Name of Secretary: \_\_\_\_\_ Phone: \_\_\_\_\_

Quarter Covered: Year \_\_\_\_  Jan - Mar  April - June  July - Sept  Oct - Dec

| Date of Meeting            | Payment Type* | Amount Due |
|----------------------------|---------------|------------|
|                            |               | \$         |
|                            |               | \$         |
|                            |               | \$         |
|                            |               | \$         |
|                            |               | \$         |
|                            |               | \$         |
|                            |               | \$         |
| <b>Total (this qtr.)**</b> |               | <b>\$</b>  |

\* Stipend, Support Services, Dependent Care, or Child Care

\*\*Attach Year-to-Date Spreadsheet to this Form

Please hold check for pick up: \_\_\_\_\_  
(Commissioner's Signature)

Prepared by: \_\_\_\_\_ Date: \_\_\_\_\_  
(Preparer's Signature)

Reviewed by: \_\_\_\_\_ Date: \_\_\_\_\_  
(Commission Secretary Signature)

**CERTIFICATION AND AUTHORIZATION FOR PAYMENT:** I hereby certify that the payments for all persons whose names appear herein have been properly authorized; and that the amounts indicated as due said persons are actually due and payable. Payment is approved against the appropriation indicated under delegated authority of the City Manager.

Authorized by: \_\_\_\_\_ Date \_\_\_\_\_  
*Authorized Department Signature (must be on file with AP)*



A.R. NUMBER: 3.2

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**COMMISSIONER STIPEND CHECKLIST**

This checklist is provided to expedite the processing of commissioner stipends. The Finance Department requires that all forms are completed and information is accurately prepared and submitted before stipends can be paid. Review the checklist prior to submitting stipend requests.

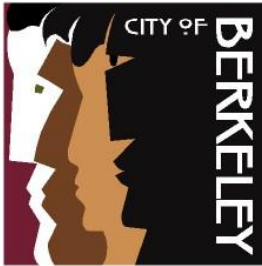
For Initial Payment to a Commissioner or Service Provider:

- Set up the Commissioner as a vendor with Finance - General Services
  - \* Use a W-9 form to set up the Commissioner as a vendor (available on Groupware)
- Set up the Vendor (support services, dependent care, or child care) as a vendor with Finance - General Services
  - \* Use a W-9 form to set up the service provider as a vendor

Required Documentation for Every Payment Submission (compile submission in this order):

- FN024 Voucher
  - \* Provide the full account code (consult your department budget analyst)
  - \* Verify in FUNDS that adequate funds are available in the account to pay the voucher
  - \* Clearly document the payment amount
  - \* Obtain all required signatures
- A.R. 3.2 Payment Form
  - \* Complete all fields
  - \* Obtain all required signatures
- Invoices for Support Service, Dependent Care, and/or Child Care Providers
  - \* Must include date, services provided, vendor contact information, and dollar amount
- Attendance Verification
  - \* A copy of the sign in sheet (showing date of meeting) or a screen print out from the commissioner's meeting webpage showing the date the meeting took place
  - \* Requests for reimbursement for cancelled meetings require written representation from the Commission Secretary
- Annual Declaration Form
  - \* The form is completed and signed and dated yearly by the commissioner and the Commission Secretary
  - \* A copy of the form is submitted with each reimbursement voucher
- Year-to-Date Summary Spreadsheet
  - \* Documents the fiscal year (year to date) expenditures of the individual commissioner
  - \* Remember that payments of \$600 or more result in the issuance of a Form 1099 from the Finance Department and may have tax implications

## APPENDIX H. RESPONDING TO REQUESTS FOR ACCOMMODATIONS FOR PERSONS WITH DISABILITIES



Department of Public Works  
Disability Compliance Program

### RESPONDING TO REQUESTS FOR ACCOMMODATIONS FOR PERSONS WITH DISABILITIES

#### Procedures for Members of Boards and Commissions and Staff

Members of boards, commissions, and the public who have a disability may have a right to receive reasonable accommodations, if necessary for them to participate in City meetings and programs. The Americans with Disabilities Act (ADA) and other laws mandate that the City provide programmatic access and effective communication in order that people with disabilities are able to participate in the City's programs, services, and activities including public meetings. (See "What the ADA Says About Accommodations" below.)

Individuals with disabilities who need accommodations to participate at a City of Berkeley meeting should make their requests to both the Commission Secretary and the Disability Compliance Program. An analysis will be initiated on a case-by-case basis to evaluate the individual's request and determine the appropriate method, if any, of accommodation. Individuals must make a disability-related accommodation request at least 72 hours in advance of their desired committee meeting and implementation date.

Secretaries to boards and commissions will respond to accommodation requests according to the procedures below:

1. Review of the accommodation request:
  - a. Nature of the accommodation and why the accommodation is needed.
  - b. Estimated duration of the requested accommodation.
  - c. Commission assignment or meeting for which the accommodation is requested.
  - d. Estimated duration of the assignment.
2. The Commission Secretary and the Disability Compliance Program determine whether an accommodation would comply with applicable law (including the Brown Act).
3. Jointly, the Commission Secretary and the Disability Compliance Program determine the most effective way to provide an accommodation, coordinates the details with the individual with a disability and, if an accommodation is provided, follows through to ensure its success.
4. The Commission Secretary and the Disability Compliance Program oversee the vendor payment process.

**CONSIDERATIONS FOR SELECTING ACCOMMODATION METHODS**

The person requesting an accommodation should make the request well in advance to allow adequate time for staff to make any arrangements. Whether a requested accommodation is approved or complies with applicable law may depend, in part, on whether staff has adequate time for the request. Staff may be able to provide an accommodation directly, but it takes time to arrange an accommodation from a service vendor, through the use of assistive technology (equipment), or through modification in the way an activity is conducted.

Accommodations must be reasonable in terms of administrative and technical practicability, availability, and cost. Staff will recommend the most effective method of accommodation that works for the individual with the disability.

Examples of accommodations include but are *not* limited to:

- Assistance with writing and other tasks for persons with manual impairments.
- Interpreters or captioning for persons with hearing impairments.
- Speakers for persons with speech impairments.
- Braille, large print, or electronic versions of printed text and descriptions or tactile representations of graphics for persons with vision or other print-related impairments.

The City provides accommodations for participation in regular or special board and commission meetings, meetings of subcommittees of boards and commissions, and meetings with City staff. The City does not provide accommodations for activities sponsored by another agency or for an individual engaged in community activities that are not official activities of the City.

## WHAT THE ADA SAYS ABOUT ACCOMMODATIONS

The ADA describes accommodations generally as “reasonable modifications in policies, practices, or procedures” (28 C. F. R. Section 35.130(b) (7)). Unless the City can demonstrate that a modification would fundamentally alter the nature of the service, program, or activity, the City must make reasonable modifications when necessary to allow an individual with a disability to participate in the City’s services, programs, and activities (28 C. F. R. Section 35.130(b)(7)).

Although the City is not required to provide devices or services that are of a personal nature (such as eyeglasses, hearing aids, or mobility devices), the ADA requires that communication with disabled members of the public be effective, including the provision of auxiliary aids and services necessary for effective communication with the City.

Regarding effective communication, the ADA’s specific language is:

- (a) A public entity shall take appropriate steps to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications with others.
- (b)(1) A public entity shall furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity conducted by a public entity.
- (2) In determining what type of auxiliary aid and service is necessary, a public entity shall give primary consideration to the requests of the individual with disabilities. (28 C. F. R. Section 35.160)

Auxiliary aids and services includes:

- (1) Qualified interpreters, note takers, transcription services, written materials, telephone handset amplifiers, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunications devices for deaf persons (TDD's), videotext displays, or other effective methods of making aurally delivered materials available to individuals with hearing impairments.
- (2) Qualified readers, taped texts, audio recordings, braille materials, large print materials, or other effective methods of making visually delivered materials available to individuals with visual impairments.
- (3) Acquisition or modification of equipment or devices.
- (4) Other similar services and actions. (28 C. F. R. Section 35.104 (in part))

## WHAT THE COMMISSIONERS’ MANUAL SAYS ABOUT ACCOMMODATIONS

Sections of the Commissioners’ Manual that discuss accommodations include:

- Accommodations for Commissioners or Board members with Disabilities  
Chapter II, Section C
- Stipend Information/Reimbursement for disabled support services  
Chapter II, Section D

- Requirement that commission meetings be accessible to the public  
Chapter IV, Section D
- Agenda format and accessibility of meeting facilities  
Chapter IV, Section E, Subsection (6)

**CONTACT INFORMATION**

Department of Public Works  
Disability Compliance Program  
1947 Center Street, 4<sup>th</sup> Floor  
Berkeley, CA 94704  
TEL: 510-981-6418  
TTY: 510-981-6347  
FAX: 510-981-6340  
E-mail: [ada@cityofberkeley.info](mailto:ada@cityofberkeley.info)

## **APPENDIX I. GENERAL INFORMATION FOR NEWLY APPOINTED COMMISSIONERS**

### **APPOINTMENT OF NEW COMMISSIONER**

All new appointments and temporary appointments are processed pursuant to the filing of an appointment form and Affidavit of Residency with the City Clerk by a City Councilmember. The City Clerk then verifies the eligibility of the appointee to serve. A person may not be eligible to serve on a particular commission if any of the following apply.

- The ordinance, resolution, or other law establishing the commission or regulating its membership has specific eligibility requirements that the appointee cannot meet.
- The person has served eight consecutive years on the commission and has not been off the commission for a period of two years (those established by initiative may not be subject to this requirement).
- The person has failed to file Conflict of Interest statements and has outstanding statements and/or has been removed from office more than once for failure to file statements.
- The person has been administratively terminated more than four times.
- There is no open commission seat.

The City Clerk Department prepares the official appointment letter and provides the commissioner with a packet of general information. If the commissioner is designated in the City's Conflict of Interest Code, the appointment package will include the Form 700 and instructions. This form must be filed with the City Clerk within thirty days of the date of the appointment. The new appointee must also take the Oath of Office.

Failure to take the oath within thirty days of the date of the appointment and/or failure to file required Conflict of Interest statements within 30 days of appointment will result in automatic termination from the commission.

### **PRIOR TO SERVING AND PARTICIPATING AT A COMMISSION MEETING**

Commissioners must be fully eligible prior to serving at a meeting. Commission secretaries have been instructed to not permit a newly appointed commissioner to participate at a meeting unless the secretary has received notice from the City Clerk Department.

The secretary will officially swear the new commissioner in at the start of his or her first meeting if the commissioner has not already been sworn at the City Clerk Department. The secretary is also required to immediately forward the completed oath to the City Clerk.

### **LEAVES OF ABSENCE**

Regular attendance at commission meetings is important to enable the commission to proceed with business. If a commissioner has advance notice of potential problems regarding attendance at meetings, he or she should notify the commission secretary and

may wish to consider requesting an Leave of Absence (LOA) from the appointing councilmember. Failure to obtain a LOA may result in automatic termination for absence. See Chapter II, Part A, for more information.

A commissioner may also request to be “excused” from a regular commission meeting due to a conflict between the date of the meeting and a religious or cultural holiday. Such a request must be made in writing on a form provided by the City and submitted to the commission secretary prior to the meeting for which the commissioner is to be excused. The request is not subject to commission approval but shall be accepted upon request. The definition of a religious or cultural holiday is left to the discretion of the individual commissioner.

### **STIPEND/EXPENSES**

In order to remove barriers from public participation on commissions, the Council has authorized payment of \$40 per meeting, in lieu of expenses, to Council-appointed members of commissions whose annual family income as filed jointly is below \$20,000 per year. If a commissioner desires to establish stipend eligibility, he or she must file a statement with the commission secretary. It is the secretary’s responsibility to forward statements and meeting information to the City Auditor in a timely manner to ensure proper payment. Specific information related to this is contained in the Stipend Resolution.

### **TERMINATION FROM A COMMISSION**

Commissioners, with a few exceptions, are appointed for terms ending November 30 of each year. Commissioners may continue to serve at will for a period up to eight consecutive years unless replaced by a councilmember any time after the initial term has ended. See Chapter II, Part A, for more information.

### **RESIGNATIONS BY COMMISSIONERS**

Written resignations by commissioners shall be forwarded directly to the City Clerk Department. Resignation letters should state the effective date of the resignation. Verbal resignations and backdated resignations are not considered resignations. The effective date of the resignation is the date it is received by the City Clerk unless a future date is indicated. The City Clerk Department will provide the resigning commissioner with a Form 700, Conflict of Interest Leaving Office statement, if applicable, and will notify the appointing councilmember and the commission secretary of the resignation.

### **QUESTIONS REGARDING APPOINTMENT**

For questions regarding an appointment or termination or basic rules contained within the Commissioners’ Manual, please contact the commission secretary.

**GLOSSARY***Definitions pertain to City of Berkeley Commissions*

| <b>TERM</b>                           | <b>DEFINITION</b>                                                                                                                                                                    |
|---------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Absence                               | A commissioner is absent if he or does not attend at least one hour or 50% of the entire meeting.                                                                                    |
| Accessible                            | Members of the community must be able to attend all commission and commission subcommittee meetings and the meetings must be noticed in accordance with the Brown Act.               |
| Action Agenda/Calendar                | Items are placed on the Action Agenda when the Council or Committee should take or request a specific action by motion.                                                              |
| Action Minutes                        | A concise record of the commission's proceedings, which contains the date, time, and place of the meeting, members/staff in attendance, and final actions taken.                     |
| Actual Appointees                     | The total seats on a commission minus vacancies and leaves of absence (for the purpose of determining quorum).                                                                       |
| ADA (Americans with Disabilities Act) | Federal law that mandates provisions for access and accommodations for persons with disabilities.                                                                                    |
| Affidavit of Residency                | A form that is submitted with the appointment paperwork confirming the appointee is a resident of Berkeley.                                                                          |
| Agenda                                | The list of business to be conducted by the commission.                                                                                                                              |
| Alternate Commissioners               | Councilmembers and the Mayor may appoint a pool of five Alternate Commissioners to serve on designated commissions when their regular appointee is on an approved leave of absence   |
| Application                           | Form provided by the Clerk department for completion by an individual who wishes to be appointed to a board or commission.                                                           |
| Appointment                           | Appointment occurs when an individual who has been selected by a Councilmember (or the Council) to serve on a commission, is deemed fully eligible to serve by the Clerk Department. |
| Berkeley Election Reform Act          | The Berkeley Election Reform Act (BERA), Chapter 2.12, of the Berkeley Municipal Code (BMC), governs Berkeley's campaign finance disclosure.                                         |
| Brown Act                             | State law that sets requirements for meeting noticing, agendas, and public participation.                                                                                            |
| Chair                                 | Presides at commission meetings and ensures the work of the commission is accomplished.                                                                                              |
| Charter                               | The document that established the City of Berkeley.                                                                                                                                  |
| City Attorney                         | Local official who ensures that the City operates within legal constraints and minimizes its legal liability                                                                         |



| TERM                               | DEFINITION                                                                                                                                                                                                                                                                                                                                                    |
|------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| City Clerk                         | Local official who administers democratic processes such as elections, access to city records, and all legislative actions ensuring transparency to the public. The City Clerk administers the commission appointment process, maintains the information regarding the commission rules and regulations, and serves as an advisor for commission secretaries. |
| City Manager                       | Local official appointed by the City Council to direct the administration of the city.                                                                                                                                                                                                                                                                        |
| Communication to Council           | Written letter of which the content is approved by action of the full commission, and submitted by the commission secretary in accordance with the Council's guidelines for submission of communications.                                                                                                                                                     |
| Companion Report, City Manager     | The City Manager may present a City Manager Companion Report to the Council highlighting alternate recommendations or additional information to a Commission Report.                                                                                                                                                                                          |
| Conflict of Interest               | A situation in which a person is in a position to derive personal benefit from actions or decisions made in their official capacity.                                                                                                                                                                                                                          |
| Consent Calendar                   | Section of the agenda listing items that do not require discussion prior to adoption.                                                                                                                                                                                                                                                                         |
| Disability                         | A condition that limits a person's movements, senses, or activities.                                                                                                                                                                                                                                                                                          |
| Disclosure Statements/Form 700     | The Statement of Economic Interests, Form 700, provides required information about public officials' financial interests to ensure they are making decisions in the best interest of the public.                                                                                                                                                              |
| Election                           | The selection by vote of a person or persons from among candidates for a position.                                                                                                                                                                                                                                                                            |
| Election of Officers               | Formal action of the commission to select one member as chairperson and another member as vice-chairperson. Generally, action is taken annually in February.                                                                                                                                                                                                  |
| Enabling Legislation               | The charter, ordinance, or resolution that establishes the commission and confers certain specified authority and responsibility.                                                                                                                                                                                                                             |
| Ex Parte Contacts                  | Contacts in a quasi-judicial proceeding outside the public hearing process, including letters, emails, telephone messages, in-person conversations and meetings.                                                                                                                                                                                              |
| Excused Absence                    | A commissioner is deemed to have an "excused absence" if the commission secretary receives a written request from the commissioner in advance of a meeting that the absence be excused due to a conflict between a scheduled commission meeting and a cultural or religious holiday.                                                                          |
| Fair Campaign Practices Commission | The Fair Campaign Practices Commission (FCPC) enforces the Berkeley Election Reform Act (BERA).                                                                                                                                                                                                                                                               |

| TERM                           | DEFINITION                                                                                                                                                                                                                                                                                                                                                                                            |
|--------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Fair Representation Ordinance  | A City of Berkeley ordinance requiring commissions of nine, or multiples of nine, and allows each individual Councilmember to make an equal number of appointments.                                                                                                                                                                                                                                   |
| Form 700/Disclosure Statements | The Statement of Economic Interests, Form 700, provides required information about public officials' financial interests to ensure they are making decisions in the best interest of the public.                                                                                                                                                                                                      |
| Information Item               | An item on the commission's agenda for which there is no discussion and no action is taken. It is a report or update on an item of interest to the commission.                                                                                                                                                                                                                                        |
| Leave of Absence               | A commissioner is deemed to have a "leave of absence" when the City Clerk Department receives written approval of the commissioner's absence from the appointing Councilmember prior to 5:00 p.m. the day of the meeting or prior to the beginning of the meeting if occurring before 5:00 p.m. This allows the commissioner to be absent from a commission meeting(s) without an attendance penalty. |
| Media                          | Outlets/organizations that deliver information or data to the public.                                                                                                                                                                                                                                                                                                                                 |
| Meeting, Joint (Concurrent)    | Two or more commissions hold meetings in the same place at the same time and hold a coordinated discussion.                                                                                                                                                                                                                                                                                           |
| Meeting, Regular               | A meeting held periodically according to the time/day/location stated in the meeting schedule adopted by formal action of the commission.                                                                                                                                                                                                                                                             |
| Meeting, Special               | Any meeting of the commission not on the regular meeting schedule.                                                                                                                                                                                                                                                                                                                                    |
| Motion                         | A formal proposal put to the commission for consideration by a commissioner.                                                                                                                                                                                                                                                                                                                          |
| Oath of Office                 | The City Charter requires all commissioners to take an Oath of Office for every appointment they accept. The Oath may be completed by the commission secretary or a City Clerk representative prior to the commissioner serving the first meeting of his or her term.                                                                                                                                 |
| Point of Personal Privilege    | A motion related to matters affecting commissioners during the meeting such as personal comfort, noise in the meeting room, or safety.                                                                                                                                                                                                                                                                |
| Poll                           | A sampling or collection of opinions – typically used to determine when to hold a special meeting or if all commissioners will be present at a regular meeting.                                                                                                                                                                                                                                       |
| Presiding Officer              | The officer presiding over the conduct of the meeting, the chair, or in their absence, the vice-chair, or temporary chair.                                                                                                                                                                                                                                                                            |
| Press                          | See media.                                                                                                                                                                                                                                                                                                                                                                                            |

| TERM                                             | DEFINITION                                                                                                                                                                                             |
|--------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Public                                           | Any individual who is not a member of the convening commission or a City of Berkeley staff person acting in their official capacity.                                                                   |
| Public Comment                                   | The public must be allowed to speak on any item in the committee's purview as well as on each specific item of business before the committee.                                                          |
| Public Hearing                                   | An agenda item that has additional noticing requirements and some legal constraints specific to the item. Public Hearings are held when required by law.                                               |
| Quasi-judicial                                   | Quasi-judicial commissions have the authority to make binding decisions that require or restrict the action of individuals.                                                                            |
| Quorum                                           | The minimum number of commissioners who must be present for the valid transaction of business.                                                                                                         |
| Recommendation                                   | A brief description appearing on the meeting agenda and describing what action, if any, may be taken on the item.                                                                                      |
| Residency                                        | Refers to the status of an individual who lives in the City of Berkeley permanently or on a long-term basis and thereby satisfies an eligibility requirement for membership on a commission.           |
| Resident                                         | A person who lives in the City of Berkeley permanently or on a long-term basis.                                                                                                                        |
| Resignation                                      | The formal process for a commissioner stepping down from his or her position.                                                                                                                          |
| Secretary                                        | An employee of the City designated by the City Manager to represent the City Manager and provide administrative support to a commission.                                                               |
| Statement of Economic Interests                  | The Statement of Economic Interests, Form 700, provides required information about public officials' financial interests to ensure they are making decisions in the best interest of the public.       |
| Commissioner Stipend                             | Payment in lieu of expenses to remove economic hardship barriers.                                                                                                                                      |
| Subcommittee, including "Temporary" and "ad hoc" | Commissions may establish ad hoc subcommittees, which have a single purpose, be composed of less than a quorum, and a target date to report back to the parent commission.                             |
| Temporary Appointment                            | The appointing Councilmember or the Council may fill a vacancy created by a leave of absence by a temporary appointment for a period not to exceed the period of the leave of absence.                 |
| Term Maximum                                     | Commissioners who have served the maximum of eight years on a certain commission shall not be eligible to serve on that same commission until a two-year break in service has occurred (BMC 3.02.040). |

| TERM                   | DEFINITION                                                                                                                                          |
|------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------|
| Term Minimum           | A commissioner cannot be replaced by a Councilmember prior to the first day of December in the year in which he or she was appointed.               |
| Termination            | Termination is the term used when a commissioner resigns or is removed from office.                                                                 |
| Termination, Automatic | An automatic termination takes place when a commissioner fails to meet appointment qualifications.                                                  |
| Vacancy                | A seat with no appointed commissioner is considered a vacant seat. Vacancies are not created when commissioners are absent or on leaves of absence. |
| Vice-chair             | Assumes the duties of the chair in his or her absence.                                                                                              |

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| <b>TERM</b>                     | <b>PAGE REFERENCE</b>                                                          |
|---------------------------------|--------------------------------------------------------------------------------|
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| Vacancy                         | 17, 21                                                                         |
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Motion Table

**MOTION TABLE**

|                                               | <b>Interrupt the Speaker</b>                  | <b>Requires a Second</b> | <b>Debatable</b>                                            | <b>Amendable</b>                       | <b>Vote Needed</b>                                                                      | <b>Reconsiderable</b>                         |
|-----------------------------------------------|-----------------------------------------------|--------------------------|-------------------------------------------------------------|----------------------------------------|-----------------------------------------------------------------------------------------|-----------------------------------------------|
| <b>Adjourn</b>                                | No                                            | Yes                      | No                                                          | No                                     | Majority                                                                                | No                                            |
| <b>Recess</b>                                 | No                                            | Yes                      | No                                                          | Yes                                    | Majority                                                                                | No                                            |
| <b>Question of Privilege</b>                  | Yes                                           | No                       | No                                                          | No                                     | No Vote                                                                                 | No                                            |
| <b>Call for the Orders of the Day</b>         | Yes                                           | No                       | No                                                          | No                                     | No Vote<br>(Enforcement is required unless 2/3 vote to continue with current business.) | No                                            |
| <b>Lay on the Table</b>                       | No                                            | Yes                      | No                                                          | No                                     | Majority                                                                                | No                                            |
| <b>Previous Question or Call the Question</b> | No                                            | Yes                      | No                                                          | No                                     | 2/3                                                                                     | Yes (unless voting on the question has begun) |
| <b>Limit or Extend Limits of Debate</b>       | No                                            | Yes                      | No                                                          | Yes<br>(Amendments are not debatable.) | 2/3                                                                                     | Yes                                           |
| <b>Postpone to a Certain Time</b>             | No                                            | Yes                      | Yes                                                         | Yes                                    | Majority                                                                                | Yes                                           |
| <b>Refer</b>                                  | No                                            | Yes                      | Yes                                                         | Yes                                    | Majority                                                                                | Yes                                           |
| <b>Amend</b>                                  | No                                            | Yes                      | Yes                                                         | Yes                                    | Majority                                                                                | Yes                                           |
| <b>Substitute</b>                             | No                                            | Yes                      | Yes                                                         | Yes                                    | Majority                                                                                | Yes                                           |
| <b>Postpone Indefinitely</b>                  | No                                            | Yes                      | Yes                                                         | Yes                                    | Majority                                                                                | Yes                                           |
| <b>Main Motion</b>                            | No                                            | Yes                      | Yes                                                         | Yes                                    | Majority                                                                                | Yes                                           |
| <b>Reconsider</b>                             | Yes (Prior to the speaker beginning to speak) | Yes                      | Yes (Unless the motion to be reconsidered is not debatable) | No                                     | Majority                                                                                | No                                            |

**QUORUM CHART**

The following is a chart indicating the numbers needed to take action.

| <b>Total Number of Seats*</b> | <b>Actual Appointees</b> | <b>Quorum</b> | <b>Votes Needed for Action</b> |
|-------------------------------|--------------------------|---------------|--------------------------------|
| 9                             | 9                        | 5             | 5                              |
| 9                             | 8                        | 5             | 5                              |
| 9                             | 7                        | 4             | 4                              |
| 9                             | 6                        | 4             | 4                              |
| 9                             | 5                        | 3             | 3                              |
| 9                             | 4                        | 3             | 3                              |
| 9                             | 3                        | 2             | 2                              |

*\*This refers to the authorized membership under the commission’s enabling legislation.*

*\*\*Quorum rules apply to subcommittees. If a commissioner on a subcommittee of four is on an excused LOA, the actual appointees becomes three, and the quorum becomes two. No subcommittee may operate with less than two actual appointees. Remember, a temporary appointee does not assume the subcommittee memberships of the commissioner for which they are serving.*

Vacancies and commissioners who have been granted a Leave of Absence (LOA) are subtracted from the total number of seats to determine the number of Actual Appointees (see table). The number of Actual Appointees is not reduced when a temporary appointee is absent from a meeting or when a commissioner fails to attend and does not have a LOA.

An exception is the PRC, established by Ordinance No. 4644-N.S. (BMC Chapter 3.32), which states: "A majority of the appointed commissioners shall constitute a quorum for the transaction of business, and the affirmative vote of a majority of those present is required to take action."





# COMMISSIONERS' MANUAL

## 2019<sup>8</sup> EDITION

BACKGROUND INFORMATION  
RULES AND PROCEDURES

~~~~~

AMENDED AND OFFICIALLY ADOPTED BY RESOLUTION NO. [68487-N.S. \(JUNE 12, 2018\)](#)

This material is available in alternative formats upon request. Alternative formats include audio-format, braille, large print, electronic text, etc. Please contact the Disability Services Specialist and allow 7-10 days for production of the material in an alternative format.

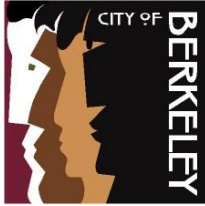
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MESSAGE FROM THE CITY CLERK:

Members of boards and commissions provide an invaluable service to our City. They advise the City Council on a wide variety of subjects by making recommendations on important policy matters. Without the assistance of the various boards and commissions, the City Council could give many complex and significant matters only a perfunctory review. The detailed studies and considered advice of boards and commissions are often catalysts for innovative programs and improved services.

Serving on a board or commission can be a rewarding experience for community service-minded residents. It is an excellent way to participate in the functioning of local government and to make a personal contribution to the improvement of our community. Making local government effective and responsive is everybody's responsibility.

On behalf of the City Council, I wish to thank all commissioners for their service and extend an invitation to all residents of the City to give serious consideration to serving on an advisory body.

This Manual is ~~significantly~~ revised from the previous version, and we hope these improvements will make the Manual a more useful tool. Some of the notable improvements are listed below:

- ~~• The Manual now includes a glossary and index to explain some of the terminology and help locate key concepts and regulations.~~
- ~~• Each chapter has its own table of contents for better navigation.~~
- ~~• The Quorum Chart is duplicated on the back cover for quick reference.~~
- ~~• Secretary duties are highlighted by "S" badges throughout the book.~~
- ~~• Chapters and content have been restructured to consolidate related topics.~~
- The Manual now clarifies ADA requirements for board and commission meetings.
- The Disability Services Program procedure has been updated.
- Information on teleconferencing for commissioners pursuant to an ADA accommodation has been included.
- The agenda subscription hyperlink has been updated.

Again, thank you for your service to the City of Berkeley.

Berkeley City Clerk

Acknowledgement

Special thanks to the following team for their collaboration and ideas on the Manual revision project and for their dedication to the Boards and Commissions of the City of Berkeley:

David Brannigan, Tamlyn Bright, Sarah Bunting, Matthai Chakko, Amy Davidson, Christina Erickson, Ronna Gonsalves, Savith Iyengar, Farid Javandel, Greg Powell, Sheila Soo, and Rose Thomsen.

Special thanks are also extended to the commissioners and officials that provided feedback on this revision and helped make this manual a more useful tool for commissioners and staff.

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A. PUBLIC PARTICIPATION

Berkeley’s system of boards and commissions provides members of the public who have special experience or interests a method to participate in the City’s decision-making process by advising the City Council on numerous issues.

It is not only the right but also the duty of residents to participate in planning for their future, and the City has a responsibility to provide commissioners with the tools to carry out their charge. That responsibility includes training and useful written procedures. This handbook attempts to fulfill the latter requirement.

The board and commission system provides the opportunity to interact with people of all ages, interests, and backgrounds. A better democracy can be realized when people are able to come together across neighborhood and economic lines to assist in making the community decisions that will shape all of their lives. While commissioners are themselves appointed from within the community, it is important that they in turn ensure that a wide variety of viewpoints from the rest of the community are considered when they make recommendations to the Council. Commissioners should treat these widely varying viewpoints of other commissioners and members of the public with respect so that all residents are encouraged to participate in government.

The City of Berkeley enjoys a wide variety of Council-appointed boards, commissions, and committees that advise the Council on numerous issues. As resident participation has evolved into a vital and integral part of local government, the number of commissions¹ has steadily grown. There are now approximately 35 such bodies functioning within the City of Berkeley. The Board of Education and the Rent Stabilization Board are separately elected, independent of the City Council, and are not within the purview of this manual.

The roster of commissioners is a public document available in the Office of the City Clerk. The roster includes the name, residential or mailing address, and either a home or business phone number of each commissioner.

B. COMMISSION ORIGINS

Commissions originate from four different sources: the Charter, Council action, federal or state mandate, and vote of the people.

All commissions listed above share a common characteristic: Some or all commissioners are appointed either by the Council as a whole, or by each individual Councilmember in accordance with the Fair Representation Ordinance,

¹ Throughout this manual, the word “commission” is used to denote all boards, commissions, and committees.

Berkeley Municipal Code (BMC) Sections 2.04.030–2.04.070 and 2.04.080–2.04.130.

1) Charter

The present charter, first adopted in 1909, initially authorized a Personnel Board, a Civic Arts Commission, a Welfare Commission, and a Board of Library Trustees.

2) Council Action

Indefinite Tenure

The overwhelming majority of commissions are created by ordinance or resolution to perform defined duties within a sphere of interest for an indefinite period of time. From time to time, the Council may create a new commission or consolidate or eliminate commissions as needed.

Limited Tenure

The Council may establish a commission or task force for a specific purpose and a limited period of time. The Council can take action to extend the tenure of a limited tenure commission.

Examples include the Downtown Street and Open Space Improvement Plan Joint Subcommittee and the Joint Subcommittee for the Implementation of State Housing Laws.

3) Federal and State Mandate

Certain commissions are required by federal or state law, and the purposes and duties are specified by said law.

Examples include the Housing Advisory Commission, Human Welfare & Community Action Commission, and Mental Health Commission.

4) Ballot Measure Approved by Voters

Three bodies derive authority from ordinances resulting from measures adopted by the voters. These are the Fair Campaign Practices Commission (FCPC), the Police Review Commission (PRC), and the Sugar-Sweetened Beverage Product Panel of Experts (SSBPPE). The FCPC and the PRC are exempt from attendance rules cited in Chapter II but are bound by rules contained in each of their initiative ordinances, the Conflict of Interest program, and procedural rules devised to meet state open meeting standards. The SSBPPE follows the rules in this manual.

There are several local and regional advisory bodies to which the Council may appoint only one or two members. The remainder are appointed by other agencies. Appointees may be Councilmembers, staff members, or members of the public. This category includes but is not limited to the Mosquito Abatement District Board, 2x2 Committee (city-school), 4x4 Joint Task Force Committee (city-Rent Board), Alameda County Waste Management Commission, Association of Bay Area Governments, and League of California Cities (East Bay Division). These bodies are not subject to the guidelines in this handbook.

C. COMMISSION TYPES

Commission activities are varied but generally fall into four categories.

1) Quasi-Judicial

Certain commissions have the authority to make binding decisions that require or restrict the action of individuals. Aggrieved parties have the right to appeal the commission decisions to the City Council. Quasi-judicial commissions have provisions in the Municipal Code to hold noticed public hearings. For more information regarding public hearings, see pages 34, 44, and 60.

Quasi-Judicial Commissions:

- Fair Campaign Practices Commission
- Housing Advisory Commission (building official appeals)
- Landmarks Preservation Commission
- Planning Commission
- [Police Review Commission](#)
- Zoning Adjustments Board

2) Administrative

This type of commission has administrative powers to manage the subject under its purview.

Administrative Commission:

- [Board of Library Trustees](#)

3) Advisory to the City Manager

These commissions make recommendations to the City Manager, ~~rather than the City Council.~~

Advisory to the City Manager:

- Personnel Board
- Police Review Commission

4) Advisory to Council

All commissions ~~listed below, except those listed above,~~ advise the City Council concerning policies and programs, within the limitations of their enabling legislation.

Advisory to Council:

- Animal Care Commission
- Cannabis Commission
- Children, Youth, and Recreation Commission
- Civic Arts Commission
- Commission on Aging
- Commission on Disability
- Commission on Labor
- Commission on the Status of Women
- Community Environmental Advisory Commission
- Community Health Commission

- Design Review Committee
- Disaster and Fire Safety Commission
- Elmwood Business Improvement District Advisory Board
- Energy Commission
- Homeless Commission
- Housing Advisory Commission (policy)
- Human Welfare & Community Action Commission
- Loan Administration Board
- Mental Health Commission
- Open Government Commission
- Parks and Waterfront Commission
- Peace & Justice Commission
- Police Review Commission
- Public Works Commission
- Solano Avenue Business Improvement District Advisory Board
- Sugar-Sweetened Beverage Product Panel of Experts
- Transportation Commission
- Youth Commission
- Zero Waste Commission

D. COMMISSION PURVIEW

Every commission is created by enabling legislation, which may take the form of an ordinance or resolution. The enabling legislation defines the role, scope, and responsibilities of the commission. The enabling legislation is how the City Council assigns and defines what types of work each commission may undertake and limits on what type of recommendations each commission may make.

In order for commission recommendations to have significant meaning in the eyes of the City Council, all commissions should take special care to ensure that they remain within their subject area purview and the constraints of their enabling legislation. Occasionally two or more commissions will have overlapping subject matter. In these cases, the secretaries should work together to ensure the subject is handled by the proper commission (see Chapter III, Section C, page 39).

E. DEVELOPMENT OF A WORK PLAN

In 2016, the City Council took formal action directing all commissions, except Board of Library Trustees (BOLT), Design Review, and Zoning Adjustments Board (ZAB), to submit an annual work plan at the start of each fiscal year [to the Council in the form of an Information Report](#). A commission work plan should contain the commission's mission statement, goals, resources, activities, outputs, and desired outcomes. This planning document specifies how and when the commission plans to accomplish its objectives (by specifying outcomes) during the fiscal year. Goal statements explain the nature and scope of the work to be performed and the time needed to accomplish the goal.

Designing yearly work plans or goal statements may be done in conjunction with the development of the relevant departmental work plan so that the work of the department and the commission will complement each other throughout the year.



When developing a work plan, commissions should take special care to ensure that they remain within the subject area purview of their enabling legislation.

CHAPTER II. SERVING ON A COMMISSION

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A. MEMBERSHIP

1) Residency Requirements and Affidavit of Residency

As required by BMC Section 2.04.140, commissioners appointed by the Council or individual Councilmembers shall be residents of the City unless the commissioner is required by federal or state law or the ordinance establishing the commission to represent a specified organization, agency, group, category, or profession and residency is not required.

Pursuant to BMC Section 2.04.145, most commissioners are required to execute an Affidavit of Residency prior to appointment. The appointing Councilmember submits the executed affidavit with the appointment form. Appointments to the FCPC and PRC and appointments made by the Berkeley Unified School District are exempt from the Affidavit of Residency requirement.

Commissioners must inform the secretary if they are no longer residing in the City of Berkley. The secretary of the commission shall inform the City Clerk in writing within one week after receiving such notification from a commissioner. The term of the commissioner shall expire on the date the notice is received by the City Clerk. If, however, a commissioner states that he or she is temporarily moving out of Berkeley and fully intends to reestablish residency in Berkeley within six months, the commissioner may continue to serve on the board or commission. At the end of the six months, the commissioner must inform the secretary whether the commissioner has reestablished residency in Berkeley. If the commissioner has not reestablished residency, automatic termination of membership will occur upon receipt of notification by the City Clerk. Commissioners are required to notify the City Clerk and secretary of contact information changes.

2) City Employees

BMC Section 3.80.030 prohibits City employees from being appointed to or sitting on Boards and Commissions as of December 1, 2016 except as specifically provided for in the Charter or BMC.

3) Application Procedure

Commission appointments are made in most cases by individual Councilmembers and sometimes by the Council as a whole. A comprehensive list of current boards and commissions and the applications



to apply are available in the City Clerk Department. This information may also be obtained through the City's website at www.cityofberkeley.info/commissions. Completed application forms must be returned to the City Clerk. The City Clerk will forward the applications to each member of the City Council. Councilmembers will contact applicants in whom they are interested to discuss appointment or other participation opportunities.

4) **Appointments**

Appointments to most commissions are regulated by BMC Sections 2.04.030–2.04.130, commonly referred to as the Fair Representation Ordinance, or “FRO”. This voter initiative, adopted in 1975, requires that Councilmembers have equal representation on boards and commissions. Most commissions created by the Council are governed by the Fair Representation Ordinance.

Commissions responsible for appointing commissioners to other commissions must follow the rules for appointments in this Manual and the Municipal Code. Furthermore, these appointments to other commissions that arise from membership on a parent commission are terminated if the commissioner is terminated or resigns from the parent commission.

Example: If a ZAB commissioner who is also the ZAB’s appointee to the Design Review Commission is terminated, his or her term on the Design Review Committee also terminates.

Generally, the appointment process begins when a Councilmember submits an appointment form and an Affidavit of Residency to the City Clerk. The City Clerk determines if the person is eligible to serve and processes the appointment. The Clerk then notifies the commission secretary that the appointment is valid. A commissioner may not serve at any commission meeting until the commission secretary receives approval from the City Clerk Department and the commissioner has taken the Oath of Office.

Participation of commissioners not deemed eligible by the City Clerk may result in nullification of commission actions.

After a new commissioner is appointed, the City Clerk Department will mail a packet of important information to the commissioner. If the appointment is made less than two days prior to the first meeting of service, the commissioner may make arrangements to pick up the packet in person or obtain the materials from the commission secretary.

Requirement:

Commissioner appointments must be submitted to the City Clerk before 5:00 p.m. the day of the meeting and prior to the beginning of the meeting, to ensure the commissioner will be eligible to participate in the meeting.

Consequence:

Failure to notify the City Clerk Department of commissioner transactions in a timely manner will result in a delay in the effective date of the transaction. This may lead to unexcused absences, nullification of commission votes, or possible termination from the commission.

5) Oath of Office

Before commissioners can participate as voting members of their commissions, they must take the Oath of Office as required by law (City Charter Article V, Section 18) at the City Clerk Department or through their commission secretaries. Failure to take the Oath of Office within 30 days of the appointment date is cause for automatic termination. Commissioners must take the Oath of Office for every temporary appointment they accept, unless they are appointed as Alternate Commissioners (see page 23).

Secretaries must check with the City Clerk Department prior to the commission meeting to verify that all newly appointed commissioners have taken the Oath of Office before allowing them to be seated. If the secretary is unable to verify if the oath has been taken, they must administer the oath prior to allowing the commissioner to be seated. It is the secretary's responsibility to forward completed oaths of office to the City Clerk Department upon completion.

Requirement:

All commissioners must complete and sign the Oath of Office within 30 days of the appointment date *and* prior to serving in their official capacity.

Consequence:

If a commissioner fails to take the Oath of Office within 30 days, his or her appointment will be automatically terminated. Serving at a meeting without having taken the Oath of Office may result in nullified votes and items that have to be re-agendized.

6) Terms of Office

Most Berkeley commissioners have both “term minimums” and “term maximums.”

Term Minimum

The term minimum ensures that, regardless of the date of appointment, a commissioner cannot be replaced by a Councilmember prior to December 1 in the year in which he or she was appointed.



If the appointing Councilmember dies, resigns, or is recalled prior to December 1, the term minimum of appointees of that Councilmember expires on the date of death, resignation, or recall (BMC Section 2.04.075).

Commissioners who have reached the term minimum may continue to serve at-will, and retain full voting rights after December 1 until they are replaced, terminated, resign, or reach their eight-year term limit.

Commissioners serve at the pleasure of the Councilmember who appointed them. As a matter of courtesy, it is recommended that the Councilmember should set the date a commissioner is to be replaced on a commission and communicate that date to the commissioner at least two weeks prior to the official date of replacement.

Question:

A commissioner resigned to take a job out of state in March. The Councilmember appointed a new commissioner to the position. In April, the original commissioner returned to Berkeley and requested his or her appointment back. May the Councilmember terminate the newly appointed commissioner and reappoint the original one?

Answer:

No. The new commissioner serves under the term minimum policy until December 1 of that year. He or she may only be removed from office through resignation or failure to meet terms of service (i.e., residency violations).

Term Maximum

Commissioners who have served the maximum of eight years on a commission shall not be eligible to serve on that commission until a two-year break in service has occurred (BMC 3.02.040). The City Clerk will notify the commissioner and the secretary in advance of the expiration of the eight-year limit.

The eight year limit is not affected by interruption of service due to (BMC 3.02.040):

- Absence from the commission due to termination for excessive absences, from missing three consecutive meetings, or from missing 50% or more regular meetings in a six-month period (BMC 3.02.020).
- Absence from the commission due to any leave(s) of absence (BMC 3.02.030).
- Absence from the commission due to termination pursuant to the provisions of the City's Conflict of Interest Code or for failure to file the required Statement of Economic Interests.

Question:

If a commissioner begins his or her term on April 1, 2005, is terminated for lack of attendance on July 1, 2008, and reappointed on October 1, 2008, does his or her eight-year clock reset with the new appointment date?

Answer:

No. According to BMC, 3.02.040, despite the three-month gap in service in 2008, the commissioner's term expires on April 1, 2013.

7) Vacancy

Each vacancy on a commission is to be filled through appointment or reappointment by the Councilmember to whom the vacancy is credited. In the case of newly elected first-time Councilmembers, the appointee of the newly elected Councilmember shall replace the appointee of the Councilmember from the same Council district who was not reelected, and the appointee of a newly elected Mayor shall replace the appointee of the outgoing Mayor.

A temporary appointment may not be made to fill a vacancy on any board or commission.

8) Commissions with Special Regulations

Several commissions require special qualifications for appointment. For example, some appointees to the Community Health Commission, Cannabis Commission, Mental Health Commission, and the Sugar-Sweetened Beverage Product Panel of Experts must satisfy occupational or specific category requirements under state or local law.

Other commissions have unique terms of appointment, such as the PRC (BMC 3.32.030), which sets terms of two years, and the Youth Commission (BMC 3.42.030), which sets terms of one year. The FCPC (BMC 2.12.175) sets terms the same as the appointing Councilmember or Mayor. Appointments to the Mental Health Commission are made by the Council as a whole for three-year terms (Resolution No. 65,945-N.S.). If specific rules deviating from the norm concerning appointments and terms exist, these are contained in the BMC sections or resolution that establishes the commission.

9) Attendance Requirements

Failure to comply with attendance rules and other requirements can result in automatic termination and/or lack of a quorum. It is important to note that all commissions, regardless of the frequency of meetings, are subject to these attendance regulations.

Commissioners must attend all meetings in order to avoid being marked absent. A commissioner is determined to be "absent" unless he or she 1) has been granted an excused absence because the meeting conflicts with a religious or cultural holiday (see below); or 2) The commissioner has obtained an approved leave of absence from their appointing

councilmember or commission (see page 21). Commissioners who have excused absences, or an approved leave of absence, or who attended, will not be marked as absent.

Commissioners should inform the secretary as far in advance as possible if they cannot attend a meeting. Secretaries should advise these commissioners to request a leave of absence for the meeting.

A commissioner must be present at least one hour, or 50% of the entire meeting, whichever is less, to be counted as present for purposes of attendance.

Excused Absences

An “excused absence” is only granted when a commissioner must miss a meeting due a religious or cultural holiday. To encourage full participation in commission meetings by all commissioners and the public, the Council encourages commissions to refrain from scheduling meetings on cultural and religious holidays. Commissioners may make a written request in advance of a meeting that an absence be excused due to a conflict between a scheduled commission meeting and a cultural or religious holiday. If received by the secretary prior to the scheduled meeting, the secretary will then excuse the absence and note the excused absence in the semi-annual attendance report sent to the City Clerk (BMC 3.02.030).

Absence from Three Consecutive Meetings

If a commissioner is absent from three consecutive meetings his or her appointment to the commission will be automatically terminated. If a commissioner has been absent from two consecutive regular meetings, the secretary will advise the commissioner that absence from three consecutive regular meetings of the body will result in automatic termination. Within one week of the third consecutive absence, the commission secretary will notify the City Clerk in writing of the dates of the three absences. The appointment expires on the date the fact of the third absence is reported to the City Clerk. Within one week, the City Clerk will notify the commissioner that he or she has been terminated and notify the Councilmember or Council, as appropriate, that a vacancy exists on the commission and that an appointment may be made to fill such vacancy (BMC 3.02.020). Attendance at Special Meetings (any meeting outside the standard meeting schedule) does not count toward attendance requirements.

Absence from 50% of All Regular Meetings


If a commissioner has been absent from 50% or more of all regular meetings held within the reporting period, his or her appointment to the commission will be terminated (BMC 3.02.020). The secretary of each commission shall report the full attendance record of each commissioner to the City Clerk at the end of each six-month period (June 30 and December 31) on a form provided by the City Clerk. The appointment of the commissioner will terminate on the date the attendance is reported to the City Clerk. Within one week of receiving such attendance report, the City Clerk will notify any commissioner whose appointment has been terminated

and report to the appointing Councilmember, or Council, that a vacancy exists and that an appointment may be made to fill the vacancy.

A commissioner appointed in January to a commission that held six regular meetings in the January to June reporting period must attend four regular meetings in order to comply with the attendance rules.

Newly appointed commissioners must attend more than half of all regular meetings held during the reporting period since being appointed in order to avoid termination.

Commissions That Meet on a Reduced Schedule

 Per Resolution No. 68,258-N,S. and its successors, some commissions have a fewer number of meetings allowed in a year (less than the standard 10 meetings per year). Secretaries of commissions that meet on a reduced schedule will advise any commissioner who has been absent (as defined above) from one regular meeting that absence from two consecutive regular meetings of the body will result in automatic termination by the same mechanism described above.

The reporting period for a commission that meets on a reduced schedule is the full calendar year. Commissioners on these commissions will be terminated if they are absent from 50% or more of all regular meetings in the calendar year.


Fair Campaign Practices Commission and Police Review Commission

Both the FCPC and the PRC were created by ballot measures that were adopted prior to the addition of the automatic termination rules to the Municipal Code. Members of the FCPC are exempt from these provisions. The PRC is exempt as well; however, the measure that created the PRC does provide for termination after three consecutive unexcused absences from regular or special meetings (BMC 3.32.040).

The SSBPPE was created by a ballot measure adopted after the automatic termination provisions were added to the BMC and, thus, the rules for Council-created advisory commissions also apply to the SSBPPE.

No Quorum—Meeting Cancelled

When it is expected that there will be sufficient commissioners to hold a meeting but at the actual time of the meeting a quorum cannot be assembled and the meeting is cancelled, those commissioners who are absent will have an absence counted against them. Commissioners who have excused absences, or an approved leave of absence, or who attended will not be marked as absent.

 If it is known that a quorum will not be achieved, the secretary will notify all commissioners that the meeting will be cancelled. No absence will be recorded against any commissioner. See Chapter IV, Section H for more details on procedures when lack of quorum occurs.

10) Leaves of Absence (BMC 3.02.030)

An appointing Councilmember may grant a leave of absence (LOA) for a specific meeting, or a period not to exceed three months. Written notice of the LOA must be filed by the Councilmember with the City Clerk prior to the actual absence. For meetings held after business hours, the notice of leave must be received by the City Clerk before 5:00 p.m. on the day of the commission meeting in order to count for that meeting. In the case of commissioners who are appointed by the Council as a whole, a LOA of a period not to exceed three months may be granted by the Council; the secretary shall submit a consent item to the agenda process for the Council to approve the absence prior to the actual absence.



A leave of absence may not be granted or applied retroactively.

Commissioners may seek to be reinstated prior to the end date of their LOA. This request must be made to the appointing Councilmember. If this request is granted, the Councilmember must submit a written request to the City Clerk to terminate the LOA. Once the leave is terminated, any temporary appointee shall have no further right to serve, and the regular commissioner will resume his or her duties on the commission. The City Clerk will notify the secretary of these transactions.

As stated above, a LOA may be granted for a period not to exceed three months. A subsequent LOA may not be granted to the commissioner if it will extend the total uninterrupted leave beyond three months. The commissioner will be marked absent from any meetings missed beyond the end of the three-month maximum leave. A commissioner must attend at least one meeting in between LOAs.

Youth and Peace and Justice Commissioners appointed by a School Board Director must request a LOA from their appointing Director.

Exception for Design Review Committee

Members of the Design Review Committee must request any LOA from the appointing commission. The request must be submitted through the agenda process by the commission secretary of the appointing commission.

Example: If a commissioner is a member of both the Zoning Adjustments Board (ZAB) and the Design Review Committee, that commissioner must obtain a LOA from his or her appointing Councilmember for ZAB and also have the ZAB grant a LOA for his or her position on the Design Review Committee.

Question:

If a commissioner is granted a LOA for June 1 through July 31 and the commission does not meet in August, may the commissioner request a LOA for the September meeting?

Answer: No. A single LOA or consecutive leaves of absence may not extend longer than three months.

11) Temporary Appointments

During the commissioner's authorized LOA, the commission treats the absence as a vacancy; that is, the number required for a quorum drops accordingly (see Chapter V, Section A, page 55-56, for details). The appointing Councilmember or the Council may fill such vacancy by a temporary appointment for a period not to exceed the period of the temporary vacancy. Specific rules for temporary appointments include:

- A temporary appointee cannot obtain a LOA during his or her tenure.
- A temporary appointee can be terminated for missing three consecutive meetings.
- A temporary appointee can be terminated for non-filing of a required Form 700 within 30 days of appointment.
- If the commissioner on an approved LOA resigns or is terminated, the associated temporary appointee is automatically terminated.
- A temporary appointment may not be made to a vacant seat on any board or commission.

A temporary appointee does not assume any appointments of the regular commissioner such as chair, vice-chair, or seats on other committees or subcommittees.

12) Automatic Terminations

The importance of complying with the requirements of being a commissioner cannot be emphasized enough. Failure to recognize these requirements will result in automatic termination. The following are reasons why commissioners are automatically terminated.

- Absence from three consecutive meetings (see Section A.9, page 18, of this chapter for details).
- Absence from 50% or more of all regular meetings in a six-month period (see Section A.9, page 18, of this chapter for details).
- The non-filing of required Conflict of Interest Disclosure statements (see Section E.2, page 27, of this chapter for details).
- Failure to take the Oath of Office within 30 days of the appointment date (see Section A.5, page 16, of this chapter for details).
- Non-residency (see Section A.1, page 14, of this chapter for details).
- Failure to meet any eligibility requirements of the ordinance, resolution, or other law establishing the commission or regulating its membership.

A commissioner may not be reappointed to any commission for a period of one year if he or she is terminated more than four times for any of the above reasons.

If a commissioner is terminated more than four times due to any of the above reasons or a combination of the above reasons, he or she is terminated from all commissions and subcommittees and may not be appointed again to any commission for one year.

No commissioner may be appointed to any commission if there are outstanding Conflict of Interest statements or fines, and no commissioner may be appointed to any commission for a period of one year if terminated from any commission more than once for failure to file such statements.

13) Resignation Procedure

A commissioner wishing to resign shall submit a written resignation directly to the City Clerk and to the appointing Councilmember or the Council, as appropriate. Either an electronic or a hard copy resignation will be accepted.

Once submitted, a letter of resignation cannot be withdrawn. The effective date of the resignation is the date it is received by the City Clerk unless a future date is indicated. The City Clerk shall then notify the Councilmember, or Council, and the secretary of the commission that a vacancy exists.

B. ALTERNATE COMMISSIONERS

In 2015, Council amended Berkeley Municipal Code Chapter 3.02 to allow each Councilmember and the Mayor to appoint a pool of five Alternate Commissioners to serve on designated commissions when their regular appointee is on an approved leave of absence.

Per Resolution No. 67,205–N.S., the designated commissions on which Alternate Commissioners may serve are the Housing Advisory Commission, Landmarks Preservation Commission, Planning Commission, Police Review Commission, Sugar-Sweetened Beverage Product Panel of Experts, and the Zoning Adjustments Board. The Council may add to or remove commissions from this list at its discretion.

All regulations and requirements of the BMC that apply to a Commissioner as defined in 3.02.010.A also apply to Alternate Commissioners except BMC Section 3.02.040 (term maximum).

For any commission with specific requirements for membership, the Alternate Commissioner must meet the same special category requirements in order to serve.

Alternate Commissioners are subject to the December 1 term minimum. Alternate Commissioners must complete the Oath of Office and file a Form 700 at the time of their appointment as an Alternate Commissioner and not for each temporary appointment to one of the designated Commissions.

The appointment of an Alternate Commissioner to serve as a temporary appointee must be filed by the appointing Councilmember or Mayor with the City Clerk prior to the meeting at which the Alternate Commissioner is to serve. For meetings held after business hours, the temporary appointment must be received by the City Clerk before 5:00 p.m. on the day of the commission meeting in order to be effective for that meeting.

C. ACCOMMODATIONS FOR COMMISSIONERS WITH DISABILITIES

Members of boards, commissions, and the public who have a disability have a right to reasonable accommodations necessary for them to participate in City meetings and programs. The Americans with Disabilities Act (ADA) and other laws mandate that the City provide programmatic access and effective communication in order for people with disabilities to be able to participate in the City's programs, services, and activities including public meetings. More information is available on page 49 and in Appendix [H](#) on page [389](#).



Individuals with disabilities who need accommodations to participate at a City of Berkeley meeting should make their requests to the commission secretary who will work with the Disability Compliance Program to evaluate the individual's request and will determine the appropriate method, if any, of accommodation. Individuals must make a disability-related accommodation request at least 72 hours in advance of meetings to ensure that the City has an adequate opportunity to provide reasonable accommodation.

D. STIPEND INFORMATION

In order to remove economic hardship barriers from public participation, the City Council, by Resolution No. 64,831-N.S., authorizes payment in lieu of certain expenses to commissioners of all Council-appointed boards, commissions, committees, task forces, and joint subcommittees who meet certain household income criteria. Subcommittees of commissions designated by the advisory body and not by Council appointment are not eligible for reimbursement.

Eligibility criteria for stipend and reimbursement:

- Persons eligible to receive reimbursement in lieu of expenses are those board, commission, or committee members whose annual family income reported individually or as filed jointly for federal income tax purposes is below \$20,000 per year.
- Commissioners who are minors (under 18 years old) must have eligibility declaration forms cosigned by a parent or legal guardian attesting that the combined household income is under \$20,000.
- To establish eligibility, commissioners must file the Annual Declaration form in Appendix H with the secretary of their board, commission, or committee. Commissioners must file a new declaration form annually prior to May 31 in order to maintain eligibility.

An eligible commissioner is authorized to receive:

- \$40 for each official meeting attended, not to exceed four meetings each month.
- Reimbursement for actual childcare expenses incurred while he or she attends meetings.
- Reimbursement for actual expenses paid to an attendant to provide care for a dependent elderly person while the commissioner attends meetings.
- Reimbursement for actual expenses incurred for disabled support services necessary to participate fully in board, commission, or committee meetings.

If a commissioner is paid \$600 or more in stipend payments in one calendar year, an IRS Form 1099 will be generated by the Finance Department.



It is the responsibility of the commission secretary to submit quarterly stipend forms to the Accounts Payable Division. Additional stipend policy and instructions are in Administrative Regulation 3.2, which is included in Appendix H.

Pursuant to BMC Section 3.32.060, Police Review Commissioners shall receive \$3 per hour for their time and work investigating complaints, reviewing policies and practices, and attending meetings, but in no case shall compensation for any one commissioner exceed \$200 per month.

E. CONFLICT OF INTEREST PROHIBITED

Members of Berkeley's commissions provide advice to the City Council, study various matters and, in the case of certain commissions, function in a quasi-judicial capacity. All members of commissions should be aware of the need to avoid any instances of conflict of interest. Conflict of interest standards are generally applicable to all commissions. Additional requirements may be applicable to particular boards and commissions.

Government Code Section 1090

Government Code Section 1090 prohibits public officers, acting in their official capacities, from making contracts in which they are financially interested. Violations of Section 1090 are felonies. A memo from the City Attorney regarding how to avoid conflicts of interest under Section 1090 is included as Appendix D. Making recommendations to Council regarding City contracts is considered part of making the contract.

State Political Reform Act and Berkeley Conflict of Interest Code

The state Political Reform Act, Government Code Sections 81000 et seq., and the Berkeley Conflict of Interest Code adopted pursuant to the Act prohibit a commissioner from making, participating in making, or attempting to influence the making of any City decision if the commissioner knows or has reason to know that it is reasonably foreseeable that the decision will have a material financial effect on specified interests of the commissioner or a member of the commissioner's family distinguishable from its effect on the public generally. The state Fair Political Practices Commission (FPPC) enforces these procedures, and the scope of these prohibitions is delineated in FPPC regulations and advice letters. Commissioners may seek the advice of the City Attorney as to whether they should disqualify themselves. However, only a formal advice letter from the FPPC will insulate a commissioner from enforcement actions by the FPPC. Commissioners must seek the advice of the City Attorney or FPPC well before they are required to participate in a matter that would create a possible conflict of interest.

Contact the City Attorney's Office at Attorney@cityofberkeley.info or at 510-981-6950 at least two days in advance of a meeting if you think there may be a potential conflict on a matter under consideration by the commission. Contact the FPPC advice line at 1-866-ASK-FPPC for general questions.

In addition to filing required disclosure statements described below, any such conflict of interest must be publicly disclosed and noted in the official record of the commission meeting. In such cases, the commissioner completes the positive act of verbal disclosure, recuses himself or herself, and refrains from voting.

Recusal for Conflict of Interest

Recusal is the affirmative action of removing oneself from consideration, discussion, and voting on an issue in which a conflict of interest exists. Commissioners must make the required disclosure above and then physically remove themselves from the proceedings. Recusal requires that the commissioner leave the room where commission discussion is occurring. The commissioner may not reenter the meeting space until after the consideration (including any votes taken) of the issue has concluded. The number of votes needed for action is not reduced when a commissioner who has a disqualifying conflict of interest is recused.

Scenario:

The Energy Commission has worked for over a year to develop a recommendation to Council to approve a low-cost contract with a solar panel company. One of the commissioners owns stock in the solar panel company but forgot about it, as it was just a small amount.

When the recommendation came before Council, the commissioner's relationship with the recommended vendor was discovered. Council was forced to disregard all of the work the commission did when considering the contract, thus wasting many hours of hard work.

1) **Influencing the Making of Contracts and Affecting Other Financial Interests**

Section 36 of the Berkeley City Charter and BMC Chapter 3.64 prohibit a commissioner on an advisory body from having an interest in any work or business of the City if the commission of which he or she is a member has had any role in influencing the making of the contract. These roles would include reviewing the contract itself, reviewing bid specifications, reviewing requests for proposals, discussing funding of the activity that is the subject of the contract, or making other kinds of policy recommendations that directly affect the making of the contract. A commissioner cannot satisfy the Berkeley City Charter and BMC Chapter 3.64 simply by disqualifying himself or herself when the vote or discussion on the contract is taking place. The law prohibits the contract itself.

However, some exceptions to this rule exist. For example, if the commissioner is an officer, member, director, or employee of a nonprofit corporation that is to receive the contract in question, the law does not prohibit the contract itself. The commissioner must disclose his or her interest, the minutes of the commission must reflect this disclosure, and the individual commissioner must disqualify himself or herself from participating in any manner, either directly or indirectly, in making or influencing any decision related to the contract.

2) Disclosure Statements Required (Form 700)

The Government Code of the State of California requires that designated commissioners file a Form 700 Statement of Economic Interests in which they disclose specified financial interests. The Berkeley Conflict of Interest Code specifies each commission that is subject to this requirement and the interests that must be disclosed.

Failure to file Assuming Office and Annual Form 700s on time will result in termination from the commission. Failure to file any required Form 700 by the deadline (Assuming, Annual, Leaving) may result in the assessment of fines.

An Assuming Office Form 700 must be filed with the City Clerk Department within 30 days of appointment. Annual Form 700s must be filed by April 1 of each year. Finally, a Leaving Office Form 700 is required within 30 days of leaving office.

The City Clerk will routinely advise all commissioners affected of these requirements and deadlines. Not all commissioners are required to report at the same degree of disclosure. The Conflict of Interest Code is designed to require only that degree of disclosure needed to protect the public interest while balancing that need with an individual's right to privacy.

If a commissioner serving on a commission specified in the Code fails to file an Assuming Office Form 700 within 30 days of his or her appointment, his or her appointment will automatically terminate. Failure to file an Annual Form 700 within 30 days of the City Clerk issuing specific written notice of non-filing will also result in termination of a commissioner's term.

If a person has been terminated from a commission for any reason and a Councilmember wishes to appoint that person again, the commissioner must first file a Leaving Office statement prior to the new appointment. He or she is then required to file another Assuming Office statement within 30 days of the date of reappointment. If the commissioner is reappointed within 30 days of termination, there is no filing obligation.

No commissioner may be appointed to any commission if there are outstanding Conflict of Interest statements or fines, and no commissioner shall be appointed to any commission for a period of one year if terminated from any commission more than once for failure to file such statements.

Scenario:

A commissioner was terminated in January for failing to file her Assuming Office Form 700 within 30 days of appointment. The Clerk Department processed the termination, noting that she was terminated for the same issue a few months prior. In September of that year, her Councilmember wanted to appoint her to serve on another commission. The appointment was denied because she may not serve on any commission for one year after termination more than once due to non-filing of Form 700.

3) Incompatible Public Offices

The common law doctrine of incompatible public offices prohibits a public official from occupying two public offices that are incompatible in terms of their duties and/or the likelihood of divided loyalties. However, in Berkeley, serving on two or more City boards or commissions, including quasi-judicial bodies, is permitted (BMC Chapter 3.80). A commissioner who already occupies an elected or appointed office other than a City board or commission and wants to apply for appointment to a City commission should seek the City Attorney's advice as to whether the two offices may be deemed incompatible.

4) Incompatible Activities for Compensation

Government Code Section 1126 prohibits a public official from engaging in activities for compensation that are incompatible with his or her public office. A commissioner engaged in compensated activities that may be incompatible with his or her duties as a commissioner should consult the City Attorney.

5) State-Mandated Ethics Training

State law (AB 1234) requires certain local agency officials to receive training in ethics. In Berkeley, the officials identified for requirement are Mayor and City Council, City Auditor, Rent Stabilization Board Commissioners, Board of Library Trustees, and Police Review Commissioners.

These officials will receive a notice from the City Clerk advising them of the required training. The training may be completed on the FPCC website. The training must be completed within one year of the date of appointment and every two years thereafter. A certification of completion must be filed with the City Clerk. For more information, please contact the City Clerk Department.

F. COMMISSION ORGANIZATION**1) Election of Officers and Terms of Office**

Unless otherwise provided by ordinance,² the chair and vice-chair are elected by the majority of the commission for a one-year term and hold office until their successors are elected or until their terms as members of the commission expire. No commissioner shall serve as chair for more than two consecutive years. There is no term limit for vice-chair.

Unless otherwise provided for in the enabling legislation, the annual election of commission officers should occur during the month of February. The election of officers must be listed as an item on the agenda.

Two meetings prior to the meeting at which officers will be elected, commissions are encouraged to list as an agenda item a discussion of the election, to inform all commissioners of the opportunity to seek nomination and election for the offices of chair and vice chair, to discuss and agree to the nomination process and timing for nominations (if no policy has been enacted by the commission), and to add clarity for commissioners and the

² Election of officers to the Police Review Commission, Board of Library Trustees, and Landmarks Preservation Commission are regulated by BMC Sections 3.32.050, 3.04.040, and 3.24.030, respectively.

public. In order to facilitate an orderly and fair nomination process, commissions may open nominations at the January meeting (or the meeting prior to the February meeting) and then hold the vote on officers at the February meeting. A Commission may enact a policy on officer elections in conformance with the requirements stated below, specifying the timing for nominations, the order in which nominations will be voted upon, and any other details that support a fair, orderly and transparent process for election of officers.

If there are multiple nominees for chair or vice-chair, the commission may wish to use a process by which all nominations can be made prior to voting. Full discussion of nominations is recommended, including the ability of nominees to speak on behalf of their own candidacy.

Additional regulations for officer elections:

- Nominations for chair and vice-chair require a motion (with second).
- A commissioner may nominate himself or herself.
- Any member of the commission, regardless of length of tenure on the commission may be elected chair or vice-chair.
- There is no automatic succession from vice-chair to chair.
- Motions to nominate must be voted on in the public forum, and no secret ballots are allowed.
- A roll call vote is recommended for votes on commission officers, and is required if any commissioner requests a roll call vote.
- The results of the vote must be publicly announced and the vote recorded in the minutes (Resolution No. 60,531-N.S.).
- A commissioner may not be elected chair if he or she will not be able to finish the term due to the two-year limitation.

Terms of office for officers are determined by the date the election regularly occurs, not by the date it may have actually occurred. If there is a slight variation in the date of the election, the sitting chair may serve on an interim basis provided that they do not exceed the two-year limit.

Scenario:

The chair is elected in February 2016. The chair resigns in April 2016. A new chair is elected in May 2016. The newly elected chair will serve from May 2016 to February 2017, when the next regular election is held.

2) Mandatory Annual Training for Chairs and Vice-Chairs

Chairs and vice-chairs are required to complete mandatory annual training. Resolution No. 63,876-N.S. was adopted by the City Council to implement video training for commission officers to satisfy the requirements of Resolution No. 60,531-N.S.

The chair and vice-chair must view, in its entirety, a training video on commission procedures and legal requirements. Upon completion, the chair and vice-chair must file with the City Clerk an Affirmation of Completion.

This training video must be viewed and the Affirmation of Completion must be filed with the City Clerk no later than 60 calendar days from the date of election as chair or vice-chair. Failure to complete the video training and file the Affirmation of Completion within 60 days of election will result in the immediate forfeiture of the position of chair or vice-chair.

Commission officers must file an Affirmation of Completion within 60 days from the date of election or forfeit their seat as chair or vice-chair.

While not mandatory for commissioners other than the chair and vice-chair, completion of this training is encouraged for all commissioners.

The required training video may be viewed online through the city website - <https://www.cityofberkeley.info/commissions/> or a DVD may be obtained from the City Clerk Department at 2180 Milvia Street, 1st Floor. The City Clerk also offers a video terminal at its office for commissioners to view the training video.

3) **Duties of Officers**

The “presiding officer” (chair or, in his or her absence, the vice-chair), performs the following duties.

- Presides at all meetings of the commission and ensures that the work of the commission is accomplished. To this end, the chair must exert sufficient control of the meeting to eliminate irrelevant, repetitious, or otherwise unproductive discussion. At the same time, the chair must ensure that all viewpoints are heard and are considered in a fair and impartial manner.
- Ensures that commission bylaws, if any, and procedures are followed. The chair cannot make rules related to the conduct of meetings; only the full commission may do so.
- Appoints commissioners to temporary subcommittees subject to the approval of the full commission.
- Approves the agenda prior to distribution. This is limited to the structure and order of the agenda and does not grant the chair the authority to remove an item submitted by commissioners or staff if submitted by the established deadline.
- Signs correspondence on behalf of the commission.
- Represents the commission before the City Council. Other commissioners may be the representative with the formal approval of the commission by motion and vote.
- Approves commission reports to Council. The chair cannot modify content that was approved by the full commission.
- The chair or a quorum of the commission may call a special meeting.
- The chair and vice-chair have full rights to vote and to make or second motions.

4) Transfer of Chair

In the absence of the chair or his or her inability to act, the vice-chair presides in place of the chair, but does not assume the office of chair. In the event of the absence or the inability to act of both the chair and the vice-chair, the remaining commissioners elect one of their members to act as temporary chair.

If a chair is terminated from the commission for any reason, or resigns, the office is vacated, and a new election for chair must be held to fill the office. The vice-chair does not assume the office of chair, rather they preside over the meetings and execute the chair's duties as the vice-chair. If a vice-chair is terminated, the office is vacated, and a new election would be held to fill the office. If an officer is terminated and subsequently reappointed to the commission, he or she shall not resume the office and must be reelected to the office by the majority of the membership.

In the event a chair leaves the commission prior to the end of his or her term, the vice-chair performs the duties of chair but does not assume the office of chair. An election must be agendized and a new chair must be elected at a subsequent meeting. The vice-chair may be elected as chair, as may any other commissioner, but the commission must vote on the election.

5) Temporary Subcommittees/Ad Hoc Subcommittees

From time to time, the commission or the chair, with the confirmation of the commission, may appoint several of its members, but fewer than a quorum of the present body, to serve as a temporary subcommittee. Commissions are limited to the creation of ad hoc single purpose subcommittees. Ad hoc subcommittees are treated as if they are legislative bodies under City policy and, as such, are required to comply with the requirements in the Brown Act.

Ad hoc subcommittees are defined by all of the following characteristics.

- Composed of less than a quorum of the parent body.
- Composed of only members of the parent body (no members of other commissions or any other persons may be included).
- Have a finite purview established by the parent body.
- Have a set target date to report back to the parent body.
- Terminate within one year, unless the parent body reviews and extends the timeline.
- Have no regular meeting schedule set by the parent body (all subcommittee meetings are "special meetings").
- Have no alternate commissioner assigned to attend meetings, even as an observer, if his or her presence would create a quorum of the parent body.

Subcommittees are advisory only to their parent commission, not to Council. Subcommittees are tasked with the study of a specific issue and with making a recommendation to their parent commission. The parent commission has the opportunity for input when the subcommittee reports

its findings and makes the recommendation(s). The parent commission has final decision-making authority on the disposition of the subcommittee's work.

The parent commission must adopt subcommittee recommendations before they can be forwarded to Council. A subcommittee may not represent the parent commission before the Council or other city legislative bodies unless it has first received the authorization of the parent commission to do so.



Only commissioners may become members of the subcommittee; however, the subcommittee should seek input and advice from the public, commissions with relevant subject matter jurisdiction, and other groups. Subcommittees must be reviewed annually by the commission to determine if they should continue their work. The commission secretary should track the creation of subcommittees and notify the commission of the pending expiration a subcommittee. The commission may request that renewal be agendized at a future meeting.

Please consult Chapter IV for noticing and agenda requirements applicable to subcommittees.

Extensive collaboration between commissions can be accomplished through concurrent meetings of subcommittees, meaning subcommittees meet in the same place at the same time, each noticed and conducted appropriately. In almost every case, concurrent meetings facilitate collaborative goals. Rarely, the City Council may choose to approve a joint subcommittee with the members designated by the City Council in accordance with the Fair Representation Ordinance, BMC Sections 2.04.030–2.04.070 and 2.04.080–2.04.130.

Subcommittees shall conduct their meetings in public and in accessible locations that are open to the public. Meetings may be held at privately owned facilities provided that the location meets all the requirements of the Brown Act, including the following:

- The location is open to all who wish to attend and there is no requirement for registration or purchase to attend.
- No prohibition on attendance based on a protected class (e.g. race, ancestry, gender)
- Must be accessible to the disabled.
- The agenda must be publicly viewable at the meeting location for the full 24 hours prior to the meeting.

Agendas for subcommittee meetings must be posted in the same manner as the agendas for regular commission meetings (posting board, website, meeting location) except that subcommittee agendas may be posted with 24-hour notice instead of 72-hour notice.

Question:

If a subcommittee plans to hold a meeting in a local shop that will allow members of the public in without charge and will post the agenda 24 hours in advance on the bulletin board in the back of their dining room, would this be a legal subcommittee meeting?

Answer:

Potentially not. The agenda must be posted where it is viewable by the general public for the full 24-hour posting period. If the shop closes at night and the agenda can't be viewed from outside the store, then the meeting was not properly noticed and cannot be held.

The secretary is not required to attend or take minutes of meetings of subcommittees. City staff may attend and participate in subcommittee meetings. Depending on the desires of the subcommittee members, City staff may participate the same as members of the public or may be asked to offer insights or provide information during discussion.

Subcommittees must be comprised of at least two commissioners. If only two commissioners are appointed, then both must be present in order for the subcommittee meeting to be held. In other words, the quorum for a two-member subcommittee is always two. A quorum of a subcommittee is prohibited from engaging in an illegal meeting; please refer to Chapter IV of this manual for more information regarding serial meetings.

A temporary appointee does not assume the subcommittee membership(s) of the commissioner for whom he or she is substituting on the full commission. A subcommittee member who is terminated from the parent commission and subsequently reappointed to the parent commission does not automatically resume membership on the subcommittee; he or she may, however, be reappointed to the subcommittee by action of the parent commission.



CHAPTER III. COORDINATION WITH COUNCIL, STAFF, AND OTHERS

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A. COORDINATION WITH CITY COUNCIL

1) Relationship to City Council

The role of a commission is to advise the City Council. The exception is for quasi-judicial commissions that can act under their authorized ordinances or advise the City Council as appropriate. The City Council is responsible for accepting, rejecting, or modifying commission recommendations. The Council relies on the various commissions to increase the variety of viewpoints and talents brought to bear on City problems. By concentrating on specific areas, commissioners use their expertise and conduct detailed analyses that the Council itself may not have the time to pursue. It is expected that commissions will adopt positions of advocacy within their specific purview. However, the City Council's role is to take into consideration the many varied and sometimes conflicting public needs and render its judgment of what will best serve the public good. The Council must weigh the effect of any given recommendation, not only on the particular area of interest but on all other City goals and programs.

Just as the commissions advise the City Council concerning policy but do not create policy, the commissions advise the City Council concerning various programs run by the City but do not themselves operate programs. It is the responsibility of the City Manager and the City staff to operate programs authorized by the City Council. The exception to this rule is the Board of Library Trustees.

2) Referrals from the City Council

The Council may transmit referrals for information or action through formal action on an agenda item. These actions are recorded in the minutes of the Council meeting. The secretary notifies the commission of any such referrals from the Council. When appropriate, the Council may indicate a desired date for response and specify which commissions will be consulted.

Each referral response presented to the City Council on the Council agenda, shall indicate to whom the item was referred, the date of referral, and any other responses. Each commission may elect to respond by means of a separate report or communication.

3) Communicating to the City Council

A commission transmits its findings, responses to referrals, and other recommendations to the Council through the Council agenda. Upon the final vote of a commission to send an item to Council, the secretary submits a completed commission report for the Council agenda to the agenda process no later than three weeks after receiving the final text from the commission. The commission is responsible for providing the content of the report to the secretary. The report will be placed on an upcoming Council agenda based



on City Manager timelines and the Council Rules of Procedure for scheduling matters on the agenda. All reports are due to the City Clerk Department 33 days prior to the meeting date. Departments may have internal deadlines that require reports to be processed earlier.

Commissions may also transmit their findings or recommendations to the Council in the form of a letter. This type of communication is more timely; however, the Council cannot take any official action based solely on a written communication from a commission. Sending a letter to the City Council requires the authorization of the commission. Once approved by the commission, the secretary submits the letter to the City Clerk.

The chair, or an authorized representative of the commission, may officially speak on behalf of the commission at public comment on an issue before the City Council. Other commissioners may speak on the item as private citizens. As is the case with a written communication, the Council cannot take an official action based solely on verbal comments from the commission.

For more information on commission reports to Council, see Chapter VI.

4) Council Meeting Procedures and Commission Participation

Regular City Council meetings are generally held twice monthly on Tuesdays. The schedule is established annually, taking into consideration holidays and election dates. Chapter VI has detailed information about how to place items on the agenda.

Council meeting agendas have a specific order: Consent, Public Hearings, and then Action. Information items are not usually discussed or acted on but can be commented on during Public Comment. Many circumstances can change the order in which an item is heard. Council may move items from Consent to Action or from Action to Consent, or they may even move Information items to Action.

Question:

If a commission places a report on the Council agenda as a Consent item, will it be heard at the beginning of the meeting?

Answer:

Not necessarily. The Consent Calendar is heard toward the beginning of meetings, right after procedural and ceremonial items. However, items can be pulled off the Consent Calendar by Council to be discussed and acted on later in the meeting.

The chair, or an authorized representative of the commission, has the right to address the City Council at the time the commission's item is heard. The Chair or the commission's designated representative may address Council from the staff table. Commissioners not delegated to speak as the official representative may utilize the Public Comment period to present information to Councilmembers.

Scenario:

A commission placed an item on the Consent Calendar for a Council meeting. The commission assumed that since the item was on Consent, there would be no discussion or questions and did not send a representative. At the meeting, a Councilmember had some questions and moved the item to Action. Because there was no one from the commission present and no subject matter expert, the Council ended up holding the item over to a future meeting.

B. COORDINATION WITH STAFF**1) Duties of Secretary**

The commission secretary is a City employee designated by the City Manager (except for BOLT). The secretary represents the City Manager and assists the commission in its functions and advises the commission of staff's recommendations. Secretaries perform technical and basic administrative functions as outlined below and do not vote. In addition, as City professionals, they have the responsibility to ensure that the commission is apprised of laws and administrative processes affecting proposed policy recommendations and operational recommendations.

While other staff members may assist the commission from time to time, clerical staff will not be assigned to attend meetings without approval of the City Manager. The commission secretary's presence is only required at commission meetings. Secretaries are not required to attend subcommittee meetings.



It is a secretary's responsibility to:

- Prepare commission agenda packets and minutes pursuant to the Brown Act and City procedures.
- Post draft minutes within two weeks after the commission meets.
- Notify commissioners of meetings.
- Maintain an accurate subscription mailing list for agendas.
- Attend commission meetings. City staff are not required to attend subcommittee meetings.
- Follow the established Council agenda process to submit reports to Council based on the text approved by the commission.
- Advise the City Manager or department director of any requests for extensive staff work or report preparation.
- Notify other commission secretaries regarding items of shared purview.
- Report commissioner attendance to the City Clerk.
- File Commissioner's Annual Declaration Reimbursement (stipend) forms with the Auditor.
- Submit annual stipend forms and quarterly payment requests.
- Administer the oath to newly appointed commissioners if needed and file completed oath forms with the Clerk.
- Post agendas in hard copy and to the web per Brown Act requirements.
- Post commission meetings to the online Community Calendar.

- Forward final, adopted versions of the minutes to the Records e-mail inbox.
- Submit an information report to the City Council whenever a commission cancels two consecutive meetings for lack of quorum, per Resolution No. 65,127-N.S. (and its successors).
- Retain all documents related to the functions of the commission in accordance with the Citywide Records Retention Schedule. Of primary importance is the proper retention of minutes. Secretaries must sign the hard copy of the final adopted minutes and retain these records permanently. Secretaries may also consult with the Records Coordinator in their department for guidance on records retention.
- Advise the commission of staff's recommendations regarding matters before the commission, and represent council priorities and administrative policies of the City.
- Consider the policy and fiscal impacts of proposals and provide commissioners with early and timely information about the fiscal and policy impacts of proposals and their relationship to department and Citywide priorities.
- Compile communications from the public.
- Inform the commission of subcommittee expiration as needed.

The list of duties above is representative of the requirements placed upon commission secretaries. It is not intended to be exhaustive. Requirements change over time and vary from commission to commission. Secretaries must familiarize themselves with the Brown Act and relevant City policies to ensure they are properly fulfilling their duties.

The secretary may also post information that is of particular interest to the commission web page including the commission work plan, specific projects, vacancies, and other general information. When posting additional information, it is important that the information be timely and relevant to commission business.

Secretaries should inform commissioners about activities, projects, and work taking place within the organization and among other commissions when the information is available and relevant. This information may be obtained by reviewing agendas or minutes from other commissions and maintaining contact with other secretaries.

Secretaries are encouraged to work with their supervisors or department heads to identify and train an alternate to ensure the critical work continues if they are on vacation or leave.

2) **Relationship Between Secretary and Commission**

The two main responsibilities of the commission secretary are to assist the commission in its functions and to represent the City Manager.

Generally, the commission secretary is appointed from the department that most nearly encompasses the commission's activities. As a representative of the City Manager, the commission secretary also advises the commission of staff's recommendations. In this sense, the secretary is an active

participant with the commission, although without a vote, rather than merely a passive transmitter of information.

While the secretary's role is to assist the commission, the secretary and other staff assistants are not employees of the commission. At all times, the staff is directly responsible to the department director and City Manager.

The following are some ways to avoid misunderstandings and to keep the channels of communication open. Commissioners must adhere to the following rules for communication with staff.

- Ensure all contacts from the commission to any member of the staff, including those to a higher-level employee (e.g., the City Manager), are transmitted through the secretary. Conversely, all contacts from staff to the commission go through the secretary.
- Keep all contacts with staff members clearly in the framework of the commission assignment.
- Do not ask for individual reports, favors, or special considerations.
- Direct complaints from the public directly to the secretary, who will respond on behalf of the City.
- Realize that the assigned secretary reports directly to a supervisor and may not be able to carry out every request that the commission may have.



The Commission secretary must also follow the guidelines below to ensure clear communication.

- Keep the commissioners informed of the purpose and goals of the commission.
- Take the initiative to inform commissioners about relevant activities, projects, and work that is taking place elsewhere in the city government and among other commissions.

If a commission desires information, analysis, or other work that will require an excessive amount of staff time, the commission should present the request to the Council for approval in the form of a report. The Council may then consider the request in the context of the citywide work plan and determine the urgency and priority of the request. Following this procedure will prevent staff from being diverted from priority projects.

All appearances by staff before the commission are scheduled through the secretary so that they may be placed on the agenda. A staff person appearing before, or communicating with, a commission as a private individual must advise the commission that he or she is not acting in an official capacity.

Staff secretaries are professionals who are required to provide their best technical and professional advice both to the commission and to the City Manager. Staff is there to provide information and expertise, not to make

decisions or judgments. Occasionally, this will result in staff making an alternate recommendation to that of the commission or suggesting that additional information is needed. In these situations, staff prepares a City Manager Companion Report capturing the alternative recommendation or additional information. Please see Chapter VI, Section C, page 67 for more information.

3) **Relationship with the City Manager**

The City Manager has a direct interest in the work of all commissions as they often advise the City Council on issues that will affect the use of staff time and City resources. Commission secretaries are responsible to the City Manager as well as the commission, and they keep the City Manager informed of significant issues that come before their commissions.



For the commissions that are advisory to the City Council, the City Manager is not able to alter commission reports and recommendations, however, the City Manager may propose an alternative to the commission report if he or she believes that the Council needs additional information or to pursue a different course. Please see Chapter VI, Section C, page 61 for more information.

As a partner in the public process, the City Manager seeks to work cooperatively with commissions to achieve the best outcome for the community.

C. **EXTERNAL RELATIONSHIPS**

1) **Meetings with Other City Commissions**

In order to develop a useful liaison between commissions, each commission should determine which other bodies regularly deal with overlapping subject matter. Commissions with issues that regularly overlap should request agenda, minutes, and relevant reports from each other through the commission secretaries. Where an issue arises that is of concern to two (or more) commissions, they should review the issue with each other before submitting a report to Council as outlined above.

Occasionally, two or more commissions may consider an issue that is within the purview of both. One of the secretary's duties is to collaborate with the other secretaries to ensure they are abreast of potential crossover subject matters. It's important that secretaries are aware of these situations in time for the commissions to address them as outlined below.

Commissions may hold concurrent meetings with other Council-created committees. This is often referred to as a "joint meeting" between two commissions, but in reality, it is a *concurrent* meeting. Both commissions will publish separate agendas, take separate votes, and produce separate minutes. However, the concurrent meeting allows them to hold a joint discussion about the matter at hand.

The secretaries of the involved commissions should work together to ensure both commissions can communicate with Council as needed. If one commission is going to recommend action regarding an item of interest to



another commission, the secretaries must collaborate to ensure both commissions have the opportunity to submit reports to Council representing their purview.

Requests for information or review of proposals from one commission to another are transmitted through the respective secretaries of each commission.

2) **Outside Agencies**

Commissions function in an advisory capacity and, in the absence of an explicit delegation of the role to act on the City's behalf by the Council on a particular issue, they may not directly communicate with outside agencies.

Unless specifically authorized by the Council, commissions may not represent the City or its policies or positions to outside agencies either on their own behalf or on behalf of the City.

If a commission wishes to support or object to a particular policy or program run by an outside agency, it should frame this action as a motion and a recommendation to the City Council. If adopted, the communication to the outside agency will be from the City Council.

When a commission requests that the City Council support or oppose legislation, policies, or actions, the position of the City is generally contained in a letter. The commission must attach the text of the letter to the report to Council. Resolutions are not needed for this type of action. However, should a resolution be requested of Council, such resolution must be in the proper format and attached to the Council report, ready for Council action.

If a request for an official policy statement is received from an outside jurisdiction, the commission may analyze and study the request. It can then make a recommendation to the Council for a response. All communications from outside agencies are transmitted through the secretary.

Furthermore, commissions may not take any action that commits or indicates an intention to commit the City without authorization by the Council and coordination with the City Manager, such as endorsing grant applications, receiving donations and gifts, sponsoring community events, or approving use of City property, facilities, or other resources.

The commission may not act as a sponsor of or participate in (such as having an information booth) community events without the authorization of the City Council.



Commissions cannot hold a joint meeting or joint event with an outside agency. If information from an outside agency is desired, the commission may request that the secretary invite the outside agency to make a presentation and field questions at a regular commission meeting.

3) **General Public**

The most direct way for the general public to communicate with commissions/commissioners is to attend commission meetings.



Members of the public may also communicate with commissions by sending a letter or an e-mail to the secretary, who will forward the e-mail to the commission in the agenda packet. If the communication is submitted after the packet is published, copies may be distributed to the commissioners and placed in the public viewing binder.

All communications from the commission to members of the public are transmitted through the commission secretary. Similarly, arriving communications are received by the secretary and relayed to the commission through the agenda packet. The secretary is responsible for including all communications received in the agenda packet according to publication deadlines. If the commission wishes to recommend Council action in response to a public comment or communication, the topic must be agendized at a future meeting for commission discussion and action.

Commissioners may interact with the public; however, if commissioners are contacted by the public outside of a meeting, commissioners should encourage them to send their comments to the secretary for distribution to all commissioners or come to a commission meeting and speak at public comment. This will allow the full commission to hear and consider all pertinent information and points of view.



Commissions may not, without approval of Council, represent City policy or communicate in an official manner outside of Commission meetings. This prohibition includes any type of public surveys and/or polling of the public, distributing informational flyers, newsletters, mass e-mails, or other similar media.

4) **Individual Commissioners**

Commissioners may not represent their Commission or the City to the general public or the media unless the Council authorizes the commission to authorize the individual commissioner to do so. Similarly, commissioners may not use city logos, branding, or collateral to represent themselves externally. Please see Chapter V, Section G for more detail. A commission may authorize one of its members to appear before another City commission without Council approval.

Any time a commissioner uses their commission title or references their membership on a city commission when speaking publically, they must state the following:

“I am speaking in an individual capacity and not representing the [Commission Name] or the City of Berkeley.”

Each commissioner also has the obligation to work cooperatively with other commissioners. Commissioners should exercise self-discipline and strive always to be objective, fair, and courteous with each other as well as with staff and the public. A healthy respect for the time of other commissioners, staff, and the public is of critical importance.

5) Press and Other Media

Inquiries from the media should be handled only by the chair or a representative designated by the commission, who may clarify actions taken by the commission, fairly and accurately recap commission conversations, or outline next steps. The Chair or designee must not editorialize, offer personal opinions, or speculate on future actions when speaking in an official capacity. Any commissioner may recite commission actions taken and state factual accounts of those actions.

6) Election-Related Activity

While potential ballot measures are under consideration for inclusion on the ballot, commissioners may communicate with Council, but they should limit themselves to advisory comments only. If a commission wishes to recommend a ballot item to Council, they should discuss it at a commission meeting, which offers the public a chance to participate, and then make their recommendation to Council via normal channels. Once a measure is placed on the ballot, Council has already taken action, so a commission, as an advisory body to Council, may not endorse or oppose the measure.

Commissions may not take official positions or host a public forum or debate for measures or candidates. Commissioners may engage in election-related activity as community members, and may use their commission title(s), current or former, for identification purposes, so long as they affirmatively declare that they do not represent the City or any legislative body of the City.

7) Summary

When considering the appropriateness of communicating publically as a commissioner, remember these simple guidelines.

- The City Council speaks for the City
- Commissions speak to the Council
- Commissioners speak as private individuals

CHAPTER IV. PUBLIC MEETINGS

CHAPTER IV. INDEX

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This chapter describes the key steps necessary for complying with the Brown Act and City policy for public meetings of boards and commissions.

The Brown Act (Government Code Sections 54950 et seq.³) is the state's open meetings act. It is intended to ensure that the public has adequate notice of what actions its elected and appointed local decision makers may take and that those decisions and the deliberations leading to them occur in public.

A. LEGISLATIVE BODIES

The Brown Act applies to any legislative body. This includes all City of Berkeley boards and commissions.

City of Berkeley commissions can only create ad hoc (or temporary) subcommittees. Ad hoc committees are not legislative bodies under the Brown Act, but they must follow Brown Act procedures per City policy.

B. MEETINGS

Any contact between a quorum of the legislative body, either directly or through intermediaries, to hear, discuss, deliberate, or take action “on any matter within the subject matter jurisdiction” of the City or commission is a meeting. All meetings must be conducted in compliance with the Brown Act. Meetings include retreats, forums, workshops, and similar types of events. A meeting can be in person, by telephonic or other electronic medium, or through intermediaries. With a few narrow exceptions not applicable to most commissions, all meetings of legislative bodies must be open to the public (Government Code Section 54953).

1) Types of Meetings

Regular Meetings

Regular Meetings occur at the dates, times, and locations set by formal action of the commission at the beginning of each year to follow for the next 12 months. Regular meetings require 72-hour notice that includes the time and location of the meeting. Commissions may change the meeting schedule by formal action. Council sets the maximum number of meetings the commission may have during a calendar year.

³ All statutory references in this Chapter are to the Government Code unless otherwise noted.

If a committee needs to change the meeting schedule after it is approved, it must amend and readopt the new schedule at a meeting.

Special Meetings

Special Meetings are called by the chair or a quorum of the commission to hear a specific item or items. Special meetings require 24-hour notice. Council establishes the number of meetings each commission is allowed to have in a given year. Special meetings count against that total. Absences from special meetings do not, however, affect commissioner attendance records. Any meeting not on the regular meeting schedule is a special meeting.

Subcommittee Meetings

Subcommittees are less than a quorum of the parent committee, designated by action of the commission for a specific task and a limited duration. Subcommittees shall conduct their meetings in public and in accessible locations that are open to the public. Meetings may be held at privately owned facilities provided that the location meets all the requirements of the Brown Act, including the following:

- The location is open to all who wish to attend and there is no requirement for registration or purchase to attend.
- No prohibition on attendance based on a protected class (e.g. race, ancestry, gender)
- Must be accessible to persons with disabilities.
- The agenda must be publicly viewable at the meeting location for the full 24 hours prior to the meeting.

Agendas for subcommittee meetings must be posted in the same manner as the agendas for regular commission meetings (posting board, website, meeting location) except that subcommittee agendas may be posted with 24-hour notice instead of 72-hour notice.

Public Hearings

Public hearings are held when required by law. Generally, the need for a public hearing is limited to the quasi-judicial commissions: Zoning Adjustments Board, Landmarks Preservation Commission, Housing Advisory Commission, Fair Campaign Practices Commission, Police Review Commission, and Planning Commission. Advisory commissions do not generally require public hearings.

Public hearing noticing practices are specified by law and must be adhered to. Noticing beyond the legal requirements is permitted but is not required.

Please see page 60, for proper public hearing procedures. If needed, the City Attorney's Office or the City Clerk Department can work with a commission secretary determine if a public hearing is required.

Note: In the event that a public hearing is continued to a later meeting date, a commissioner who missed the first meeting should review the transcript or video of the previous meeting prior to voting.



Concurrent Meetings of Commissions

Two or more commissions may hold concurrent meetings to discuss an issue that falls under their purview. Such meetings should not be noticed as “Joint Meetings,” but as two separate meetings occurring at the same place and time. The secretaries of the commissions must each prepare and post separate agendas. During the meeting, each commission must vote independently on each agenda item. The secretary for each commission must prepare separate minutes for the meeting of his or her commission as well.

2) **Exceptions**

Gatherings That Are Not Meetings

Certain gatherings of a quorum of a legislative body are not considered meetings under the Brown Act.

- *Attendance by One Legislative Body at a Meeting of Another*
Attendance at a meeting of another commission or the City Council does not need to be separately noticed, provided that a quorum of the attending body does not discuss privately among themselves, other than as part of the scheduled meeting, business of a specific nature that is within the subject matter jurisdiction of that body (Government Code Section 54952.2(c)(4)). This exception includes noticed meetings of legislative bodies of other public agencies, not just those of City commissions or the Council.
- *Attendance at Conferences and Other Gatherings Open to Members of the Public*
Attendance at a public conference is permissible as long as a quorum of the body do not discuss among themselves specific business that is within the subject matter jurisdiction of the City.
- *Purely Social or Ceremonial Occasions*
Attendance at purely social or ceremonial occasions are not considered meetings as long as the participants do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the City (Government Code Section 54952.2(c)(5)).
- *Open and Public Community Meeting Organized by An Entity Other Than the City to Address a Topic of Local Community Concern*
Attendance at a meeting organized by persons or groups other than the City to address a subject of local community concern may be attended without noticing the meeting as long as members of the legislative body only participate in the public program and do not discuss among themselves matters of specific business within the jurisdiction of the City.

Any activity that involves a quorum discussing commission business is a meeting and must be compliant with all Brown Act requirements.

3) **Violations and Danger Areas**

Serial Meetings

One type of illegal meeting is a “serial meeting.” A serial meeting is one in which a quorum of a legislative body communicates with each other, directly or indirectly, through whatever medium, to develop collective concurrence.

There are many types of serial meetings, all of which are prohibited.

A literal serial meeting is one in which members of a legislative body constituting a quorum meet in smaller groups, serially, or a single member meets with enough other members to constitute a quorum individually, one after the other.

A communication from staff asking a quorum of a legislative body for comment can lead to a serial meeting if feedback from commissioners assists staff in developing a policy or taking an action that takes into account their points of view.

However, a staff member may have separate conversations or communications with members of a legislative body in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the commission if that staff person does not communicate to members of the legislative body the comments or position of any other member or members of the legislative body.

Special Note:

It is acceptable for staff to provide information to commissioners, communicate meeting information, and answer questions as long as staff does not share commissioners’ opinions with other commissioners.

Another type of serial meeting can result—sometimes unintentionally—from improper use of e-mail. E-mail communication between a quorum of a legislative body to develop a collective concurrence constitutes an illegal serial meeting (Government Code Section 54952.2(b)). To avoid this problem, members of legislative bodies should never use the “reply to all” function to an e-mail that may be addressed (even via “bcc”) to a quorum of the legislative body. Since it is not always possible to know who might receive a “reply to all,” it is better to simply never use the function. Of course, a serial meeting can occur from forwarding an e-mail as well.

Question:

If a commission secretary sends an e-mail to a quorum of his or her commissioners requesting feedback on a subject under the commission's purview, is it a violation of the Brown Act?

Answer:

It could be. If the secretary shares answers among the commissioners, it could be construed as a serial meeting. If the feedback from the commission assists staff in developing a policy or taking an action, it could be considered collective concurrence.

Question:

If a commissioner is unable to attend a commission meeting but has valuable information for the commission to consider, may he or she send an e-mail to the full commission?

Answer:

E-mail communication between a quorum of a legislative body can constitute an illegal serial meeting (Government Code Section 54952.2(b)). In this case, it would be best for the commissioner to share his or her information with the secretary, who can then disseminate it to the full commission and the public.

Retreats, Forums, Workshops

Retreats, forums, study sessions, workshops, and similar are considered meetings. Any such activity, where a quorum of the commission is present and discussing commission business, **is a meeting**. It must meet all the requirements for notice, public participation, location, and accessibility. Any such meeting would count toward the limit on the number of meetings set by Council.

Lobbying

Serial lobbying by members of the public of all commission members is not prohibited *as long as they are not acting as intermediaries between members of the legislative body* (Govt. Code Section 54952.2 (c)(1)).

Question:

A member of the public who is not a member of the commission contacts the chair and advocates for an item the commission will hear at the next meeting. The member of the public states that he already has the support of four out of nine commissioners and asks if he can count on the chair's vote. Is this a Brown Act violation?

Answer:

It is not illegal for a member of the public to advocate for an agenda item. However, when this person tells commissioners about other commissioners' intentions, he or she may be considered as acting as an intermediary. In this scenario, the chair should suggest the member of the public send an e-mail through the secretary for all the commissioners and the public to read.

C. PUBLIC COMMENT AT MEETINGS

Every agenda for a regular meeting must allow the public to speak on any item in the commission's purview as well as on each specific item of business before the commission. Per the Brown Act, no member of the public can be required to give his or her name in order to attend or speak at a meeting.

1) Public Comment on Items Not on the Agenda

Members of the public must be allowed to speak on any item under the commission's purview, even if it is not on the agenda. The time allowed for these comments is the same as that for Action or Discussion items (generally two or three minutes per speaker). Non-agenda comments may be at the beginning or end of the meeting depending on the preferred agenda sequence of the commission.

2) No Discussion of Items Raised at Public Comment

Public comment on items that are not on the agenda cannot be used to start a discussion between commissioners or to take action in response to comments. Government Code Section 54954.2 does allow members of the legislative body or its staff to make brief responses to comments made during non-agenda public comment. It is also permissible for a member of a legislative body to ask a question for clarification, make a brief report on his or her own activities, and make a referral to staff or ask that an item be placed on a future agenda.

3) Public Comment Must be Allowed Prior to the Vote

For items on the agenda, the Brown Act requires that public comment be permitted prior to the commission voting on the item. The procedure for public comment should be the same for all meetings and adopted as a commission policy or in the commission bylaws, if any. Generally, two or three minutes per speaker is allowed.

4) Limiting the Time for Public Speaking

Government Code Section 54954.3(b) allows a commission to adopt reasonable regulations to govern public comments. Typical of such rules are time limits on individual speakers and overall time limit on public comment. The commission should decide whether to set an overall time limit and/or limit per speaker and are encouraged to adopt it in the bylaws, if any, or as a commission policy, to be followed consistently.

5) Distinction Between Public Comment at Regular Meetings Versus Special Meetings

Government Code Section 54954.3(a) requires public comment at special meetings as well as regular meetings. At special meetings, the comment must be confined to the subject matter to be considered at the special meeting. There is no non-agenda public comment at special meetings.

6) Formal Participation by the Public/Presentations

An individual wishing to formally address the commission or make a presentation should prepare a written request to the secretary to be scheduled on a future agenda. The request is discussed at the next meeting, and the commission may grant or deny the request.

7) Recording Meetings

Audio or video taping of the meeting must be allowed except when the legislative body finds that the recording is performed in a manner that constitutes “a persistent disruption of the proceedings” (Government Code Section 54953.5(a)).

D. MEETING LOCATION AND ACCESSIBILITYLocation

Meetings of legislative bodies are generally held in public buildings. Meetings may be held in a privately owned building or facility provided that all Brown Act requirements for noticing and accessibility are met. In addition, no member of the public shall be required to make a purchase or meet any other requirement of the private establishment as a condition of attending and participating in the meeting.

Meetings must be held within City limits unless a meeting falls within one of the exceptions in Government Code Section 54954(b).

Consult the City Clerk or City Attorney if there is some special reason to have a meeting outside City limits.

Accessibility

The Americans with Disabilities Act (ADA) has always been applicable to the manner in which the City conducts its public meetings, and provisions of the ADA have been expressly incorporated into the Brown Act.

In addition, Council policy requires that all meetings be held in accessible facilities. This includes the approach to the facility, entry, path of travel within the facility, and restrooms. Secretaries should contact the Disability Compliance Program manager for recommended locations or for a location assessment, if necessary. Secretaries should be aware of commission items related to accessibility or persons with disabilities to prepare for accessible participation needs in advance of the meeting.

Pursuant to City of Berkeley Administrative Regulation 1.12 - Communication Access Policy, all boards and commissions must provide communication access in the form of accommodation to members of the public who have disabilities so that they may have an equal opportunity to participate in and benefit from board and commission meetings. This particularly affects members of the public who are vision or hearing impaired and may involve requests for such accommodations as providing meeting agendas in large print or braille, utilizing the City's assistive listening devices, or the provision of a sign language interpreter at the meeting itself.

Upon request, it is the responsibility of the Disability Compliance Program to arrange for reasonable accommodation at no cost to the requesting individual. Although A.R 1.12 states that three working days advance notice will ensure accommodation availability, every attempt will be made to arrange accommodation even on short notice. Although primary consideration should go to the disabled individual's preferred type of accommodation, when a particular type of accommodation is not available on short notice, an alternative type of



accommodation may be considered. For example, if braille or large print isn't available on short notice, staff may read the document to the vision-impaired person as an alternative.

Commissioners with disabilities will receive accommodation through the Disability Compliance Program upon request. Review Appendix I for more information.

E. AGENDA AND NOTICE REQUIREMENTS

The agenda for all regular, special, and subcommittee meetings shall specify the time and location of the meeting, the business to be transacted, and shall be posted in the following locations:

1. On the bulletin board at Old City Hall at 2134 Martin Luther King Jr. Way.
2. At the location the meeting will be held.
3. On the City of Berkeley website.

Commission Secretaries must also ensure that commission meetings are posted to the online Community Calendar.

No business, other than that included on the agenda, can be considered by the commission at any type of meeting.

1) Regular Meetings

At least 72 hours before a regular meeting, the commission secretary shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words.



2) Special Meetings

Special meetings may be called by the chair or a majority of commissioners. The notices and agendas must be posted no less than 24 hours prior the meeting.

3) Subcommittee Meetings

Subcommittee meetings fall under this special meeting rule and their agendas must be posted at least 24 hours prior to their meetings.

4) Media List for Meetings

In order to give proper notice of a meeting, it is important to ensure that the commission secretary maintain a current list of media. The City Clerk has developed a list of media that is used to give notice of City Council meetings. This list may be used along with any other media outlet that may have requested notice of a particular commission's meetings.



5) Agenda Titles/Purpose

The purpose of the agenda is to inform the public regarding the issues to be discussed. Government Code Section 54954.2 of the Brown Act requires that agenda item titles fully describe the issue or action to be discussed

and/or taken. This requirement, therefore, precludes such agenda titles as "University Avenue Improvements" or listing a topic on every meeting agenda to cover the "possibility" of discussion.

In preparing the agenda, consider the position of a member of the public and determine if a reasonable person could determine from the agenda title what the commission is discussing and what action is being proposed.

For example: "University Avenue Improvements" listed on an agenda by itself does not provide enough information. An appropriate title might be:

"Adopt a Recommendation to the City Council to Proceed with the Proposed \$5 million University Avenue Landscaping Improvements"

Another example: "Earth Day" listed on an agenda by itself is too vague. An appropriate title might be:

"Discussion of Recommendation to Council to Sponsor Earth Day Parade"

The agenda must be clear on what action, if any, may be taken on an item. The agenda should list the recommendation or action proposed using the 20-word guideline. By using a full explanation in the item title (never use acronyms), members of the public who may be in favor of or opposed to such an issue will know to be present at the commission meeting to discuss their views.

6) **Agenda Format/Headings**



Prior to each meeting of the commission, the secretary prepares and distributes an agenda, which usually includes but is not limited to the following: Roll Call, Public Comment, Approval of Minutes, Public Hearings, Old Business, New Business (with appropriate description of the item under the headings of Public Hearings, Old Business, and New Business), Information Items, Communications, and Adjournment. The agenda must be approved by the chair prior to distribution.

Commission agendas may vary to suit commission needs, but the Council agendas provide a good guideline.

Every regular and special meeting agenda, including subcommittee meetings, must include the following.

- Name of the commission
- Type of Meeting (regular or special)
- Day, date, time, and location of the meeting
- A brief, general description of each item of business, including the recommended action
- Public comment period
- Communication access information (A.R. 1.12) and ADA disclaimer:



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

- **SB 343 Disclaimer:**
 “Any writings or documents provided to a majority of the commission regarding any item on this agenda will be made available for public inspection at _____ Department located at _____.”
- **Communications Disclaimer:**
 “Communications to Berkeley boards, commissions or committees 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 a City board, commission, or committee, will become part of the public record. If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission, or committee. 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 secretary to the relevant board, commission, or committee for further information.”

Agendas may include the following if applicable:

- **Accessibility of Meeting Facilities**
 All meeting facilities must be accessible. If, however, the accessible entry or path of travel is other than the main or common entrance or path to the meeting location, such information and directions must be so noted on the agenda.
- **Use of Dates**
 Items for which material was included in the past and which are not duplicated again as part of the agenda packet should contain the date of the previous agenda packet for reference.
- **Identification of Written Reports**
 It is always best practice to have complete reports published when the agenda packet is distributed. If reports on agenda items will be delivered at the meeting, they should be identified in the following way: “(to be delivered).”
- **Oral Reports**
 Agenda items for which there will only be an oral report will be identified in the following way: “(oral report)”.

F. SUBMISSION OF COMMISSION AGENDA REPORTS

Any commissioner may submit items to appear on the commission agenda. Commissions should formally adopt procedures and guidelines in their bylaws, if any, or through adoption of a policy, for submitting items to the commission agenda that include, at a minimum these requirements:

- Items will be submitted as is – commissioners are responsible for typing their own items.
- The subject of the item must be within the commission’s purview.
- The item must be submitted at least 10-14 days prior to the meeting in order to provide adequate time to compile and distribute the agenda packet seven days prior to the meeting.

Commissions may adopt procedures for late submissions if desired. The Chair approves the agenda prior to distribution. This authority is limited to the structure and order of the agenda and does not grant the chair the authority to remove any items submitted by commissioners or staff by the established deadline.

G. DISTRIBUTION OF COMMISSION AGENDA PACKETS

When all necessary documents are submitted from the commissioners by the deadlines noted above, the secretary will mail complete agenda packets, first-class postage, to commissioners no later than seven days before the meeting. All written communications sent to the commission shall be distributed to all commissioners in the packet or at the next meeting. Any commissioner may opt to receive the agenda packet in electronic format only. This request must be made in writing to the secretary of the commission.

Complete agenda packets must be available in the office of the secretary prior to the meeting and be available at the meeting for public perusal. Any supplemental items must also be included in the packet for public perusal at the meeting.

An agenda without supporting materials may be distributed to other commissions or City departments whose area of interest is complementary or whose work directly impinges on the subject to be discussed.

Secretaries must maintain a list of persons requesting mailed notice and agenda packets pursuant to Government Code Section 54954.1. These rules require that any person who requests a copy of the agenda and agenda packet in writing must be mailed a copy of the agenda and packet at the time that the agenda is posted or a distribution is made to a majority of the commission. Such a written request for agendas and packets is effective for the calendar year in which it is requested and must be renewed January 1 of each year. Failure to follow this requirement will not result in the invalidation of the action taken by the legislative body. Per City policy, a fee to cover the cost of mailing and such agendas and supporting documents should be charged. The Brown Act requires that the secretary maintain a continuously updated list of persons who have requested agendas and agenda materials in writing.

H. NOTICING FOR CANCELLED AND ADJOURNED MEETINGS

1) Cancellation of Meetings

When the Meeting Is Cancelled Prior to the Meeting Date

General practice is to post a notice of cancellation, stating that the meeting has been cancelled, in all the locations that the notice and agenda are regularly posted (at the meeting location, on the bulletin board at Old City Hall at 2134 Martin Luther King Jr. Way, and on the commission web page). Any persons or members of the media on a subscription list for notices and agendas should be notified as soon as possible. This should be done as soon as it is known that the meeting will be cancelled. The secretary may cancel a meeting if there is no quorum upon polling the commission.



When the Meeting Must Be Cancelled Due to Lack of a Quorum

When less than a quorum of a body appears at a noticed meeting, the body may meet as a committee of the parent body, adjourn to a future date pursuant to the provisions of Government Code Sections 54955 or 54954.2(b)(3), or simply consider the meeting to be cancelled. If no members of the legislative body appear at a noticed meeting, the secretary may adjourn the meeting to a future date, determined by the secretary, and provide notice to members of the legislative body and to the media in accordance with the special meeting notice provisions set forth in Government Code Section 54956. The meeting may be cancelled for lack of quorum after waiting for 15 minutes past the noticed start time.



Although it is generally not advisable for the present commissioners to continue in the meeting as a committee because the committee cannot make recommendations to the Council, it may be advisable under some circumstances. For example, when members of the public are present and want to give their input on a policy matter pending before the commission, the commissioners present may wish to continue as a subcommittee in order to obtain the input from the public so as to not inconvenience the members of the public who came to give testimony.

Per Resolution No. 65,127-N.S. (and its successors), commission secretaries must submit an Information Report to the City Council whenever a commission cancels two consecutive meetings for lack of a quorum.

When a Meeting Is Adjourned to a Subsequent Date

Notice of the adjournment, including the date to which the meeting is adjourned, must be conspicuously posted on or near the door of the place where the meeting was held within 24 hours after the time of the adjournment.

Rescheduling a Cancelled Meeting

In order to reschedule a meeting, the commission must act to modify the meeting schedule through the commission agenda. A special meeting called to replace a cancelled regular meeting counts toward the annual meetings per year limit set by Resolution No. 68,258-N.S. and its successors. Most commissions are limited to 10 meetings per year. Any meeting not on a regular meeting date is a special meeting unless the commission formally voted to amend the annual meeting schedule.

CHAPTER V. COMMISSION PROCEDURES

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Following proper procedures will ensure the validity and integrity of commission actions. It is essential that secretaries and commissioners remember that the standards of conduct and transparency are higher for public legislative bodies. These procedures ensure clear and efficient conduct of commission business and facilitates a productive public process.

A. POLLING, QUORUM, AND VOTING

1) Polling

The commission secretary should poll commissioners at least three days before the agenda is created to determine if there is a quorum for the meeting and communicate this information to the chair.

2) Polling for Special Meetings

In instances where the Council desires a prompt advisory recommendation and there is no time to consider the Council's request at a regular meeting, a special meeting should be called by the chair or a majority of the commission. If a quorum cannot be assembled for a special meeting, the commission secretary so advises the City Manager and indicates the date that the commission is expected to be able to consider the issue.

3) Quorum

A quorum is the minimum number of commissioners or subcommittee members who must be present for the valid transaction of business. In order to take any action, a quorum of commissioners must be present. For the purposes of these guidelines, a quorum means a majority of Actual Appointees. Thus, if a commission has nine Actual Appointees (out of a potential of nine), five commissioners constitute a quorum. If there are only five Actual Appointees (out of a potential of nine), three commissioners constitute a quorum.

Vacancies and commissioners who have been granted a Leave of Absence (LOA) are subtracted from the total number of seats to determine the number of Actual Appointees (see table). The number of Actual Appointees is not reduced when a temporary appointee is absent from a meeting or when a commissioner fails to attend and does not have a LOA.

4) Voting

The number of affirmative votes needed to pass a motion is the same number that constitutes a quorum—a majority of Actual Appointees. This



ensures that a majority of those actually appointed to a commission endorse the action being taken. If one were to allow a majority of a quorum to take action (instead of a majority of those actually appointed), formal action could be taken by a very low percentage of those actually appointed (e.g., if there were five Actual Appointees to a nine-member body, a quorum would be three, and action could be taken by two appointees).

Occasionally, a particular enabling ordinance or resolution may create a different requirement. The enabling legislation that established the commission should be consulted for particular requirements.

Three exceptions to the table below include:

1. The Police Review Commission, established by Ordinance No. 4,644-N.S. (BMC Chapter 3.32), which states: "A majority of the appointed commissioners shall constitute a quorum for the transaction of business, and the affirmative vote of a majority of those present is required to take action."
2. The Zoning Adjustments Board, governed by BMC Chapter 23B.04 which states: "A majority of the appointed members shall constitute a quorum."
3. The Transportation Commission, established by Resolution No. 55,751-N.S. which states: "A quorum shall consist of a majority of commissioners actually appointed."

The following chart indicates the numbers needed to take action.

Total Number of Seats*	Actual Appointees	Quorum**	Votes Needed for Action
9	9	5	5
9	8	5	5
9	7	4	4
9	6	4	4
9	5	3	3
9	4	3	3
9	3	2	2

**This refers to the authorized membership under the commission's enabling legislation.*

***Quorum rules apply to subcommittees. If a commissioner on a subcommittee of four is on an excused LOA, the actual appointees becomes three, and the quorum becomes two. No subcommittee may operate with less than two Actual Appointees. Remember, a temporary appointee does not assume the subcommittee memberships of the commissioner for which they are serving.*

Scenario 1

A commission with nine seats. Two commissioners have a LOA, and one seat is vacant. For one seat, a temporary appointment has been made for the commissioner on leave. The number of Actual Appointees is seven, the quorum is four, and the number of votes needed for action is four.

Scenario 2

A commission with nine seats. Three commissioners do not attend and do *not* have leaves of absence. One seat is vacant. The number of Actual Appointees is eight. The quorum is five. The number of votes needed for action is five.

In Scenario 2, there are five commissioners in attendance, and the votes needed for action is five. All votes must be unanimous in order to complete commission business. This highlights the importance of requesting a LOA in advance of a meeting. Had the three absent commissioners obtained a LOA, the number of Actual Appointees would have dropped, thus lowering the quorum and the votes needed to take action.

B. BASIC RULES AND PROCEDURES OF COMMISSION MEETINGS

With a few narrow exceptions not applicable to most commissions, all meetings of legislative bodies must be open to the public (Government Code Section 54953).

No one can be required to give his or her name in order to attend or speak at a meeting.

Audio or videotaping of the meeting must be allowed except when the legislative body finds that the recording is performed in a manner that constitutes “a persistent disruption of the proceedings” (Government Code Section 54953.5(a)).

[Teleconferencing by commissioners is not permitted for requests based on travel, vacation, work conflict or any other unforeseen situation. Teleconferencing by commissioners is only permitted when provided as a reasonable accommodation under the American with Disabilities Act \(ADA\) as determined by the Commission Secretary and Disability Services Program personnel. Teleconferencing is approved on a case-by-case basis and is dependent upon accommodation resources available at the meeting location. Pursuant to the Brown Act, the address from which the commissioner is teleconferencing must be included on the relevant meeting agenda and the meeting agenda must be posted at the teleconferencing location.](#)

1) Establishment of Meeting Rules

The chair will control the debate among commissioners so that everyone has a chance to speak before others speak for a second time and to expedite the business at hand. To this end, commissions may establish their own rules to limit debate.

2) **Motions**

A motion is required in order for the commission to take action. If public comment is taken on each item as it is heard, a motion on an agenda item typically takes place after public comment and during the commission's deliberation.

Step One: Make the Motion

Any member of the commission, including the chair and vice-chair, may make a motion by stating, "I move to ..." and then clearly explaining the action.

Step Two: Second the Motion

Before any debate or conversation regarding the proposed motion, another member of the commission must clearly state that he or she seconds the motion. If no commissioner seconds the motion, then the motion dies. If seconded, a motion may not be withdrawn or revised by the mover without the consent of the commissioner seconding it.

Step Three: Debate

The chair should read the motion prior to debate to ensure the motion is understood by the commission and the public. The commission is then free to debate the motion.

Step Four: Amend If Needed, and Restate

Sometimes the motion may be amended during debate. Amendments may be "friendly" or made by motion. A friendly amendment is an amendment that is proposed by a commissioner and then accepted by the maker and seconder of the motion without the need for a vote. If the maker and seconder do not accept the friendly amendment, the amendment may be proposed in the form of a motion, then must be seconded, and then voted upon. If passed, the amendment becomes part of the main motion.

The motion, whether amended or not, should be restated by the chair prior to the vote.

Step Five: Vote

After discussion has ended and immediately prior to the vote, the secretary should clearly state the full motion (with any amendments). The commission is then free to vote on the matter. Motions may be adopted by the "no objection" method unless any commissioner prefers voice or roll call vote. There is no legal requirement for roll call voting unless it is in the commission's bylaws, if any, or if a commissioner requests a roll call vote. While the "no objection" method may expedite a long agenda, a roll call vote may be preferable to provide greater clarity and understanding on commission proceedings for the commissioners, the secretary, and the public in attendance.

If a roll call vote is used, the secretary then calls the roll (always calling the names in the same order). A commissioner may "pass" and vote last after the first time through the roll. The record must identify those voting aye, those voting no, those abstaining, and those absent. After all



commissioners have voted, the secretary announces the vote totals and whether or not the motion passes.

If the motion is adopted, the maker's written version of the motion, if any, should be given to the secretary for reference in preparation of the meeting minutes.

3) **Motion to Reconsider a Vote**

A commission may reconsider their action on a vote taken earlier in the meeting if the meeting is still in session. To reconsider a vote, a commissioner from the prevailing side of the original vote must make a motion to reconsider. Any commissioner may second the motion to reconsider. If the motion to reconsider passes, another motion restating the original motion must be made, seconded, and voted on.

Once the meeting is adjourned, an agenda item must be resubmitted for a future meeting for it to be reconsidered by the commission.

Scenario:

Commissioner Bob moved, and Commissioner Frank seconded, a motion to recommend the City Council approve a proposal for a new park. Vote Ayes: Bob, Frank, Millie, Anna, Ralph, Lee; Noes: Ally, Michael, Bradley. Commissioner Bradley wants to reconsider his vote. Commissioner Bob, Frank, Millie, Anna, Ralph, or Lee are able, if they choose, to make a motion to reconsider the vote. Any commissioner may second the motion. If the motion to reconsider passes, any commissioner may propose the new motion.

4) **Parliamentary Procedure and Robert's Rules of Order**

More detailed information on parliamentary procedure for chairs and commissioners, the precedence of motions, and voting procedures is contained in informational materials provided by the City Clerk Department. Parliamentary rules derive from Robert's Rules of Order.

C. **ORDER AND DECORUM**

1) **Conduct of Public in Attendance**

Persons attending the meeting should observe the rules and procedures of the commission and should not disrupt commission business, for example, by shouting; making disruptive noises, such as boos or hisses; creating or participating in a physical disturbance; speaking out of turn or in violation of the commission's procedures or rules; preventing or attempting to prevent others who have the floor from speaking; preventing others from observing the meeting; entering into or remaining in an area of the meeting room that is not open to the public; or approaching the commission without consent. Any request to communicate with the commission while it is in session (outside of public comment) should be through the commission secretary.

Members of the public who do not follow the rules for decorum may be asked to leave the meeting by the chair. If a member of the public creates a significant physical disruption to the conduct of the meeting or acts in a

threatening manner toward another member of the public, staff, or commissioners, law enforcement personnel should be called by the staff or the chair to remove the individual from the premises. The Chair may call a short recess and commissioners and staff may leave the room while waiting for an individual to leave the meeting, or for law enforcement personnel to arrive.

Although not required, each person addressing the commission may give his or her name and city of residence. All remarks should be addressed to the commission as a body and not to any specific commissioner. Only comments from persons recognized by the chair are in order.

Any question asked of a commissioner must be asked through the chair. After being recognized by the chair, a commissioner may briefly respond to comments made during the public comment period or may pose a question to the person speaking at public comment or during a public hearing. See Chapter IV, Section C for public comment regulations and guidelines.

2) **Commission Conduct**

While the commission is in session, the commissioners should not interrupt the proceedings or any commissioner or member of the public who has the floor.

The chair or the vice-chair may participate in the debate, subject only to such limitations of debate as are imposed on all commissioners. The chair should not be deprived of any of the rights and privileges enjoyed by a commissioner by reason of his or her acting as the presiding officer.

Every commissioner desiring to speak should address the chair and, upon recognition by the chair, should confine himself or herself to the question under debate.

A commissioner, once recognized, should not be interrupted when speaking unless it is to call him or her to order or for a point of personal privilege. If a commissioner, while speaking, is called to order, he or she should cease speaking until the question of order can be determined, and, if in order, he or she should be permitted to proceed.

D. **SPECIAL PROCEDURES**

1) **Public Hearings**

Public hearings are held only when required by law. When a hearing is required by law, the procedure for that hearing may also be specified by that law. In public hearings held by quasi-judicial commissions such as the ZAB, LPC, HAC, or FCPC, special rules apply.

Notice of Hearing

Where a public hearing is mandated by law, the form and timing of the advance notice is specified by city or state law. The commission's secretary will handle all such requirements. Noticing beyond legal requirements is permitted but not required.



Certain public hearings require a posting in the area affected by the subject matter. Again, all legal notice requirements are properly handled by the commission's secretary.

Conduct of Hearing

The procedure to be followed for a public hearing varies depending on the governing law or regulation. In the instances where a commission acts in quasi-judicial fashion, certain minimum standards of receiving testimony must be met. These may include, but are not necessarily limited to, an introduction of the subject by either the secretary or the chair, testimony from affected persons or interested members of the public, an opportunity for the parties to the hearing to rebut, disclosure of ex-parte communications by the commission, and receipt of any pertinent documentation. No testimony can be heard after the hearing is closed. However, commissioners may ask specific questions to the parties involved or members of the public and receive a response.

At public hearings, commissions have the responsibility to hear all viewpoints of any subject. In order to ensure that all parties are adequately heard, commissions shall follow the rules below. The commission may adopt its own procedures for public hearings in addition to those listed below, and may adopt alternate time limits for presentations by representatives and comments from the public.

1. If any commissioner must be recused for a conflict of interest, they must do so immediately when the item is taken up.
2. Commissioners shall verbally disclose all ex parte contacts concerning the subject of the hearing. Commissioners shall also submit a report of such contacts in writing prior to the commencement of the hearing. Ex parte contacts includes any contact between a commissioner and a person that is a party to the public hearing regarding the subject matter of the hearing.
3. Staff shall introduce the public hearing item and present their comments.
4. The hearing is formally declared open by the chair.
5. Five-minute presentations each by representatives of both sides of the issue. In the case of an appeal, or a single interested party, the representative shall have five minutes to present.
6. Equal rebuttal time may be afforded to both sides.
7. General public comment related to the subject of the public hearing. A speaker that spoke during the five-minute period may not speak again at the public comment portion.
8. The hearing is formally closed by commission motion and vote.

9. The commission deliberation begins after the public hearing is closed.

Action

Any action resulting from the hearing must be clearly stated in the form of a motion, properly seconded, and voted upon. The record must identify those voting aye, those voting no, those abstaining, and those absent. A roll call vote is the best voting method to ensure clarity for the public and the secretary. If findings are required as a part of the commission action, such findings should be clearly stated for the record. All potential conflicts of interest, whether they require recusal or not, should be stated at the commencement of the hearing.

Action must be by an affirmative vote of at least a quorum of Actual Appointees. See page 55 for more information regarding quorums.

Under state law, action is prohibited on any matters that have not been properly noticed.

If no action is to be taken at that meeting, the chair should announce this fact and continue the item, and, if possible, advise the public of the date when action may be expected.

Recording of Hearings and Minutes

In certain quasi-adjudicating hearings, there is a legal requirement for a public hearing to be recorded. In addition, the secretary will provide a written set of action minutes, which, when adopted by the commission, constitute the legal record.

Impartiality and Standards of "Fair Play"

Commissions should be aware of the need to maintain basic standards of fair play, impartiality, and the need to avoid the appearance of bias. The chair has the primary responsibility to ensure that the varying points of view are heard, that the hearing proceeds in a timely and fair manner, and that the options for future action by the commission are clearly stated. Awareness of the varying interests within the Berkeley community is essential because the City Council depends on its boards and commissions to provide thoughtful advice based on the fullest possible study of the subject and input from all relevant segments of the community.

2) Closed Sessions

Closed sessions are rarely permissible for commissions. They are authorized by the Brown Act for certain specified reasons generally only applicable to the City Council. The most common reasons for closed sessions are to discuss pending or threatened litigation with legal counsel, give instructions to a labor negotiator, and to appoint, evaluate, hear charges against, or dismiss an employee. Please contact the City Attorney for advice well in advance of any proposed closed session to ascertain whether, under the particular facts, the commission is authorized to conduct a closed session and, if so, how such a closed session must be noticed and conducted.



E. ADMINISTRATIVE PROCEDURES**Commission and Board Documents**

The agenda packet for a commission or board meeting contains the agenda, reports related to agenda items, and communications from the public received prior to the distribution of the agenda packet.

All writings or documents, including communications from the public, Commissioners and Board Members that are related to any item on an agenda and distributed to a majority of the commission or board members after the agenda packet is distributed, but before or at the meeting must be made available for public inspection at the time the writing or document is distributed to a majority of the commission or board at a designated location identified on the agenda. The commission or board secretary maintains a public viewing binder for these documents.

All writings or documents, including communications from the public, that are distributed to a majority of the commission or board members at the commission or board meeting must be made available for public inspection as quickly as possible. Members of the public and commissioners and board members submitting written communications at commission or board meetings should be encouraged to bring enough copies for all commissioners and board members, staff and at least five additional copies for members of the public (15 copies total, for most commissions and boards). The secretary is not required to immediately make copies of documents provided at the meeting when adequate copies are not provided by the submitting individual. Documents distributed at the meeting will be available in the public viewing binder the next business day.

Minutes

Although the Brown Act does not require minutes, except for closed sessions, the Commissioners' Manual does require minutes of commission meetings but not for subcommittee meetings. When required, minutes are limited to *action minutes only*. Minutes are unofficial until approved by the commission. The minutes are converted to PDF and posted on the City's website.

The secretary shall keep an accurate record of the commission's proceedings and transactions. The secretary shall provide action minutes similar to those provided to the Council by the City Clerk. Action minutes list the date, time, and place of the meetings; the staff in attendance; the commissioners present and absent; and a clear and concise description of final actions taken. Approved motions are indicated by "moved, seconded, and carried" and include a breakdown of the vote. The vote breakdown includes the commissioners voting yes, no, abstain, absent, recused, and reason for recusal. Reasons for making a motion, debate, content of public comments, and audience reaction are not to be included.

In quasi-judicial proceedings, if no recording is made, more detailed minutes are needed that summarize debate, list findings, tally speakers for and against, and note testimony offered by the appellant, witnesses, and other relevant information.

The secretary will present draft minutes to the commission for approval at the next regular meeting. Minutes are approved by motion with corrections noted, if any, or



if the changes are significant, the corrected minutes may be included in the agenda packet for adoption at the next regular meeting.

Commissioners not present at a meeting may vote on the approval of minutes from the meeting at which they were absent if they believe they are informed and able to consider the item.

Courtesy copies of the minutes may be distributed to other commissions or City departments whose area of interest is complementary or whose work directly relates to the subject that was discussed.

Hard copies of commission minutes must be signed by the secretary. These records are retained permanently. Commission minutes must also be e-mailed to the Records Inbox once they have become official.

Recording Meetings

Audio or video recordings of meetings are not required. A commission and a secretary may decide to audio or video record their meetings, if resources permit; in this case all meetings should consistently be recorded. This is particularly important if the audio is to be posted to the web. Audio should be posted within two weeks after each meeting and must be posted for every meeting once the practice is started. Recordings must be maintained in accordance with the City's Records Retention Schedule.

Official Commission Records

All agendas, minutes, reports, communications, audio recordings (if retained), and any other related material should be kept in an organized manner by the secretary and in such a way that these records can be easily transferred to another staff person in the event of a change in duties or termination with the City.

The secretary is responsible for maintaining all commission records pursuant to the City's Records Retention Schedule, this Manual, and applicable Administrative Regulations.



F. **BERKELEY OPEN GOVERNMENT ORDINANCE**

Adopted in 2011, the Berkeley Open Government Ordinance (BMC Chapter 2.06) provides greater access to the public than is provided by state law with regard to City business and documents. The portions of the ordinance that are specific to commissions are listed below:

- Meetings of the ZAB are recorded, televised, and video streamed live as well as archived for replay. The ordinance also states the intent to add Planning Commission, Housing Advisory Commission, and Landmarks Preservation Commission meetings to the broadcast requirement when resources permit (BMC 2.06.100).
- Disclosure of ex parte contacts prior to certain hearings as described in Chapter V. Section D (BMC 2.06.110).
- Donations to the City that may be accepted by any legislative body must be approved by the City Council at a regular meeting (BMC 2.06.150).
- Delegation of oversight functions to the Open Government Commission (OGC). The members of the FCPC also sit as members of OGC (BMC 2.06.190).

G. USE OF THE CITY LOGO AND BUSINESS CARD POLICY

Use of the City logo, branding or collateral is restricted to communications generated from a City department. The logo may not be used for any other purposes. Commissioners may not use the City logo for any purpose that may imply or give the impression of City approval, sponsorship, representation, or coordination of any communication or activity.

Official City stationery may be used only for official commission correspondence such as memos authored by the secretary or a commission-approved letter or report to the City Council.

The City of Berkeley does not provide business cards for members of appointed boards and commissions. Commissioners are prohibited from using the city logo, branding, or collateral to create their own business cards.

CHAPTER VI. COUNCIL REPORTS AND REPORTS TO COUNCIL

CHAPTER VI. INDEX

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The City Council values commissions and commission recommendations are an important part of Council’s consideration of issues. Reports are how Council reviews and considers commission recommendations and these reports should reflect the care, analysis, and effort commissions put into studying and discussing the topic. High quality reports are an essential element of providing recommendations and information to Council. Following these guidelines will help commissioners create better reports.

A. AGENDA PROCESS (OPEN GOVERNMENT ORDINANCE AND A.R. 5.1)

Each year the Council adopts a schedule establishing the specific dates of all regular meetings and recess periods. The agenda schedule is structured to provide the City Council with copies of their agenda packet 12 days prior to the Council meeting. This allows Councilmembers and the public time to review the agenda material in order to be fully prepared to discuss and consider the agenda items.

The City Clerk is the coordinator for the agenda process. The City Clerk routes commission reports and the accompanying City Manager report, if any, to reviewers in the City Manager and City Attorney departments. The City Manager cannot prevent a commission report from going to the Council, but the review process may result in a request that the commission clarify some portion of its report in order to provide the Council with the best information possible.

The City Clerk posts City Council agendas, annotated agendas, and all reports including proposed resolutions and ordinances on the City's website. The City Clerk also provides live captioned webcast and video archives of Council meetings. The City offers e-mail subscription notification for newly posted Council information at www.cityofberkeley.info/subscribe. Commissioners who wish to be notified when new electronic copies of agendas and annotated agendas are posted may subscribe to the City's e-mail subscription service.

B. COUNCIL AGENDA SCHEDULE

Coordinating, organizing, and assembling the large volume of information and reports that comprise the agenda packet is a complex task. The City Manager establishes an agenda schedule setting forth the various deadlines for submittal of agenda items based on meeting dates of the Council Agenda Committee and the City Council.

Commissions must comply with the agenda submission deadlines when planning to make a recommendation to the City Council. Reports to the City Council are due to the City Clerk 33 days prior to the meeting. Reports not submitted in accordance with this schedule will be delayed to a later meeting date.

C. COMMISSION REPORTS TO COUNCIL

1) Method of Communication

A commission transmits its findings and responds to referrals and other communications to the City Council through a report on the City Council agenda. Commissions must stay within their purview when making recommendations to Council.

When the City Manager differs with the recommendations of a commission or wishes to include additional or different information, the City Manager may present a City Manager Companion Report to the Council highlighting alternate recommendations or additional information. Otherwise, the City Manager section of the report should state “City Manager [concur with/takes no position on] the content and recommendations of the commission’s report.”

Alternately, commissions may relay their position on an issue to the Council in the form of a letter. These communications to Council must be approved by the full commission. The letter is then signed by the chair, and the secretary submits it to the City Clerk as a communication. These are less formal documents that do not carry the weight of an officially adopted recommendation. This type of communication is typically used when, for example, an item on the Council agenda is of interest to the commission and under their purview, but the timeline doesn’t allow the commission an adequate opportunity to prepare a formal report.

For reports on the Council agenda, commissions may prepare the types of reports described below. These reports go through the agenda review process and are distributed to Council as part of the agenda packet. All three types of commission reports to Council shall state the full commission motion and the listing of how each commissioner voted. It must also state whether or not any commissioner was recused and the reason for recusal.

EXAMPLE:

At the [date of commission meeting] meeting, the commission took the following action:

Action: M/S/C (Fernandez/Jones) to [input text of the motion...].

Vote: Ayes – Nguyen, Okafor, Garcia, Lee, Fernandez; Noes - Wong, Jones; Abstain – Stein; Absent – Smith (Recused: lives within 300 feet of project).

Information Reports

This type of report should be used when the subject matter seeks to advise or inform the Council on a subject but does not request any action by Council. Information reports do not include formal recommendations.

Consent Calendar Reports

This type of report must include a specific recommendation for Council approval, adoption, or authorization. All items on the Consent Calendar are



approved with a single vote of the Council. Items that are controversial or complex should not be submitted for the Consent Calendar. This type of report should be used when an item needs to be acted on by Council but is routine in nature. In a Consent item, the City Manager section of the report should state “City Manager [concurrs with/takes no position on] the content and recommendations of the commission’s report.”

Action Calendar Reports

This type of report is for items that require a full dialogue with Council, have particularly high public interest, or are complex in nature. These reports must include a specific recommendation for Council approval, adoption, or authorization. If the City Manager submits a companion report to a commission report, typically with an alternative recommendation, both reports must be submitted for the Action Calendar and will appear together as items (a) and (b) under the same item number.

2) **Basic Steps for Communicating to Council**

1. An item is placed before the commission by Council referral, staff, or a commissioner.
2. The commission agendaizes the topic.
3. The commission discusses the agendaized item and votes to send its recommendation or findings to Council.
4. The commission drafts a report, approving the text by motion and vote, and sends it to the secretary (it may take several commission meetings to fully discuss an item and agree on findings).
5. The secretary enters the report into the agenda review process.



3) **Creating Council Reports**

The commission is responsible for drafting the text of the report and providing the final text to the secretary. With the permission of the full commission, final editing duties may be assigned to specific commissioners.

4) **Formatting and Submitting Council Reports**

The secretary of the commission is responsible for formatting and submitting the commission report as approved by the commission and upon final review by the commission chair or his or her designee. The chair of the commission should be listed on the report on the “Submitted by:” line in the heading. The City Manager may ask the commission for additional information and/or clarification before placing the report on the agenda.



5) **Timeline**

Once the commission provides the complete text of the report to the secretary, the secretary ensures that it is in the proper format and submits it through the department director to the City Clerk. The secretary must submit the commission report into the agenda workflow no later than three weeks following receipt of the final report text.



Once the commission report has been placed on a draft City Council agenda, the Agenda Committee has the following options with regards to scheduling the commission item:

1. For a commission item that does not require a companion report from the City Manager, the Agenda Committee may 1) move a commission report from the Consent Calendar to the Action Calendar or from the Action Calendar to the Consent Calendar; 2) re-schedule the commission report to appear on one of the next three regular Council meeting agendas that occur after the regular meeting under consideration. Commission reports submitted in response to a Council referral shall receive higher priority for scheduling; or 3) allow the item to proceed as submitted.
2. For any commission report that requires a City Manager companion report, the Agenda Committee will schedule the item on a Council agenda for a meeting occurring not sooner than 60 days and not later than 120 days from the date of the meeting under consideration by the Agenda Committee. A commission report submitted with a complete companion report may be scheduled pursuant to the paragraph above.

As stated above, the deadline to submit reports for the Council agenda is 33 days prior to the meeting. Departments may have additional deadline requirements. As a general guideline, a commission should allow at least three months for an item or recommendation to be considered and adopted by the commission, then entered into the Council agenda process, and ultimately be heard at a City Council meeting.

6) **Votes Needed to Take Action**

On rare occasions, a commission may be unable to achieve the number of votes needed to take official action in time for consideration of an issue by the City Council. In such cases, a commission may communicate the opinion of fewer commissioners than the officially required majority. Nothing in this section shall be construed to prevent the City Manager from reporting what occurred at the commission meeting.

Scenario:

A commission of nine Actual Appointees, where there are only five commissioners present at the meeting (thus achieving the required quorum of five). These five commissioners disagree: three voting for a proposal and two against. If time permits, the matter would be held until all commissioners were present and a definitive recommendation voted upon. If, however, the matter is time sensitive, the commission could take action to communicate the facts to the Council and indicate those voting for each of the opposing viewpoints.

7) **Reports to Council: Structure/Content/Format**

It is the commission's responsibility to provide complete, concise, and accurate reports to the Council so that the City Council fully understands the issue and what action, if any, it is being asked to take.

It is the responsibility of the commission to ensure that each report includes:

- A clear recommendation on what action the commission is asking the Council to take.
- A realistic evaluation of the financial implications of the recommendation and, if possible, potential funding sources.
- The reason(s) for making the recommendation.
- The facts on which the recommendation was made.
- The resolution or ordinance in proper format, if needed.

High quality commission reports and recommendations take into account the Council's need to view an issue from as many perspectives as possible. The Council must fully understand the relevant background and implications, including costs, if possible, of each action it is asked to take. Submission of high quality reports will enable the City Council to act knowledgeably and expeditiously on commission recommendations and will reduce the likelihood of the Council referring the report back to the commission for clarification.

High quality reports entail the following key procedural aspects:

- Review by other affected commissions, if any, prior to submission to the City Council.
- Proper report format and preparation.
- Legal review when appropriate.
- Consideration of potential monetary costs.

The format requirements for reports to the Council are the same for commissions as for staff. It is the secretary's responsibility to follow format requirements when finalizing a commission report. Format templates and examples are available to secretaries through the City's intranet.



Commission reports may be considered incomplete in one or more of the following instances.

- When the discussion and evaluation of the financial implications and, if possible, funding sources are not included.
- When the report has not been reviewed by another commission(s) whose review is essential if the Council is to make an informed decision.
- When an improper format has been used.
- When the recommendation or implications of the recommendation are unclear because of inadequate information.
- If any attachments such as resolutions, letters, or supporting documentation are missing.

The secretary must ensure that the City Manager companion report is submitted in accordance with established timelines so that it does not delay the commission item.

8) Review by Other Commissions

Often the spheres of interest of various commissions overlap, depending on the specific issue. Before a commission recommends action on an issue, it should invite other commissions with an interest in the topic to review the subject and offer a response, whether or not the Council specifically requested such coordination.

Scenario 1

The Children, Youth, and Recreation Commission (CYRC) is working on a recommendation regarding a children's cycling program. The CYRC should have their recommendation reviewed by the Transportation Commission and Public Works Commission to determine if there are any safety, policy, or infrastructure improvements that might need to be considered.

Scenario 2

The Commission on Aging is planning to recommend the funding of a health care clinic for seniors. It should refer the proposal to the Community Health Commission and the Mental Health Commission.

If a referral to another commission has been made, the commission writing the report indicates at the beginning of the report the fact that it made a referral and what the response to the referral was, if any.

A typical process for commission coordination would be for Commission A to develop a draft report, pass a motion to refer the draft report to Commission B and others as necessary to review the report and submit comments back to Commission A, which incorporates comments, revises the report as necessary, and submits it to Council. All of the information sharing in this sample process is conducted exclusively through the commission secretaries.

D. DISTRIBUTION WITH COUNCIL AGENDA PACKET

Reports received by the City Clerk by the established deadline that are ready for inclusion in the Council packet will be distributed by the City Clerk to the City Council as part of the agenda packet.

E. RESOLUTIONS/ORDINANCES ACCOMPANYING REPORTS

Most actions taken by the Council do not require a resolution or ordinance. When a resolution or ordinance is absolutely necessary and required for legal or financial reasons, commission secretaries should obtain the proper template from the City Clerk for inclusion with a commission's report. These guidelines should be followed.

- The secretary will ensure that all resolutions and ordinances follow the format provided in the City Clerk Department templates posted on the intranet.

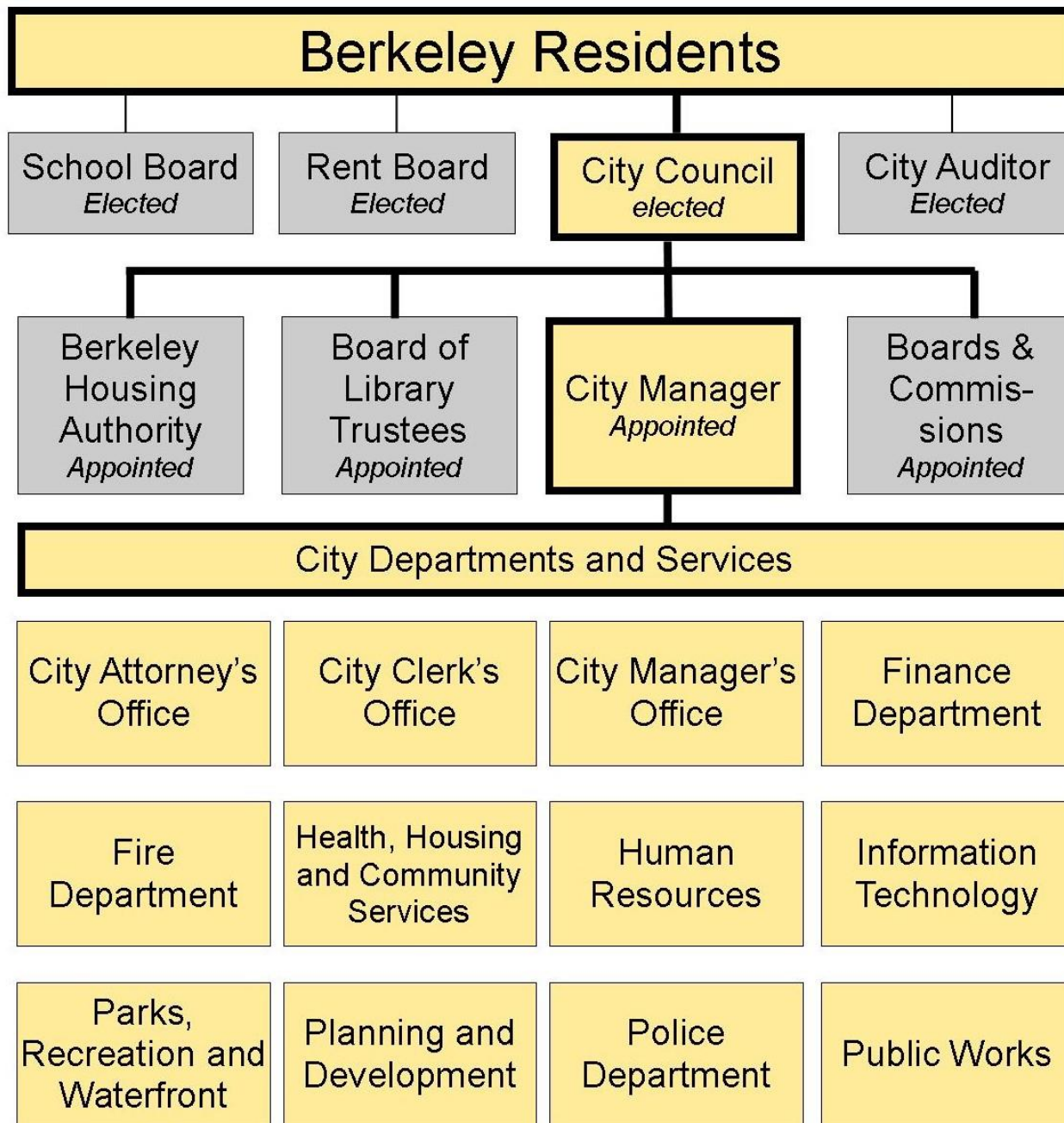


- If the Commission is proposing an ordinance for adoption that will be codified in the BMC, they must follow the formatting procedures provided by the City Clerk Department on the intranet. In addition, the ordinance must be forwarded to the City Attorney and City Clerk for review prior to submitting the final report to the City Clerk for the agenda process.
- Resolutions and ordinances must be carefully proofread for accuracy.

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APPENDIX A. BERKELEY MUNICIPAL ORGANIZATION CHART



APPENDIX B. BERKELEY CITY CHARTER SECTION 36**Charter of the City of Berkeley****Section 36. Officers not to be interested in contracts or franchises.**

No officer or employee shall be directly or indirectly interested in any contract, work or business of the City, or in the sale of any article, the expense, price or consideration of which is paid for from the treasury or by assessment levied by any act or ordinance; nor in the purchase or lease of any real estate or other property belonging to the City or which shall be sold for taxes or assessments or by virtue of legal process at the suit of the City. No officer shall be in the employ of any public service corporation in the City or of any person having any contract with the City or of any grantee of a franchise granted by the City.

Provided, however, the prohibitions in this Section contained shall not apply to the following:

- (a) Members of advisory Boards, Commissions, or Committees of the City, who serve without salary or other compensation; provided, however members of Boards, Commissions or Committees which perform functions other than advisory functions shall not be included within this exception.
- (b) Officers or employees of the State of California or of any department, division, or constitutionally created agency thereof.

Any contract or agreement made in contravention of this Section shall be void.

Any violation of the provisions of this Section shall be deemed a misdemeanor.

The Council shall enforce the provisions of this Section by appropriate legislation.

APPENDIX C. BMC CHAPTER 3.64 INTERPRETING CITY CHARTER SECTION 36 CONCERNING MEMBERSHIP ON BOARDS AND COMMISSIONS**3.64.010 Findings.**

- A. For many years the Berkeley City Council has relied on an extensive system of advisory boards and commissions in the formulation of public policy, and approximately thirty commissions, with more than two hundred fifty members meet on a regular basis to reflect and express a broad spectrum of citizen opinion on civic issues.
- B. The City benefits from this network of democratic participation because it provides a structured setting within which the viewpoints and experience of citizens can supplement the technical expertise of City staff professionals. In addition this system allows the City to benefit from the wide variety of experience and specialized knowledge of selected citizens--in Berkeley, often at the cutting edge of their fields--that are sources of innovation and sensitive response to public needs.
- C. The citizens on Berkeley's boards and commissions serve out of the desire to discharge civic responsibility. They are not (with the exception of the Police Review Commission and the Rent Stabilization Board) paid for their services and, in most cases, are not reimbursed for expenses they incur.
- D. A commissioners' responsibilities are substantial, and entail a significant expenditure of time. Often, they are called upon to make difficult judgments and arrive at unpopular conclusions.
- E. For this system of democratic participation to continue to function effectively, it is essential that citizens who volunteer their services to the City not incur unwarranted personal risk as they participate on boards and commissions.
- F. Charter Section 36 prohibits an officer from being directly or indirectly interested in any contract, work, or business of the City. Although this section exempts members of advisory boards, commissions, or committees who serve without salary or other compensation, members of boards, commissions, or committees which perform functions other than advisory functions are subject to this prohibition.
- G. Conflict of interest legal issues, especially those raised under the City Charter Section 36, are extremely complex, turn on subtle nuances of fact, and the legal terms used often have meanings different from their common sense construction.
- H. The ambiguities in Section 36 deter many qualified citizens from serving as commissioners for fear that they may inadvertently violate the Charter.
- I. There is therefore a need to clarify the provisions of the City Charter and to balance the City's interests in preventing the use of public office for private gain against the City's need for diverse community representation on its boards and commissions.
- J. City Charter Section 36 (b) authorizes the council to enact appropriate legislation to implement the provisions of City Charter Section 36 and Charter Section 118 authorizes the council to enact legislation which may be necessary and proper to carry out any of the provisions of the Charter.

- K. Enactment of legislation clarifying and implementing Section 36 is necessary and proper for the reasons set forth above. (Ord. 5694-NS § 1, 1985)

3.64.020 Definitions.

For purposes of determining whether a member of a board and commission has a prohibited interest in a contract, work or business of the City within the meaning of Charter Section 36 and this chapter, the following definitions shall apply:

- A. "Advisory board" or "commission." All boards and commissions of the City shall be deemed advisory except in instances when the board or commission is performing other than an advisory function as defined in subsection B below.
- B. "Performance of other than advisory functions." A board or commission will be deemed to perform other than an advisory function and to be subject to this chapter and Section 36 only with respect to any contract, work or business of the City, the making or securing of which is influenced either directly or indirectly by the board or commission. A board or commission directly or indirectly influences the making or securing of a contract, work or business of the City whenever it engages in actions, including but not limited to, formally or informally reviewing a contract, reviewing a bid specification or request for proposal, discussing funding of an activity, discussing priorities for funding, or making general policy, implementation of which results in the making or securing of a contract, work or business for the City.
- C. "Interested; Exclusions." A City employee or member of a board or commission shall not be deemed to be "interested" in a contract, work or business of the City if his or her relationship with the contracting party or entity constitutes a "remote interest" within the meaning of Government Code Sections 1091 and 1091.5, the fact of such interest is disclosed to the department, board or commission of which he or she is a member and noted in its official records, and the employee or member with such interest disqualifies himself or herself from participating in any manner, either directly or indirectly, in making or influencing any decision related to the contract, work or business of the City in which he or she has a remote interest. (Ord. 5694-NS § 2, 1985)

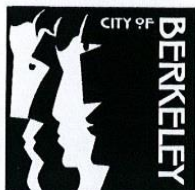
3.64.030 Contract, work or business of City--Prohibitions.

No member of a board or commission shall be directly or indirectly interested in any contract, work or business of the City as defined in 3.64.020C herein if the board or commission of which he or she is a member has performed other than advisory functions as defined in Section 3.64.020B herein, with respect to such contract, work, or business of the City. (Ord. 5694-NS § 3, 1985)

3.64.040 Chapter declaratory of existing law.

This chapter is declaratory of and does not constitute any change in existing law. (Ord. 5694-NS § 4, 1985)

APPENDIX D. CITY ATTORNEY MEMO REGARDING CONFLICT OF INTEREST



Office of the City Attorney

June 4, 2015

To: Boards and Commissions

From: Zach Cowan, City Attorney 

Re: Avoiding Conflicts of Interest Under Section 1090 in the Context of Funding Recommendations

This office has been asked for advice as to the process for a board or commission should use to ensure compliance with Government Code section 1090 in making recommendations about funding community agencies or other potential recipients of City funds, including state and federal funds.

Government Code section 1090 states:

The Government Code prohibits public officers, acting in their official capacities, from making contracts in which they are financially interested. Government Code Section 1090 provides in relevant part:

Members of the Legislature, state, county, district, judicial district, and city officers or employees shall not be financially interested in any contract made by them in their official capacity, or by any body or board of which they are members.

If the officer is a member of a legislative body that executes or finally approves the contract, this prohibition extends to the entire body on which he or she serves. *Thomson v. Call* (1985) 38 Cal.3d 633, 649, cert denied (1986) 474 US 1057. Section 1090 "also applies to members of advisory bodies, if they participate in the making of a contract through their advisory function." (Conflicts of Interest (Cal. Dept. of Justice, pamph. 2010), p. 57, See *City Council (San Diego) v. McKinley* (1978) 80 Cal.App.3d 204; 82 Ops.Cal.Atty.Gen. 126 (1999).) The word "made" is used in "the broad sense to encompass such embodiments in the making of a contract as preliminary discussions, negotiations, compromises, reasoning, planning, drawing of plans and specifications and solicitation for bids." *Millbrae Ass'n for Residential Survival v. City of Millbrae* (1968) 262 Cal.App.2d 222, 237.

Tel: 510.981.6998

2180 Milvia Street, Fourth Floor, Berkeley, CA 94704
TDD: 510.981.6903

Fax: 510.981.6960

Avoiding Conflicts of Interest Under Section 1090 in the Context of Funding Recommendations
Page 2

"[S]ection 1090 is to be 'strictly enforced'." 88 Cal. Op. Att'y Gen. 106 (2005). "The consequences of a violation of section 1090 can be quite harsh: Where a prohibited interest is found, the affected contract is void from its inception and the official who engaged in its making is subject to a host of civil and (if the violation was willful) criminal penalties, including imprisonment and disqualification from holding public office in perpetuity..."

Eden Twp. Healthcare Dist. v. Sutter Health (2011) 202 Cal. App. 4th 208, 219-20; See 89 Cal. Op. Att'y Gen. 121 (2006).

The California Attorney General's Office has opined that an officer or employee of a nonprofit corporation that is a contracting party qualifies as a "financial interest". *Conflicts of Interest* (Cal. Dept. of Justice, pamp. 2010), p. 62. However, state law has excepted two categories of "financial interests" from the reach of Section 1090, generally referred to as "remote interests" and "noninterests." Section 1091, subdivision (b), defines a series of remote interests, including "(1) That of an officer or employee of a nonprofit entity exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code (26 U.S.C. Sec. 501(c)(3)),..." Both of the organizations at issue, BFHP and YEAH, are 501(c)(3) organizations, and the commissioners, respectively, fall into employee and board member roles with the two non-profits.

Government Code section 1091(a) provides a specific process for handling situations falling within the remote interest:

An officer shall not be deemed to be interested in a contract entered into by a body or board of which the officer is a member within the meaning of this article if the officer has only a remote interest in the contract **and** if the fact of that interest is disclosed to the body or board of which the officer is a member and noted in its official records, and thereafter the body or board authorizes, approves, or ratifies the contract in good faith by a vote of its membership sufficient for the purpose without counting the vote or votes of the officer or member with the remote interest.

Government Code section 1091(c) further conditions the remote interest exception as follows: "This section is not applicable to any officer interested in a contract who influences or attempts to influence another member of the body or board of which he or she is a member to enter into the contract." (Cal. Gov't Code § 1091.) See *Eden Twp. Healthcare Dist.*, *supra*, 202 Cal. App. 4th at p. 219-20 [Where an interest is remote, a board member may comply with section 1090 by (1) making full disclosure of the interest, noted in the entity's official records, and (2) abstaining from voting on the affected contract or influencing other board members in any way.]

The California Attorney General's Office has interpreted Section 1091 as requiring a full recusal process.

Avoiding Conflicts of Interest Under Section 1090 in the Context of Funding Recommendations
Page 3

It is to be noted that section 1091 of the Government Code speaks in terms of a board authorizing, approving or ratifying a contract 'in good faith by a vote of its membership sufficient for the purpose without counting the vote or votes of the officer or member with the remote interest.

This office has characterized the requirements of section 1091 as meaning that the member **must not only disclose his interest in the proposed contract and refrain from attempting to influence other members, but that the member should completely abstain from any participation in the matter.** (See 65 Ops.Cal.Atty.Gen. 305, 307 (1982).)

Such complete abstention would also appear to be required to insure compliance with the PRA if the remote interest also falls within the purview of the act as a financial interest. (See Gov. Code, § 87100; FPPC Reg. § 18702.)

67 Cal. Op. Atty Gen. 369, at p. 377, fn. 8 (1984); See 78 Cal. Op. Atty Gen. 230 (1995)
Under this process, simply voting to abstain is not sufficient. The officer must identify the scope of the contract "matter", and recuse him or herself from ***all*** discussions and actions that relate to the contract matter.

Section 36 of the City's Charter contains a prohibition that is similar to Section 1090:

No officer... shall be directly or indirectly interested in any contract, work or business of the City... No officer shall be in the employ of any public service corporation in the City or of any person having any contract with the City or of any grantee of a franchise granted by the City.

The City implemented Section 36 through BMC Chapter 3.64. Section 3.64.020.C further defines the recusal process for commissioners with a remote interest. "A ... member of a board or commission shall not be deemed to be 'interested' in a contract, work or business of the City if his or her relationship with the contracting party or entity constitutes a 'remote interest' within the meaning of Government Code Sections 1091 and 1091.5, the fact of such interest is disclosed to the department, board or commission of which he or she is a member and noted in its official records, **and the employee or member with such interest disqualifies himself or herself from participating in any manner, either directly or indirectly, in making or influencing any decision related to the contract, work or business of the City in which he or she has a remote interest.**"

What steps are required to comply with Section 1090 in any given case will depend on the potential conflicts that may exist. Some relevant factors are:

- Whether a commissioner is an employee of an agency that has applied for or might be a recipient of funding;

Avoiding Conflicts of Interest Under Section 1090 in the Context of Funding Recommendations
Page 4

- Whether a commissioner is a non-compensated board member of an agency that has applied for or might be a recipient of funding;
- Whether a commissioner is a bob-compensated board member of an agency that has applied for or might be a recipient of funding;
- Whether in any instance the agency with which a commissioner is affiliated is a 501(c)(3) nonprofit agency;
- Whether the agency with which the commissioner is affiliated is competing with other agencies for the same pot of funds or whether the funds have been divided up into sub-groups for different purposes before the commissioner becomes involved;
- Other, less foreseeable issues.

In order to avoid conflicts under Section 1090, the following rules should be observed. In addition, we strongly encourage commission staff to consult with this office before beginning any funding allocation process to evaluate the best way to avoid conflicts of interest under Section 1090.

1. If an agency with which a commissioner is affiliated is identified as a potential recipient of funds, either directly or as a subrecipient, the commissioner must disclose his or her affiliation for the record (it will be noted in the minutes) and recuse his or herself before any discussion. Recusal involves announcing the potential conflict, and then leaving the room until the discussion of and any action on the commission recommendations is concluded. A commissioner is affiliated with an agency if the commissioner is a board member, officer, or employee of the agency, or a family member is an employee of the agency.
2. If an agency with which a commissioner is affiliated provides services within a funding category recommended by the commission, and the recommendation implicitly suggests an allocation of funds for that agency or could reasonably be read to do so, the commissioner must recuse his or herself, as described in paragraph 1.
3. In discussing commission recommendations that do not fall within paragraphs 1 or 2 above, if an agency with which a commissioner is affiliated provides services that could be funded by a recommendation, the commissioner should be careful not to propose or mention his or her affiliated agency. If the commissioner does mention the agency, it will be disqualified from receiving any funds.

**APPENDIX E. BMC 3.02 COUNCIL DETERMINATION AS TO INCOMPATIBILITY;
RECUSAL; AUTOMATIC VACANCY****3.02.050**

- A. Whenever the City Attorney issues a written opinion that a member of any City board or commission is engaged in an employment, activity or enterprise for compensation which is inconsistent, incompatible or in conflict with his or her duties as a board or commission member, that opinion shall be immediately transmitted to the City Clerk and the affected board or commission member.
- B. If the affected board or commission member notifies the City Clerk in writing of his or her disagreement with the City Attorney's opinion within 14 days after the opinion is issued, the City Clerk shall place the matter on the Council's agenda at the earliest possible time and shall notify the affected board or commission member of the date and time of the meeting at which the Council will consider the matter.
- C. The Council shall allow the affected board or commission member an opportunity to address it and shall then determine whether to affirm or overrule the City Attorney's opinion.
- D. If the Council overrules the City Attorney's opinion, the affected board or commission member shall be conclusively considered not to be engaged in an employment, activity or enterprise for compensation which is inconsistent, incompatible or in conflict with his or her duties as a board or commission member and no further action shall be taken.
- E. If the Council affirms the City Attorney's opinion, the board or commission member's seat shall be deemed automatically vacated as of the date of the Council's decision, unless the City Attorney's opinion states, or the Council determines, that the incompatibility is not pervasive, in which case the board or commission member may remain on the board or commission but shall recuse himself or herself from decisions relating to his or her employment, activity or enterprise for compensation.
- F. From the date the City Attorney's opinion is issued and transmitted to the board or commission member who is its subject, until completion of Council proceedings under this section, the board or commission member shall recuse himself or herself from decisions relating to his or her employment, activity or enterprise for compensation.

Prior to accepting any appointment to any board or commission, the nominee shall disclose to the appointing Councilmember every employment, activity or enterprise for compensation that falls within the scope of the authority of the board or commission for which he or she has been nominated. (Ord. 6643-NS § 1, 2001)

APPENDIX F. RESOLUTION NO. 53,989-N.S. NOTICE TO POTENTIAL CANDIDATES FOR BERKELEY ELECTIVE OFFICE AND INDIVIDUALS INTERESTED IN SERVING AS MEMBERS OF CITY BOARDS AND COMMISSIONS

RESOLUTION NO. 53,989 —N.S.

NOTICE TO POTENTIAL CANDIDATES FOR BERKELEY ELECTIVE OFFICE AND INDIVIDUALS INTERESTED IN SERVING AS MEMBERS OF CITY BOARDS AND COMMISSIONS

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

WHEREAS, conflict of interest issues are often complex, creating ambiguities which may deter many qualified and interested citizens from serving as elected officials or members of the City’s boards and commissions; and

WHEREAS, there is a need to alert potential candidates for office and prospective appointees to boards and commissions of the existence of such conflict of interest laws and to encourage such individuals to seek out advice when questions arise pertaining to their particular situation.

NOW, THEREFORE, Be It Resolved by the Council of the City of Berkeley that the City Clerk be instructed to provide the following notice to individuals expressing interest in candidacy for Berkeley elective office and for appointment to the City’s boards and commissions:

“The purpose of this notice is to alert you to State and local conflict of interest provisions. These provisions may prohibit you, members of your family, or your employer, from having any financial relationship - - such as a contract or consultant position -- with the City, the Berkeley Housing Authority, and the Berkeley Redevelopment Agency, during the term of your office; for members of the City Council such prohibition can extend in certain instances for a one-year period following the conclusion of the term of office.

If a prohibited interest exists, the financial relationship may have to be terminated; for example, a contract may not be renewed or created, a consultant position may have to be withdrawn, your employer or a family member may be required to cease conducting business with the City.

Statements of Economic Interest are required to be filed by elected officials and appointed members of boards and commissions. The information disclosed in such statements provides the public with information concerning the financial interests of those serving in a public or official capacity, as well as assisting in the determination of whether certain of the interests disclosed require appropriate further action. The specific prohibitions applicable to potential conflicts of interest are not deemed “satisfied” or “cured” simply by filing the economic interest statements and disclosing the relevant financial interests; such a filing is a state-mandated requirement and is separate and distinct from any prohibitions that may be imposed as a result of an existing or future financial relationship with the City.

If you are uncertain as to whether existing or future financial interests you, your family, or your employer may have with the City constitute a potential conflict which would require termination or other remedial action upon your assuming elective office or upon your appointment to a City board or commission, you are encouraged to seek further information from the City Attorney’s Office by providing a written description of your financial interest or relationship with the City and the elective or appointive position which you are seeking. It is your obligation to seek such advice and to bring any such potential conflicts to the City’s attention. The City will not independently investigate the background or financial statements of candidates for elective or appointive office in order to detect potential conflicts of interest.”

In effect: November 3, 1987

APPENDIX G. ADMINISTRATIVE REGULATION 3.2 GOVERNING STIPENDS FOR COMMISSIONERS

A.R. NUMBER:	3.2
ORIGINAL DATE:	7/01/94
POSTING DATE:	5/12/2015
PAGE 1 OF 6 PAGES	

CITY OF BERKELEY ADMINISTRATIVE REGULATIONS

SUBJECT: Stipend and Reimbursement in Lieu of Expenses for Members of Certain Boards, Commissions and Committees

PURPOSE

The purpose of this Administrative Regulation is to establish procedures for reimbursing expenses to certain board, commission, and committee members (including temporary appointees) who might otherwise incur an economic hardship.

POLICY

The City Council, by Resolution No. 64,831-N.S. (known as the Stipend Resolution April 20, 2010), authorizes payment in lieu of expenses to members of all Council-appointed boards, commissions, committees, task forces and joint subcommittees who meet certain household income criteria in order to remove economic hardship barriers from citizen participation. Subcommittees of commissions, which are designated by the advisory body and not by Council appointment, are not eligible for reimbursement.

An eligible member is authorized to receive:

- a) \$40 for each official meeting attended, not to exceed four (4) meetings each month;
- b) reimbursement for actual child care expenses incurred while he/she attends meetings;
- c) reimbursement for actual expenses paid to an attendant to provide care for a dependent elderly person while he/she attends meetings; and
- d) reimbursement for actual expenses incurred for disabled support services in order to participate fully in board, commission, or committee meetings.

DEFINITIONS AND REGULATIONS

An "official meeting" is defined as a duly noticed, properly agenzized, regular meeting or special meeting of the full board or commission at which a quorum of the full membership must be present in order for the meeting to be held.

For a meeting that is cancelled, claims may only be submitted if it is for an official meeting where the attendees and staff Secretary believed that the meeting would proceed as scheduled, and for which Commissioners and the Secretary actually showed up and waited a reasonable period beyond the meeting start time for the quorum to be met before canceling.

A receipt or invoice signed by the person providing such child care, elderly dependent care or disabled support services must accompany a request for reimbursement. Invoices must include date, services provided, vendor contact information, and dollar amount.

A.R. NUMBER: 3.2

Page 2 of 6 Pages

The Human Welfare and Community Action Commission provides for alternate representatives of the poor to be elected or to be appointed when a vacancy occurs. Alternate representatives of the poor shall be eligible for stipend payments when serving in place of the principal member.

Pursuant to Berkeley Municipal Code Section 3.32.060 Police Review Commissioners shall receive \$3/hr for their time and work investigating complaints, reviewing policies and practices, and attending meetings, but in no case shall compensation for any one commissioner exceed \$200 per month.

The City Clerk Department is responsible for keeping this Administrative Regulation up-to-date and shall include notification of this policy with each appointment letter mailed.

COMMISSIONER'S CRITERIA AND RESPONSIBILITIES

1. Eligibility criteria for stipend and reimbursement:
 - a) Persons eligible to receive reimbursement in lieu of expenses are those board, commission, or committee members whose annual family income reported individually, or as filed jointly for federal income tax purposes is below \$20,000 per year.
 - b) Commissioners who are minors (under 18 years old) must have eligibility declaration forms co-signed by a parent or legal guardian attesting that the combined household income is under \$20,000.
 - c) If a commissioner is paid \$600 or more in stipend payments in one calendar year, an IRS Form 1099 will be generated by the Finance Department.
2. To establish eligibility, Commissioners must file the Annual Declaration Form (attached) with the secretary of their board, commission or committee. Commissioners must file a new declaration form annually prior to May 31st in order to maintain eligibility.
3. In order to pay a Commissioner's attendant directly, a completed IRS Form W-9 must be on file in the Finance Department's General Services Division. If an attendant, support service, or child care provider is paid \$600 or more in one calendar year, a Form 1099 will be generated by Finance. In order to be reimbursed for payments made to an attendant, support service, or child care provider, a Commissioner must be set up as a vendor by Finance - General Services.
4. Eligible members who are disabled and are seeking reimbursement for support services must also complete the support services statement portion on the Annual Declaration Form. If the member's needs change, he/she must immediately notify the secretary. Otherwise, the statement certifying the need for support services will continue to be in effect for the duration of the member's term of appointment.
5. Pursuant to Berkeley Municipal Code Section 3.66.040, low-income status for members of the Commission on Disability is not a prerequisite for reimbursement of attendant care expenses.

RESPONSIBILITIES OF SECRETARY

1. It is the responsibility of the secretary of each board, commission, and committee to submit quarterly payment forms to the Finance, Accounts Payable Division, by the 10th of each month (January, April, July, and October). Payment forms for stipends paid for attendance at meetings held pursuant to the Mental Health Services Act are filed monthly. Every submission must include the following:
 - a) FN024 Voucher
 - b) A.R. 3.2 Payment Form
 - c) Invoices for support services, dependent care, and/or child care, if applicable.
 - d) Verification that each meeting for which reimbursement or stipend is claimed actually occurred.
 - e) A copy of the Annual Declaration Form
 - f) A spreadsheet showing the year-to-date payments for each commissioner.
2. The completed forms must be attached to a FN024 Form and forwarded for review to the Finance, Accounts Payable Division, by the 10th of each specific month so payment can be made. A separate FN024 and supporting documentation must be submitted individually for each member.
3. The secretary shall keep copies of all Annual Declaration Forms on file, attaching a copy each time an FN024 is submitted to the Finance, Accounts Payable Division, and when submitting quarterly statements.
4. Each secretary will advise the board, commission, and committee members of this policy and respond promptly to commissioner inquiries regarding payment status. Commissioners should not contact the Finance Department or City Clerk Department for payment status. (For appropriate background, secretaries should check with the City Clerk or the City website for the latest amendment of the Stipend Resolution).

<p>RESPONSIBLE DEPARTMENT: City Clerk</p> <p>TO BE REVISED: Every 5 years</p>	<p>Approved by:</p> <p><i>M. Quinn</i> _____ Department Director</p> <p><i>Christine Dean</i> _____ City Manager</p>
---	--

A.R. NUMBER: 3.2

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**ANNUAL DECLARATION FORM RESPECTING ELIGIBILITY FOR
REIMBURSEMENT OF EXPENSES AS A MEMBER OF THE**

(Board/Commission/Committee)

Inasmuch as it is in the public interest to remove barriers, particularly those creating economic hardships for citizens participating on boards, commissions and committees, the City Council has determined that it is in the public interest to alleviate this hardship by authorizing payments in lieu of expenses for certain meetings and under certain conditions as indicated in Stipend Resolution No. 64,831-N.S.

I, _____ certify to the following:

- 1) That my annual family income reported individually, or as part of a joint Federal Income Tax Return, was less than \$20,000 for the Year _____;
- 2) I will file this declaration form every year no later than May 31st with the Secretary who will forward copies to the Finance Department; and
- 3) I will notify the Secretary as soon as I am aware that my family's current year income exceeds \$20,000 and request that my eligibility be canceled:

Signature Date

Signature of Parent or Legal Guardian if Member is a Minor Date

Signature of Secretary Date

* * *

SUPPORT SERVICES STATEMENT

I, _____, certify I am disabled and require the following support services in order to participate fully in commission meetings:

Signature Date

A.R. NUMBER: 3.2

Page 5 of 6 Pages

A.R. 3.2 PAYMENT FORM

Name of Commission: _____

Name of Commissioner: _____

Address of Commissioner: _____

Name of Secretary: _____ Phone: _____

Quarter Covered: Year ____ Jan - Mar April - June July - Sept Oct - Dec

Date of Meeting	Payment Type*	Amount Due
		\$
		\$
		\$
		\$
		\$
		\$
		\$
Total (this qtr.)**		\$

* Stipend, Support Services, Dependent Care, or Child Care

** Attach Year-to-Date Spreadsheet to this Form

Please hold check for pick up: _____
(Commissioner's Signature)

Prepared by: _____ Date: _____
(Preparer's Signature)

Reviewed by: _____ Date: _____
(Commission Secretary Signature)

CERTIFICATION AND AUTHORIZATION FOR PAYMENT: I hereby certify that the payments for all persons whose names appear herein have been properly authorized; and that the amounts indicated as due said persons are actually due and payable. Payment is approved against the appropriation indicated under delegated authority of the City Manager.

Authorized by: _____ Date _____
Authorized Department Signature (must be on file with AP)

A.R. NUMBER: 3.2

Page 6 of 6 Pages

COMMISSIONER STIPEND CHECKLIST

This checklist is provided to expedite the processing of commissioner stipends. The Finance Department requires that all forms are completed and information is accurately prepared and submitted before stipends can be paid. Review the checklist prior to submitting stipend requests.

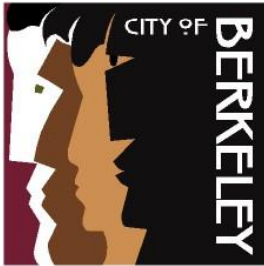
For Initial Payment to a Commissioner or Service Provider:

- Set up the Commissioner as a vendor with Finance - General Services
 - * Use a W-9 form to set up the Commissioner as a vendor (available on Groupware)
- Set up the Vendor (support services, dependent care, or child care) as a vendor with Finance - General Services
 - * Use a W-9 form to set up the service provider as a vendor

Required Documentation for Every Payment Submission (compile submission in this order):

- FN024 Voucher
 - * Provide the full account code (consult your department budget analyst)
 - * Verify in FUNDS that adequate funds are available in the account to pay the voucher
 - * Clearly document the payment amount
 - * Obtain all required signatures
- A.R. 3.2 Payment Form
 - * Complete all fields
 - * Obtain all required signatures
- Invoices for Support Service, Dependent Care, and/or Child Care Providers
 - * Must include date, services provided, vendor contact information, and dollar amount
- Attendance Verification
 - * A copy of the sign in sheet (showing date of meeting) or a screen print out from the commissioner's meeting webpage showing the date the meeting took place
 - * Requests for reimbursement for cancelled meetings require written representation from the Commission Secretary
- Annual Declaration Form
 - * The form is completed and signed and dated yearly by the commissioner and the Commission Secretary
 - * A copy of the form is submitted with each reimbursement voucher
- Year-to-Date Summary Spreadsheet
 - * Documents the fiscal year (year to date) expenditures of the individual commissioner
 - * Remember that payments of \$600 or more result in the issuance of a Form 1099 from the Finance Department and may have tax implications

APPENDIX H. RESPONDING TO REQUESTS FOR ACCOMMODATIONS FOR PERSONS WITH DISABILITIES



Department of Public Works
Disability Compliance Program

RESPONDING TO REQUESTS FOR ACCOMMODATIONS FOR PERSONS WITH DISABILITIES

Procedures for Members of Boards and Commissions and Staff

Members of boards, commissions, and the public who have a disability may have a right to receive reasonable accommodations, if necessary for them to participate in City meetings and programs. The Americans with Disabilities Act (ADA) and other laws mandate that the City provide programmatic access and effective communication in order that people with disabilities are able to participate in the City’s programs, services, and activities including public meetings. (See “What the ADA Says About Accommodations” below.)

Individuals with disabilities who need accommodations to participate at a City of Berkeley meeting should make their requests to both the Commission Secretary and the Disability Compliance Program. An analysis will be initiated on a case-by-case basis to ~~Secretaries to boards and commissions will respond to accommodation requests according to the procedures below.~~ Individuals with disabilities who need accommodations to participate at a City of Berkeley meeting should make their requests to the Disability Compliance Program, which will evaluate the individual’s request and determine the appropriate method, if any, of accommodation. Individuals must make a disability-related accommodation request at least 72 hours in advance of their desired committee meeting and implementation dates.

Secretaries to boards and commissions will respond to accommodation requests according to the procedures below.:

1. ~~Notify the Disability Compliance Program of upcoming~~ Review of the accommodation requests:
 - a. Nature of the accommodation and why the accommodation ~~how often it is~~ needed.
 - a.b. Estimated duration of the requested accommodation.
 - b.c. Commission assignment or meeting for which the accommodation is requested.
 - e. Estimated duration of the assignment.
 - d.

- ~~2. 2. The Commission Secretary and the Disability Compliance Program determine whether an accommodation would comply with applicable law (including the Brown Act). -~~
- ~~3. Jointly, the Commission Secretary and the Disability Compliance Program determines the most effective way to provide an accommodation, whether an accommodation would comply with applicable law (including the Brown Act), coordinates the details with the individual with a disability and, if an accommodation is provided, follows through to ensure its success.~~
- ~~2. The Commission Secretary and the Disability Compliance Program oversee the vendor payment process.~~
- ~~3. -~~
- ~~4. 3. The Disability Compliance Program oversees the vendor payment and reimbursement process. To ensure reimbursement for an individual who provides his or her own accommodation at City expense, approval by the Disability Compliance Program must be obtained in writing prior to the meeting for which the accommodation is requested. If approved as an accommodation, the procedure for reimbursement is as follows.~~

~~Each vendor must fill out a Vendor Information Questionnaire and Certification (available from staff or finance) before invoicing the City.~~

~~The vendor or individual with a disability submits an invoice for services or expenses to staff, including a signature, a statement of when the service or expense occurred, what the commission activity was, and receipts for expenses.~~

~~Staff approves the invoice and forwards it to accounting staff for processing.~~

~~The Finance Department mails a check to the vendor or individual who has a disability.~~

~~Reimbursement to an individual who provides his or her own accommodation will be made at the standard rate paid to vendors performing a comparable service.~~

5.4.

CONSIDERATIONS FOR SELECTING ACCOMMODATION METHODS

The person requesting an accommodation should make the request well in advance to allow adequate time for staff to make any arrangements. Whether a requested accommodation is approved or complies with applicable law may depend, in part, on whether staff has adequate time for the request. Staff may be able to provide an accommodation directly, but it takes time to arrange an accommodation from a service vendor, through the use of assistive technology (equipment), or through modification in the way an activity is conducted.

Accommodations must be reasonable in terms of administrative and technical practicability, availability, and cost. Staff will recommend the most effective method of accommodation that works for the individual with the disability.

Examples of accommodations include but are *not* limited to:

- Assistance with writing and other tasks for persons with manual impairments.
- Interpreters or captioning for persons with hearing impairments.
- Speakers for persons with speech impairments.
- Braille, large print, or electronic versions of printed text and descriptions or tactile representations of graphics for persons with vision or other print-related impairments.

The City provides accommodations for participation in regular or special board and commission meetings, meetings of subcommittees of boards and commissions, and meetings with City staff. The City does not provide accommodations for activities sponsored by another agency or for an individual engaged in community activities that are not official activities of the City.

WHAT THE ADA SAYS ABOUT ACCOMMODATIONS

The ADA describes accommodations generally as “reasonable modifications in policies, practices, or procedures” (28 C. F. R. Section 35.130(b) (7)). Unless the City can demonstrate that a modification would fundamentally alter the nature of the service, program, or activity, the City must make reasonable modifications when necessary to allow an individual with a disability to participate in the City’s services, programs, and activities (28 C. F. R. Section 35.130(b)(7)).

Although the City is not required to provide devices or services that are of a personal nature (such as eyeglasses, hearing aids, or mobility devices), the ADA requires that communication with disabled members of the public be effective, including the provision of auxiliary aids and services necessary for effective communication with the City.

Regarding effective communication, the ADA’s specific language is:

- (a) A public entity shall take appropriate steps to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications with others.
- (b)(1) A public entity shall furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity conducted by a public entity.
- (2) In determining what type of auxiliary aid and service is necessary, a public entity shall give primary consideration to the requests of the individual with disabilities. (28 C. F. R. Section 35.160)

Auxiliary aids and services includes:

- (1) Qualified interpreters, note takers, transcription services, written materials, telephone handset amplifiers, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunications devices for deaf persons (TDD's), videotext displays, or other effective methods of making aurally delivered materials available to individuals with hearing impairments.
- (2) Qualified readers, taped texts, audio recordings, braille materials, large print materials, or other effective methods of making visually delivered materials available to individuals with visual impairments.
- (3) Acquisition or modification of equipment or devices.
- (4) Other similar services and actions. (28 C. F. R. Section 35.104 (in part))

WHAT THE COMMISSIONERS’ MANUAL SAYS ABOUT ACCOMMODATIONS

Sections of the Commissioners’ Manual that discuss accommodations include:

- Accommodations for Commissioners or Board members with Disabilities
Chapter II, Section C
- Stipend Information/Reimbursement for disabled support services
Chapter II, Section D

- Requirement that commission meetings be accessible to the public
Chapter IV, Section [DB](#)
- Agenda format and accessibility of meeting facilities
Chapter [IV, ~~V~~Section E, Subsection \(6\)](#)

CONTACT INFORMATION

Department of Public Works
Disability Compliance Program
1947 Center Street, 4th Floor
Berkeley, CA 94704
TEL: 510-981-6418
TTY: 510-981-6347
FAX: 510-981-6340
E-mail: ecallowada@cityofberkeley.info

APPENDIX I. GENERAL INFORMATION FOR NEWLY APPOINTED COMMISSIONERS

APPOINTMENT OF NEW COMMISSIONER

All new appointments and temporary appointments are processed pursuant to the filing of an appointment form and Affidavit of Residency with the City Clerk by a City Councilmember. The City Clerk then verifies the eligibility of the appointee to serve. A person may not be eligible to serve on a particular commission if any of the following apply.

- The ordinance, resolution, or other law establishing the commission or regulating its membership has specific eligibility requirements that the appointee cannot meet.
- The person has served eight consecutive years on the commission and has not been off the commission for a period of two years (those established by initiative may not be subject to this requirement).
- The person has failed to file Conflict of Interest statements and has outstanding statements and/or has been removed from office more than once for failure to file statements.
- The person has been administratively terminated more than four times.
- There is no open commission seat.

The City Clerk Department prepares the official appointment letter and provides the commissioner with a packet of general information. If the commissioner is designated in the City's Conflict of Interest Code, the appointment package will include the Form 700 and instructions. This form must be filed with the City Clerk within thirty days of the date of the appointment. The new appointee must also take the Oath of Office.

Failure to take the oath within thirty days of the date of the appointment and/or failure to file required Conflict of Interest statements within 30 days of appointment will result in automatic termination from the commission.

PRIOR TO SERVING AND PARTICIPATING AT A COMMISSION MEETING

Commissioners must be fully eligible prior to serving at a meeting. Commission secretaries have been instructed to not permit a newly appointed commissioner to participate at a meeting unless the secretary has received notice from the City Clerk Department.

The secretary will officially swear the new commissioner in at the start of his or her first meeting if the commissioner has not already been sworn at the City Clerk Department. The secretary is also required to immediately forward the completed oath to the City Clerk.

LEAVES OF ABSENCE

Regular attendance at commission meetings is important to enable the commission to proceed with business. If a commissioner has advance notice of potential problems regarding attendance at meetings, he or she should notify the commission secretary and

may wish to consider requesting an Leave of Absence (LOA) from the appointing councilmember. Failure to obtain a LOA may result in automatic termination for absence. See Chapter II, Part A, for more information.

A commissioner may also request to be “excused” from a regular commission meeting due to a conflict between the date of the meeting and a religious or cultural holiday. Such a request must be made in writing on a form provided by the City and submitted to the commission secretary prior to the meeting for which the commissioner is to be excused. The request is not subject to commission approval but shall be accepted upon request. The definition of a religious or cultural holiday is left to the discretion of the individual commissioner.

STIPEND/EXPENSES

In order to remove barriers from public participation on commissions, the Council has authorized payment of \$40 per meeting, in lieu of expenses, to Council-appointed members of commissions whose annual family income as filed jointly is below \$20,000 per year. If a commissioner desires to establish stipend eligibility, he or she must file a statement with the commission secretary. It is the secretary’s responsibility to forward statements and meeting information to the City Auditor in a timely manner to ensure proper payment. Specific information related to this is contained in the Stipend Resolution.

TERMINATION FROM A COMMISSION

Commissioners, with a few exceptions, are appointed for terms ending November 30 of each year. Commissioners may continue to serve at will for a period up to eight consecutive years unless replaced by a councilmember any time after the initial term has ended. See Chapter II, Part A, for more information.

RESIGNATIONS BY COMMISSIONERS

Written resignations by commissioners shall be forwarded directly to the City Clerk Department. Resignation letters should state the effective date of the resignation. Verbal resignations and backdated resignations are not considered resignations. The effective date of the resignation is the date it is received by the City Clerk unless a future date is indicated. The City Clerk Department will provide the resigning commissioner with a Form 700, Conflict of Interest Leaving Office statement, if applicable, and will notify the appointing councilmember and the commission secretary of the resignation.

QUESTIONS REGARDING APPOINTMENT

For questions regarding an appointment or termination or basic rules contained within the Commissioners’ Manual, please contact the commission secretary.

GLOSSARY

Definitions pertain to City of Berkeley Commissions

TERM	DEFINITION
Absence	A commissioner is absent if he or does not attend at least one hour or 50% of the entire meeting.
Accessible	Members of the community must be able to attend all commission and commission subcommittee meetings and the meetings must be noticed in accordance with the Brown Act.
Action Agenda/Calendar	Items are placed on the Action Agenda when the Council or Committee should take or request a specific action by motion.
Action Minutes	A concise record of the commission's proceedings, which contains the date, time, and place of the meeting, members/staff in attendance, and final actions taken.
Actual Appointees	The total seats on a commission minus vacancies and leaves of absence (for the purpose of determining quorum).
ADA (Americans with Disabilities Act)	Federal law that mandates provisions for access and accommodations for persons with disabilities.
Affidavit of Residency	A form that is submitted with the appointment paperwork confirming the appointee is a resident of Berkeley.
Agenda	The list of business to be conducted by the commission.
Alternate Commissioners	Councilmembers and the Mayor may appoint a pool of five Alternate Commissioners to serve on designated commissions when their regular appointee is on an approved leave of absence
Application	Form provided by the Clerk department for completion by an individual who wishes to be appointed to a board or commission.
Appointment	Appointment occurs when an individual who has been selected by a Councilmember (or the Council) to serve on a commission, is deemed fully eligible to serve by the Clerk Department.
Berkeley Election Reform Act	The Berkeley Election Reform Act (BERA), Chapter 2.12, of the Berkeley Municipal Code (BMC), governs Berkeley's campaign finance disclosure.
Brown Act	State law that sets requirements for meeting noticing, agendas, and public participation.
Chair	Presides at commission meetings and ensures the work of the commission is accomplished.
Charter	The document that established the City of Berkeley.
City Attorney	Local official who ensures that the City operates within legal constraints and minimizes its legal liability

TERM	DEFINITION
City Clerk	Local official who administers democratic processes such as elections, access to city records, and all legislative actions ensuring transparency to the public. The City Clerk administers the commission appointment process, maintains the information regarding the commission rules and regulations, and serves as an advisor for commission secretaries.
City Manager	Local official appointed by the City Council to direct the administration of the city.
Communication to Council	Written letter of which the content is approved by action of the full commission, and submitted by the commission secretary in accordance with the Council's guidelines for submission of communications.
Companion Report, City Manager	The City Manager may present a City Manager Companion Report to the Council highlighting alternate recommendations or additional information to a Commission Report.
Conflict of Interest	A situation in which a person is in a position to derive personal benefit from actions or decisions made in their official capacity.
Consent Calendar	Section of the agenda listing items that do not require discussion prior to adoption.
Disability	A condition that limits a person's movements, senses, or activities.
Disclosure Statements/Form 700	The Statement of Economic Interests, Form 700, provides required information about public officials' financial interests to ensure they are making decisions in the best interest of the public.
Election	The selection by vote of a person or persons from among candidates for a position.
Election of Officers	Formal action of the commission to select one member as chairperson and another member as vice-chairperson. Generally, action is taken annually in February.
Enabling Legislation	The charter, ordinance, or resolution that establishes the commission and confers certain specified authority and responsibility.
Ex Parte Contacts	Contacts in a quasi-judicial proceeding outside the public hearing process, including letters, emails, telephone messages, in-person conversations and meetings.
Excused Absence	A commissioner is deemed to have an "excused absence" if the commission secretary receives a written request from the commissioner in advance of a meeting that the absence be excused due to a conflict between a scheduled commission meeting and a cultural or religious holiday.
Fair Campaign Practices Commission	The Fair Campaign Practices Commission (FCPC) enforces the Berkeley Election Reform Act (BERA).

TERM	DEFINITION
Fair Representation Ordinance	A City of Berkeley ordinance requiring commissions of nine, or multiples of nine, and allows each individual Councilmember to make an equal number of appointments.
Form 700/Disclosure Statements	The Statement of Economic Interests, Form 700, provides required information about public officials' financial interests to ensure they are making decisions in the best interest of the public.
Information Item	An item on the commission's agenda for which there is no discussion and no action is taken. It is a report or update on an item of interest to the commission.
Leave of Absence	A commissioner is deemed to have a "leave of absence" when the City Clerk Department receives written approval of the commissioner's absence from the appointing Councilmember prior to 5:00 p.m. the day of the meeting or prior to the beginning of the meeting if occurring before 5:00 p.m. This allows the commissioner to be absent from a commission meeting(s) without an attendance penalty.
Media	Outlets/organizations that deliver information or data to the public.
Meeting, Joint (Concurrent)	Two or more commissions hold meetings in the same place at the same time and hold a coordinated discussion.
Meeting, Regular	A meeting held periodically according to the time/day/location stated in the meeting schedule adopted by formal action of the commission.
Meeting, Special	Any meeting of the commission not on the regular meeting schedule.
Motion	A formal proposal put to the commission for consideration by a commissioner.
Oath of Office	The City Charter requires all commissioners to take an Oath of Office for every appointment they accept. The Oath may be completed by the commission secretary or a City Clerk representative prior to the commissioner serving the first meeting of his or her term.
Point of Personal Privilege	A motion related to matters affecting commissioners during the meeting such as personal comfort, noise in the meeting room, or safety.
Poll	A sampling or collection of opinions – typically used to determine when to hold a special meeting or if all commissioners will be present at a regular meeting.
Presiding Officer	The officer presiding over the conduct of the meeting, the chair, or in their absence, the vice-chair, or temporary chair.
Press	See media.

TERM	DEFINITION
Public	Any individual who is not a member of the convening commission or a City of Berkeley staff person acting in their official capacity.
Public Comment	The public must be allowed to speak on any item in the committee's purview as well as on each specific item of business before the committee.
Public Hearing	An agenda item that has additional noticing requirements and some legal constraints specific to the item. Public Hearings are held when required by law.
Quasi-judicial	Quasi-judicial commissions have the authority to make binding decisions that require or restrict the action of individuals.
Quorum	The minimum number of commissioners who must be present for the valid transaction of business.
Recommendation	A brief description appearing on the meeting agenda and describing what action, if any, may be taken on the item.
Residency	Refers to the status of an individual who lives in the City of Berkeley permanently or on a long-term basis and thereby satisfies an eligibility requirement for membership on a commission.
Resident	A person who lives in the City of Berkeley permanently or on a long-term basis.
Resignation	The formal process for a commissioner stepping down from his or her position.
Secretary	An employee of the City designated by the City Manager to represent the City Manager and provide administrative support to a commission.
Statement of Economic Interests	The Statement of Economic Interests, Form 700, provides required information about public officials' financial interests to ensure they are making decisions in the best interest of the public.
Commissioner Stipend	Payment in lieu of expenses to remove economic hardship barriers.
Subcommittee, including "Temporary" and "ad hoc"	Commissions may establish ad hoc subcommittees, which have a single purpose, be composed of less than a quorum, and a target date to report back to the parent commission.
Temporary Appointment	The appointing Councilmember or the Council may fill a vacancy created by a leave of absence by a temporary appointment for a period not to exceed the period of the leave of absence.
Term Maximum	Commissioners who have served the maximum of eight years on a certain commission shall not be eligible to serve on that same commission until a two-year break in service has occurred (BMC 3.02.040).

TERM	DEFINITION
Term Minimum	A commissioner cannot be replaced by a Councilmember prior to the first day of December in the year in which he or she was appointed.
Termination	Termination is the term used when a commissioner resigns or is removed from office.
Termination, Automatic	An automatic termination takes place when a commissioner fails to meet appointment qualifications.
Vacancy	A seat with no appointed commissioner is considered a vacant seat. Vacancies are not created when commissioners are absent or on leaves of absence.
Vice-chair	Assumes the duties of the chair in his or her absence.

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MOTION TABLE

	Interrupt the Speaker	Requires a Second	Debatable	Amendable	Vote Needed	Reconsiderable
Adjourn	No	Yes	No	No	Majority	No
Recess	No	Yes	No	Yes	Majority	No
Question of Privilege	Yes	No	No	No	No Vote	No
Call for the Orders of the Day	Yes	No	No	No	No Vote (Enforcement is required unless 2/3 vote to continue with current business.)	No
Lay on the Table	No	Yes	No	No	Majority	No
Previous Question or Call the Question	No	Yes	No	No	2/3	Yes (unless voting on the question has begun)
Limit or Extend Limits of Debate	No	Yes	No	Yes (Amendments are not debatable.)	2/3	Yes
Postpone to a Certain Time	No	Yes	Yes	Yes	Majority	Yes
Refer	No	Yes	Yes	Yes	Majority	Yes
Amend	No	Yes	Yes	Yes	Majority	Yes
Substitute	No	Yes	Yes	Yes	Majority	Yes
Postpone Indefinitely	No	Yes	Yes	Yes	Majority	Yes
Main Motion	No	Yes	Yes	Yes	Majority	Yes
Reconsider	Yes (Prior to the speaker beginning to speak)	Yes	Yes (Unless the motion to be reconsidered is not debatable)	No	Majority	No

QUORUM CHART

The following is a chart indicating the numbers needed to take action.

Total Number of Seats*	Actual Appointees	Quorum	Votes Needed for Action
9	9	5	5
9	8	5	5
9	7	4	4
9	6	4	4
9	5	3	3
9	4	3	3
9	3	2	2

**This refers to the authorized membership under the commission's enabling legislation.*

***Quorum rules apply to subcommittees. If a commissioner on a subcommittee of four is on an excused LOA, the actual appointees becomes three, and the quorum becomes two. No subcommittee may operate with less than two actual appointees. Remember, a temporary appointee does not assume the subcommittee memberships of the commissioner for which they are serving.*

Vacancies and commissioners who have been granted a Leave of Absence (LOA) are subtracted from the total number of seats to determine the number of Actual Appointees (see table). The number of Actual Appointees is not reduced when a temporary appointee is absent from a meeting or when a commissioner fails to attend and does not have a LOA.

An exception is the PRC, established by Ordinance No. 4644-N.S. (BMC Chapter 3.32), which states: "A majority of the appointed commissioners shall constitute a quorum for the transaction of business, and the affirmative vote of a majority of those present is required to take action."



Office of the City Manager

CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Melissa McDonough, Senior Management Analyst, City Manager's Office
 Subject: On-Call Graphic Design Services Contracts

RECOMMENDATION

Adopt eight Resolutions authorizing the City Manager to approve contracts and any amendments with the following firms for on-call graphic design and/or illustration services for a total contract period of three years:

1. Bess Design in an amount not to exceed \$75,000; and
2. Celery Design Collaborative in an amount not to exceed \$75,000; and
3. Finley Digital in an amount not to exceed \$75,000; and
4. Identafire in an amount not to exceed \$75,000; and
5. Kate Saker in an amount not to exceed \$75,000; and
6. lowercase productions in an amount not to exceed \$75,000; and
7. Pushcart Design in an amount not to exceed \$75,000; and
8. Uptown Studios in an amount not to exceed \$75,000.

FISCAL IMPACTS OF RECOMMENDATION

Staff will identify funding for these projects as need arises. Staff will initiate work with a contracted vendor only after necessary funds are available and appropriated.

CURRENT SITUATION AND ITS EFFECTS

Throughout the City, departments hire graphic design and/or illustration consultants to support a variety of programs and projects. These include situations where the nature of the work is specialized. Because these services are often needed with little notice and on a tight-timeline, the recommended on-call contracts provide the organization the flexibility to timely secure design services. Additionally, by creating a bench of on-call services to draw from, it allows all departments to draw on these services, rather than

having each department undergo a parallel contracting process. In this way, developing a bench of on-call graphic design services helps advances our citywide Strategic Plan goal to provide an efficient and financially-health City government.

BACKGROUND

A request for proposals (RFP) was issued on June 26, 2019 seeking qualified firms or individuals to provide graphic design and/or illustration services on an as-needed basis. On July 23, 2019, the City received eleven proposals. A panel of City staff reviewed the proposals and selected the eight firms listed above as best meeting the needs expressed and criteria listed in the RFP.

ENVIRONMENTAL SUSTAINABILITY

Developing an on-call bench for graphic design services reduces the need for processing individual staff reports and contracts in each department, thus reducing paper, and supporting the City's environmental sustainability goal to achieve zero waste sent to landfills.

RATIONALE FOR RECOMMENDATION

RFP submittals were competitively reviewed and scored. Staff selected those firms and individuals deemed best qualified to meet the City's needs and selection criteria.

ALTERNATIVE ACTIONS CONSIDERED

Having individual departments seek contracts or services on an ad-hoc as needed basis. This can create duplication of effort and costs (e.g., in terms of staff time).

CONTACT PERSON

Melissa McDonough, Senior Management Analyst, City Manager's Office, 510-981-7402

Attachments:

- 1: Resolution to Contract with Bess Design
- 2: Resolution to Contract with Celery Design Collaborative
- 3: Resolution to Contract with Finley Digital
- 4: Resolution to Contract with Identafire
- 5: Resolution to Contract with Kate Saker
- 6: Resolution to Contract with lowercase productions
- 7: Resolution to Contract with Pushcart Design
- 8: Resolution to Contract with Uptown Studios

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

CONTRACT: BESS DESIGN FOR ON-CALL GRAPHIC DESIGN SERVICES

WHEREAS, on June 26, 2019, the City released a Request for Proposals (Specification No. 19-11319-C) seeking respondents to provide on-call graphic design services; and

WHEREAS, on July 23, 2019, the City received eleven submissions that were reviewed and rated; and

WHEREAS, the submission from Bess Design was found to be fully qualified and responsive to the City's request; and

WHEREAS, funding will be identified and requested for appropriation as projects arise.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to approve a contract and any amendments with Bess Design for on-call graphic design services for the contract period of November 1, 2019 through November 1, 2022 in an amount not to exceed \$75,000. A record signature copy of said contract and any amendments to be on file in the Office of the City Clerk.

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

CONTRACT: CELERY DESIGN COLLABORATIVE FOR ON-CALL GRAPHIC DESIGN SERVICES

WHEREAS, on June 26, 2019, the City released a Request for Proposals (Specification No. 19-11319-C) seeking respondents to provide on-call graphic design services; and

WHEREAS, on July 23, 2019, the City received eleven submissions that were reviewed and rated; and

WHEREAS, the submission from Celery Design Collaborative was found to be fully qualified and responsive to the City's request; and

WHEREAS, funding will be identified and requested for appropriation as projects arise.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to approve a contract and any amendments with Celery Design Collaborative for on-call graphic design services for the contract period of November 1, 2019 through November 1, 2022 in an amount not to exceed \$75,000. A record signature copy of said contract and any amendments to be on file in the Office of the City Clerk.

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

CONTRACT: FINLEY DIGITAL FOR ON-CALL GRAPHIC DESIGN SERVICES

WHEREAS, on June 26, 2019, the City released a Request for Proposals (Specification No. 19-11319-C) seeking respondents to provide on-call graphic design services; and

WHEREAS, on July 23, 2019, the City received eleven submissions that were reviewed and rated; and

WHEREAS, the submission from Finley Digital was found to be fully qualified and responsive to the City's request; and

WHEREAS, funding will be identified and requested for appropriation as projects arise.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to approve a contract and any amendments with Finley Digital for on-call graphic design services for the contract period of November 1, 2019 through November 1, 2022 in an amount not to exceed \$75,000. A record signature copy of said contract and any amendments to be on file in the Office of the City Clerk.

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

CONTRACT: IDENTAFIRE FOR ON-CALL GRAPHIC DESIGN SERVICES

WHEREAS, on June 26, 2019, the City released a Request for Proposals (Specification No. 19-11319-C) seeking respondents to provide on-call graphic design services; and

WHEREAS, on July 23, 2019, the City received eleven submissions that were reviewed and rated; and

WHEREAS, the submission from Identafire was found to be fully qualified and responsive to the City's request; and

WHEREAS, funding will be identified and requested for appropriation as projects arise.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to approve a contract and any amendments with Identafire for on-call graphic design services for the contract period of November 1, 2019 through November 1, 2022 in an amount not to exceed \$75,000. A record signature copy of said contract and any amendments to be on file in the Office of the City Clerk.

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

CONTRACT: KATE SAKER FOR ON-CALL GRAPHIC DESIGN SERVICES

WHEREAS, on June 26, 2019, the City released a Request for Proposals (Specification No. 19-11319-C) seeking respondents to provide on-call graphic design services; and

WHEREAS, on July 23, 2019, the City received eleven submissions that were reviewed and rated; and

WHEREAS, the submission from Kate Saker was found to be fully qualified and responsive to the City's request; and

WHEREAS, funding will be identified and requested for appropriation as projects arise.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to approve a contract and any amendments with Kate Saker for on-call graphic design services for the contract period of November 1, 2019 through November 1, 2022 in an amount not to exceed \$75,000. A record signature copy of said contract and any amendments to be on file in the Office of the City Clerk.

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

CONTRACT: LOWERCASE PRODUCTIONS FOR ON-CALL GRAPHIC DESIGN SERVICES

WHEREAS, on June 26, 2019, the City released a Request for Proposals (Specification No. 19-11319-C) seeking respondents to provide on-call graphic design services; and

WHEREAS, on July 23, 2019, the City received eleven submissions that were reviewed and rated; and

WHEREAS, the submission from lowercase productions was found to be fully qualified and responsive to the City's request; and

WHEREAS, funding will be identified and requested for appropriation as projects arise.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to approve a contract and any amendments with lowercase productions for on-call graphic design services for the contract period of November 1, 2019 through November 1, 2022 in an amount not to exceed \$75,000. A record signature copy of said contract and any amendments to be on file in the Office of the City Clerk.

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

CONTRACT: PUSH CART DESIGN FOR ON-CALL GRAPHIC DESIGN SERVICES

WHEREAS, on June 26, 2019, the City released a Request for Proposals (Specification No. 19-11319-C) seeking respondents to provide on-call graphic design services; and

WHEREAS, on July 23, 2019, the City received eleven submissions that were reviewed and rated; and

WHEREAS, the submission from Pushcart Design was found to be fully qualified and responsive to the City's request; and

WHEREAS, funding will be identified and requested for appropriation as projects arise.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to approve a contract and any amendments with Pushcart Design for on-call graphic design services for the contract period of November 1, 2019 through November 1, 2022 in an amount not to exceed \$75,000. A record signature copy of said contract and any amendments to be on file in the Office of the City Clerk.

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

CONTRACT: UPTOWN STUDIOS FOR ON-CALL GRAPHIC DESIGN SERVICES

WHEREAS, on June 26, 2019, the City released a Request for Proposals (Specification No. 19-11319-C) seeking respondents to provide on-call graphic design services; and

WHEREAS, on July 23, 2019, the City received eleven submissions that were reviewed and rated; and

WHEREAS, the submission from Uptown Studios was found to be fully qualified and responsive to the City's request; and

WHEREAS, funding will be identified and requested for appropriation as projects arise.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to approve a contract and any amendments with Uptown Studios for on-call graphic design services for the contract period of November 1, 2019 through November 1, 2022 in an amount not to exceed \$75,000. A record signature copy of said contract and any amendments to be on file in the Office of the City Clerk.



Office of the City Manager

CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: David White, Deputy City Manager
 Subject: Resolution Recognizing the Importance of the 2020 Census

RECOMMENDATION

Adopt a Resolution supporting Census 2020 and Encouraging Residents of the City of Berkeley to Promote and Complete the Census to Ensure a Fair and Complete Count.

FISCAL IMPACTS OF RECOMMENDATION

There are no fiscal impacts associated with adopting the attached resolution. However, the FY 20-21 budget includes resources for the city to augment staffing on a temporary basis and funds to perform outreach and establish formal locations where the community can complete the online census.

CURRENT SITUATION AND ITS EFFECTS

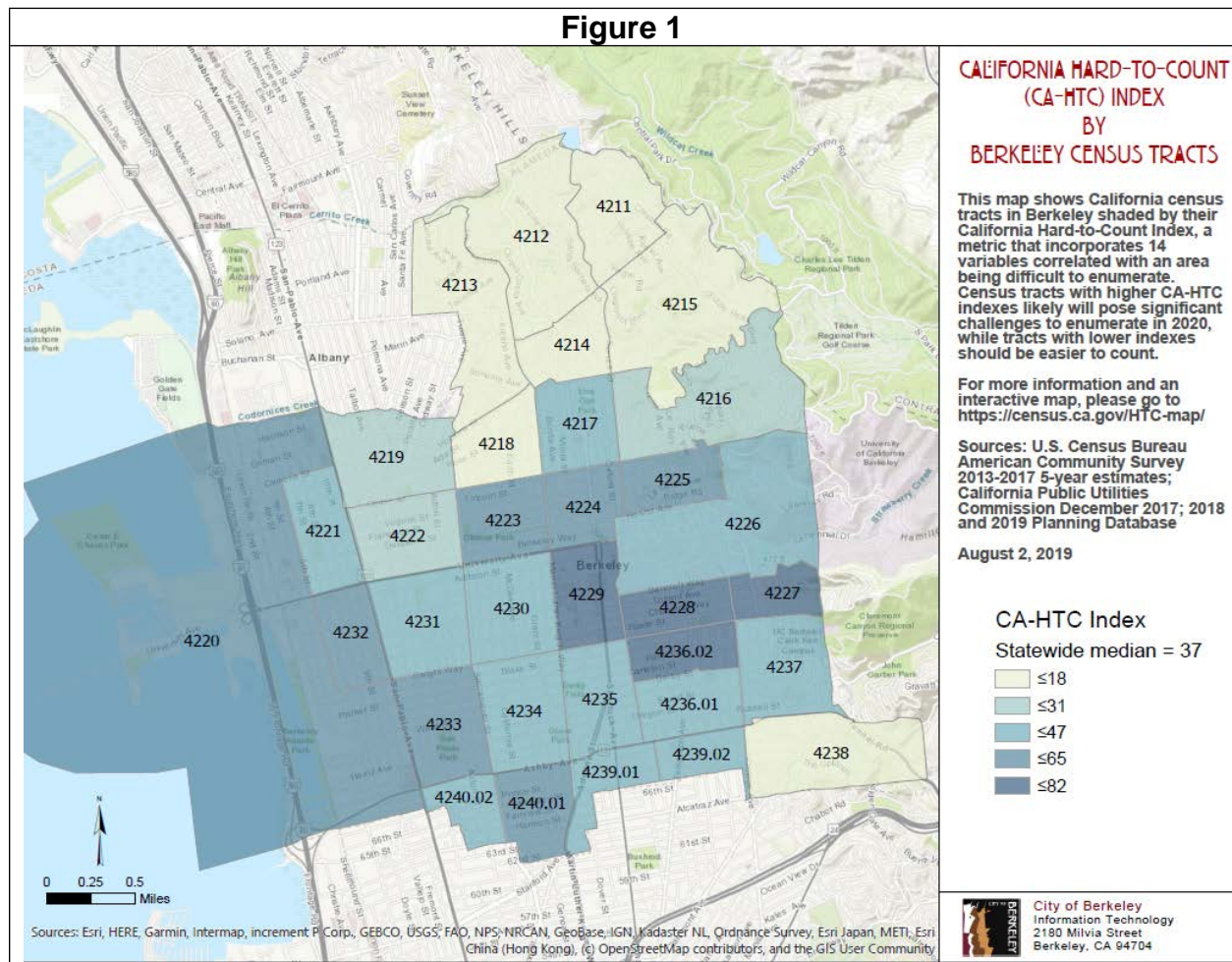
The City of Berkeley has formed a Census 2020 Complete Count Committee consisting of representatives throughout the organization. Primary stakeholders include employees from the City Clerk, City Manager's Office, Health, Housing and Community Services, Information Technology, Library, Parks and Recreation, and Planning. This team has been formed to develop and implement proactive outreach and to work closely with the County of Alameda, US Census Bureau and other stakeholders (i.e., UC Berkeley and community partners) to ensure a complete count of Berkeley residents. This work is especially important as the 2020 Census will be moving to an online format and the negative publicity that the Census received prior to the Supreme Court's decision to block the federal government from including a citizenship question on the questionnaire. A focused citywide initiative is also critical to ensure that communities that have been traditionally undercounted or hard to count are reached. By adopting this resolution, the City Council affirms the City's support for the Census.

BACKGROUND

The U.S. Constitution requires the federal government to count the total number of people in the United States every ten years. The U.S. Census Bureau, a division of the U.S. Department of Commerce, will conduct the next Census in 2020. The results of the census are used to distribute seats in the House of Representatives and inform the amount of federal funds allocated to states for certain programs. Census results also

are used to determine legislative districts for federal, state, and local representatives. Moreover, the census provides a social, demographic, and economic profile of the country's residents, informing decisions by policymakers and businesses across the state. In Berkeley, census results will be used to inform the work of the Citizens Redistricting Commission that was established in 2016 to assume responsibility for redistricting.

California cities can play an active role in helping to make the 2020 U.S. Census fair and accurate, especially for historically undercounted populations: racial and ethnic minorities, young children, and renters. The 2010 census undercounted 95,000 (or 0.26% of) California residents. Though the overall count was an improvement from the previous undercounts (2.74% in 1990 and 1.52% in 2000), the rate of undercounted populations remains consistently high. Based on data generated by the California Census Office, the following is a map that illustrates hard to count communities in the City of Berkeley, by Census tract.



The City of Berkeley (City) contains census tracts that are considered to be hard-to-count by the US Census Bureau¹. More specifically, census tracts surrounding UC Berkeley consist of the highest concentrations of hard-to-count individuals. However, there are also census tracts in south and west Berkeley that are of concern. One of the main implications of a miscount is the loss of annual federal and state funding for local government, as well as funding for social programs and services. In addition, Congressional seats could be impacted.

Obtaining an accurate and complete count poses challenges due to several factors. The housing affordability crisis has forced more Californians to become homeless or move into hard-to-count unconventional housing and overcrowded dwellings. For the first time, the census is a digital census, and more than 75% of California households will be receiving an invitation to complete their census form online, even though many households lack broadband or digital literacy. Finally, the census received negative publicity due to initial plans to add a citizenship question, which was ultimately blocked by the Supreme Court.

Unlike 2010, the State of California has allocated significant resources in ensuring a complete and accurate count and the County of Alameda has a dedicated team and a focused initiative to perform outreach and convene stakeholder groups to ensure that the community is aware of the 2020 Census and that historically hard to count communities are reached. The City of Berkeley Census 2020 Complete Count Committee is coordinating closely with the County of Alameda to ensure that our resources are well-leveraged.

Early work on Census 2020 began in 2017 with the Local Update of Census Addresses (LUCA) program. The City applied for and received \$15,000 from the State of California for its work on the LUCA update. The City is also participating in the New Construction Program, which will allow the City to send additional new addresses to the Census Bureau through November 2019. Outreach work to date includes participating in workshops and subcommittees convened by the county and providing outreach materials at city-sponsored events. Citywide efforts are expected to increase during the winter and spring. In addition, the city will coordinate with the county to establish formal locations throughout the city where residents will be able to complete the census.

ENVIRONMENTAL SUSTAINABILITY

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

¹ A census tract is considered hard-to-count (HTC) if 73% or fewer of the tract's households that received a census questionnaire mailed it back to the Census Bureau.

RATIONALE FOR RECOMMENDATION

City Council is being asked to adopt this resolution to promote awareness of the 2020 census and to encourage residents complete the census. This is the first step of an outreach plan that is being developed by the City's Complete Count Committee and is important because of the negative publicity that the 2020 Census received. In addition, the 2020 Census will be the first to rely heavily on online responses and it is critical that the City do all it can to encourage the community to participate.

ALTERNATIVE ACTIONS CONSIDERED

City Council could decide not to adopt the resolution supporting Census 2020. This is not recommended as it could impact community perception of the census and discourage participation.

CONTACT PERSON

David White, Deputy City Manager, (510) 981-7012
Erin Steffen, Assistant to the City Manager, (510) 981-7017

ATTACHMENTS

1. Resolution
2. Census 2020 Overview
3. US Census 2020 Census Implementation Overview

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

A RESOLUTION RECOGNIZING THE IMPORTANCE OF THE 2020 CENSUS AND ENCOURAGING RESIDENTS OF THE CITY OF BERKELEY TO PROMOTE AND COMPLETE THE CENSUS TO ENSURE A FAIR AND COMPLETE COUNT

WHEREAS, the U.S. Census Bureau is required by Article I, Section 2 of the U.S. Constitution to conduct an accurate count of the population every ten years; and

WHEREAS, the next enumeration will be April 1, 2020 and the 2020 Census will be the first to rely heavily on online responses; and

WHEREAS, the primary and perpetual challenge facing the U.S. Census Bureau is the undercount of certain population groups; and

WHEREAS, that challenge is amplified in California, given the size of the state and the diversity of communities; and

WHEREAS, California has a large percentage of individuals that are considered traditionally hard to count; and

WHEREAS, these diverse communities and demographic populations are at risk of being missed in the 2020 Census; and

WHEREAS, California receives nearly \$77 billion in federal funding that relies, in part, on census data; and

WHEREAS, a complete and accurate count of California's population is essential; and

WHEREAS, the data collected by the decennial Census determines the number of seats each state has in the U.S. House of Representatives and is used to distribute billions of dollars in federal funds to state and local governments; and

WHEREAS, the data is also used in the redistricting of state legislatures, county boards of supervisors and city councils; and

WHEREAS, the decennial census is a massive undertaking that requires cross-sector collaboration and partnership in order to achieve a complete and accurate count; and

WHEREAS, California's leaders have dedicated a historic amount of funding and resources to ensure every Californian is counted once, only once and in the right place; and

WHEREAS, this includes coordination between tribal, city, county, state governments, community-based organizations, education, and many more; and

WHEREAS, the U.S. Census Bureau is facing several challenges with Census 2020, including constrained fiscal environment, rapidly changing use of technology, declining response rates, increasingly diverse and mobile population, thus support from partners and stakeholders is critical; and

WHEREAS, the City of Berkeley is committed to ensuring a complete and accurate count by partnering with other local governments, the State, businesses, schools, and community organizations; and

WHEREAS, the City of Berkeley has committed resources to perform and implement outreach and communication strategies to not only raise community awareness but to ensure that the City's the hardest-to-count individuals are counted.










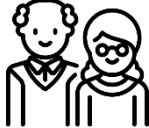
NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City of Berkeley recognizes the importance of the 2020 U.S. Census and encourages residents to promote and complete the Census to ensure a complete, fair, and accurate count.

CENSUS 2020

Our Community Counts. Our Community Belongs.



Complete Count
Committee

<h2>WHY</h2>	<p>Billions of dollars for our:</p> <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  Schools </div> <div style="text-align: center;">  Healthcare </div> <div style="text-align: center;">  Children & Families </div> <div style="text-align: center;">  Housing </div> <div style="text-align: center;">  Transportation </div> </div>	<p>Political Power</p> <div style="text-align: center;">  Our voice in Congress </div>
<h2>WHO</h2>	<ul style="list-style-type: none"> • Every adult, child, and baby living in the United States! • 1 Census form should be completed for <u>all</u> residents at each mailing address 	
<h2>WHAT</h2>	<ul style="list-style-type: none"> • The United States constitution requires all residents to be counted every 10 years • The questionnaire will take 12 minutes to complete. It asks nine questions about: address, race, age, and relationship to the other residents in the household, etc. 	
<h2>WHEN</h2>	<ul style="list-style-type: none"> • Census 2020 begins in mid-March 2020 • Starting May 2020, Census workers will begin going door-to-door to addresses who have not completed the Census to ask them to respond 	
<h2>HOW</h2>	<ul style="list-style-type: none"> • All addresses will receive a letter in the mail with instructions about how to take the Census through the following options: <div style="display: flex; justify-content: space-around; text-align: center;"> <div data-bbox="451 1245 678 1360"> <p>Online</p> <p>By computer, tablet, or smart phone</p> </div> <div data-bbox="886 1245 1114 1360"> <p>Phone</p> <p>The Census Bureau's 1-800 number</p> </div> <div data-bbox="1295 1245 1539 1360"> <p>Paper</p> <p>Households can request a paper form</p> </div> </div> <div style="display: flex; justify-content: space-around; margin-top: 10px;"> <div data-bbox="306 1465 1235 1581" style="border: 1px solid #ccc; padding: 5px; text-align: center;"> <p>Available In</p> <p><i>English, Spanish, Chinese, Vietnamese, Korean, Russian, Arabic, Tagalog, Polish, French, Haitian Creole, Portuguese, and Japanese</i></p> </div> <div data-bbox="1305 1465 1544 1539" style="border: 1px solid #ccc; padding: 5px; text-align: center;"> <p>Printed In</p> <p><i>English & Spanish</i></p> </div> </div> <ul style="list-style-type: none"> • Census instructions will be available in all other languages spoken in Alameda County 	
<h2>WHERE</h2>	<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  At home </div> <div style="text-align: center;">  At the library </div> <div style="text-align: center;">  At your child's school </div> <div style="text-align: center;">  At a senior center </div> </div>	

For more information visit www.acgov.org/census2020, find us on  or email benjamin.ulrey@acgov.org

"Couple" icon by Freepik from www.flaticon.com. From the Noun Project: Congress by MRFA - Family by Gan Khoon Lay - Education by Victoria - Library by

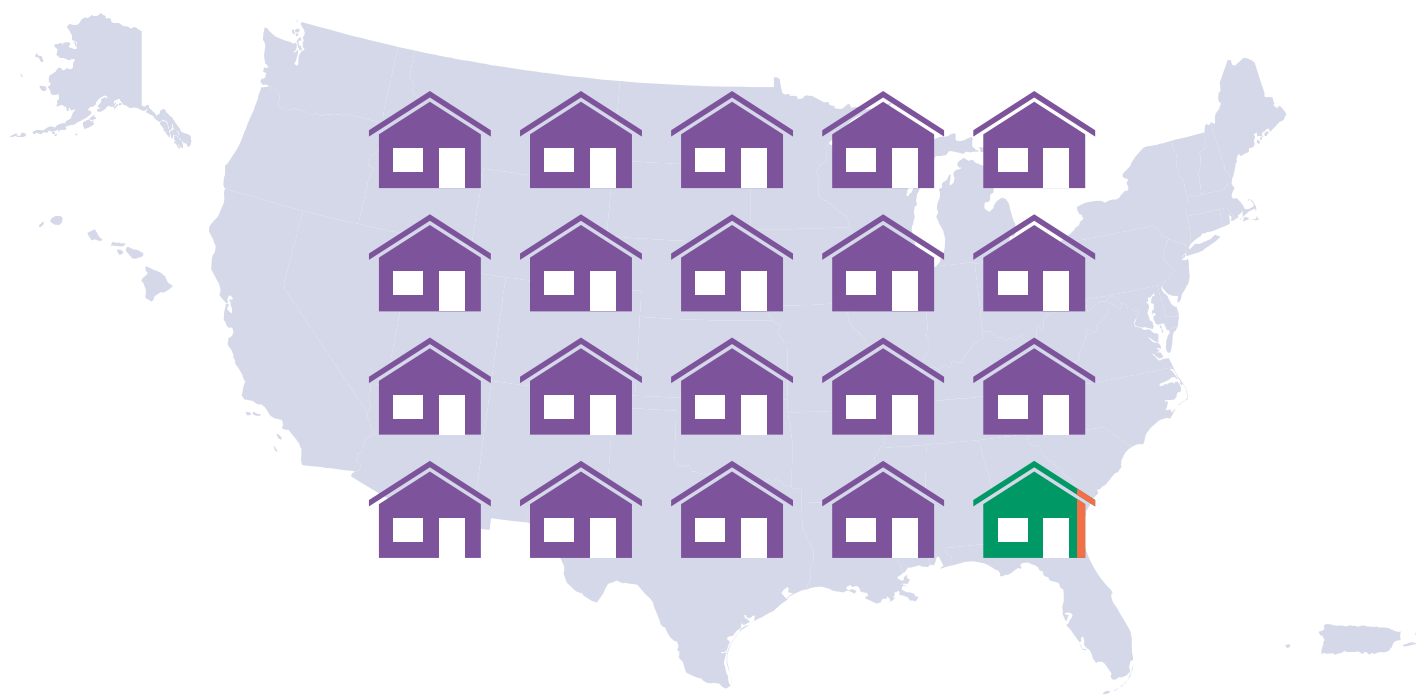
How the 2020 Census will invite everyone to respond





Every household will have the option of responding online, by mail, or by phone.

Nearly every household will receive an invitation to participate in the 2020 Census from either a postal worker or a census worker.

 **95%** of households will receive their census invitation in the mail.



 **Almost 5%** of households will receive their census invitation when a census taker drops it off. In these areas, the majority of households may not receive mail at their home's physical location (like households that use PO boxes or areas recently affected by natural disasters).

 **Less than 1%** of households will be counted in person by a census taker, instead of being invited to respond on their own. We do this in very remote areas like parts of northern Maine, remote Alaska, and in select American Indian areas that ask to be counted in person.

Note: We have special procedures to count people who don't live in households, such as students living in university housing or people experiencing homelessness.

How the 2020 Census will invite everyone to respond



What to Expect in the Mail

When it's time to respond, most households will receive an invitation in the mail.

Every household will have the option of responding online, by mail, or by phone.

Depending on how likely your area is to respond online, you'll receive either an invitation encouraging you to respond online or an invitation along with a paper questionnaire.

Letter Invitation

- Most areas of the country are likely to respond online, so most households will receive a letter asking you to go online to complete the census questionnaire.
- We plan on working with the U.S. Postal Service to stagger the delivery of these invitations over several days. This way we can spread out the number of users responding online, and we'll be able to serve you better if you need help over the phone.

Letter Invitation and Paper Questionnaire

- Areas that are less likely to respond online will receive a paper questionnaire along with their invitation. The invitation will also include information about how to respond online or by phone.

WHAT WE WILL SEND IN THE MAIL	
On or between	You'll receive:
March 12-20	An invitation to respond online to the 2020 Census. (Some households will also receive paper questionnaires.)
March 16-24	A reminder letter.
	If you haven't responded yet:
March 26-April 3	A reminder postcard.
April 8-16	A reminder letter and paper questionnaire.
April 20-27	A final reminder postcard before we follow up in person.

We understand you might miss our initial letter in the mail.

- Every household that hasn't already responded will receive reminders and will eventually receive a paper questionnaire.
- It doesn't matter which initial invitation you get or how you get it—we will follow up in person with all households that don't respond.



Office of the City Manager

CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Henry Oyekanmi, Director, Finance
 Subject: Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on September 10, 2019

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.

FISCAL IMPACTS OF RECOMMENDATION

Total estimated cost of items included in this report is \$12,590,000.

<u>PROJECT</u>	<u>Fund</u>	<u>Source</u>	<u>Amount</u>
Results Based Accountability (RBA) Evaluation	315	Mental Health Services Act	\$100,000
Mental Health Services for Asian Pacific Islanders	315	Mental Health Services Act	\$100,000
Sanitary Sewer Rehabilitation Project: San Pablo Avenue at University Avenue, Parker Street, Carlton Street, and Grayson Street to South City limit	611	Sanitary Sewer Operation	\$2,940,000
Sanitary Sewer Rehabilitation Project: Neilson Street Backline	611	Sanitary Sewer Operation	\$4,800,000
Sanitary Sewer Rehabilitation Project: Seawall Drive	611	Sanitary Sewer Operation	\$4,650,000
Total:			\$12,590,000

CURRENT SITUATION AND ITS EFFECTS

On May, 6, 2008, Council adopted Ordinance No. 7,035-N.S. effective June 6, 2008, which increased the City Manager's purchasing authority for services to \$50,000. As a result, this required report submitted by the City Manager to Council is now for those purchases in excess of \$100,000 for goods; and \$200,000 for playgrounds and construction; and \$50,000 for services. If Council does not object to these items being sent out for bid or proposal within one week of them appearing on the agenda, and upon final notice to proceed from the requesting department, the IFB (Invitation for Bid) or RFP (Request for Proposal) may be released to the public and notices sent to the potential bidder/respondent list.

BACKGROUND

On May 6, 2008, Council adopted Ordinance No. 7,035-N.S., amending the City Manager's purchasing authority for services.

ENVIRONMENTAL SUSTAINABILITY

The Finance Department reviews all formal bid and proposal solicitations to ensure that they include provisions for compliance with the City's environmental policies. For each contract that is subject to City Council authorization, staff will address environmental sustainability considerations in the associated staff report to City Council.

RATIONALE FOR RECOMMENDATION

Need for the services.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Dennis Dang, Acting General Services Manager, Finance, 510-981-7329

Attachments:

- 1: Formal Bid Solicitations and Request for Proposals Scheduled For Possible Issuance After Council Approval on September 10, 2019
 - a) Results Based Accountability (RBA) Evaluation
 - b) Medical Health Services for Asian Pacific Islanders
 - c) Sanitary Sewer Rehabilitation Project: San Pablo Avenue at University Avenue, Parker Street, Carlton Street, and Grayson Street to South City limit
 - d) Sanitary Sewer Rehabilitation Project: Neilson Street Backline
 - e) Sanitary Sewer Rehabilitation Project: Seawall Drive

Note: Original of this attachment with live signature of authorizing personnel is on file in General Services.

DATE SUBMITTED: September 10, 2019

SPECIFICATION NO.	DESCRIPTION OF GOODS / SERVICES BEING PURCHASED	APPROX. RELEASE DATE	APPROX. BID OPENING DATE	INTENDED USE	ESTIMATED COST	BUDGET CODE TO BE CHARGED	DEPT. / DIVISION	CONTACT NAME & PHONE
20-11349-C	Results Based Accountability (RBA) Evaluation	9/12/2019	10/10/2019	Consultant to implement Result Based Accountability (RBA) evaluation across the mental health system.	\$100,000	Project String: MH- MHSA-CSS Development Non-Personnel - Contractual SVCS -Misc Prof Services HHMCSD2001 – 315-51-503-526-2017-000-451-612990.	HHCS-Mental Health	Karen Klatt 981-7644
20-11350-C	Mental Health Services for Asian Pacific Islanders	9/12/2019	10/10/2019	Consultant to implement mental health outreach, engagement and treatment services for Asian Pacific Islander community.	\$100,000	Project String: MH- MHSA-CSS Development-Non-Personnel-Grant Payments-Community Agencies-HHMCSD2001-315-51-503-526-2017-000451-636110.	HHCS-Mental Health	Karen Klatt 981-7644
DEPT. TOTAL					\$200,000			
20-11351-C	Sanitary Sewer Rehabilitation Project: San Pablo Avenue at University Avenue, Parker Street, Carlton Street, and Grayson Street to South City limit	9/11/2019	10/8/2019	Sewer rehabilitation and replacement project to repair and replace old and deteriorated sewer lines.	\$2,940,000	611-54-623-676-3013-000-473-665130-PWENSR2001 (830-5213-432-6510-20SR01)	Public Works - Engineering	Nisha Patel 981-6406 Adadu Yemane 981-6413
20-11352-C	Sanitary Sewer Rehabilitation Project: Neilson Street Backline	9/11/2019	10/1/2019	Sewer rehabilitation and replacement project to repair and replace old and deteriorated sewer lines.	\$4,800,000	611-54-623-676-3013-000-473-665130-PWENSR2002 (830-5213-432-6510-20SR02)	Public Works - Engineering	Nisha Patel 981-6406 Tiffany Pham 981-6427 Ricardo Salcedo 981-6407

DATE SUBMITTED: September 10, 2019

SPECIFICATION NO.	DESCRIPTION OF GOODS / SERVICES BEING PURCHASED	APPROX. RELEASE DATE	APPROX. BID OPENING DATE	INTENDED USE	ESTIMATED COST	BUDGET CODE TO BE CHARGED	DEPT. / DIVISION	CONTACT NAME & PHONE
20-11353-C	Sanitary Sewer Rehabilitation Project: Seawall Drive	9/20/2019	10/15/2019	Sewer rehabilitation and replacement project to repair and replace old and deteriorated sewer lines.	\$4,650,000	611-54-623-676-3013-000-473-665130-PWENSR2003 (830-5213-432-6510-20SR03)	Public Works - Engineering	Nisha Patel 981-6406 Ricardo Salcedo 981-6407
DEPT. TOTAL					\$12,390,000			
GRAND TOTAL					\$12,590,000			



Office of the City Manager

CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council

From: Dee-Williams Ridley, City Manager

Submitted by: Henry Oyekanmi, Director Finance

Subject: Purchase Order Agreements: Aramark Uniform Rental and Laundry Service

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to piggyback off the City of Fresno's competitively bid contract with Aramark Uniform Services for the provision to provide rental and laundering of uniforms, walk-off mats, towels, and miscellaneous items for various departments. Expenditures are projected to amount to \$64,178 in Year 1 (September 1, 2019 through December 31, 2019) and \$198,735 in Year 2 and \$205,134 in Year 3 through January 4, 2022 for a total not to exceed amount of \$468,047 during this 28 month period, subject to the City's annual budget appropriation process.

FINANCIAL IMPLICATIONS

Funds are available in each individual department's budget. The City currently spends approximately \$186,530 annually with Aramark Uniform Services to provide rental, lease, and laundering services of uniforms, walk-off mats, towels, and miscellaneous items for various departments.

CURRENT SITUATION AND ITS EFFECTS

The City of Berkeley was piggybacking off the City of Hayward's contract for uniform rental, lease, and laundering services. This contract has expired, and services continued through a standard purchase order agreement as a short-term bridge. The Finance General Services performed an evaluation of available service options, inclusive of price and service comparisons from other providers and determined piggybacking off the City of Fresno contract presents the overall best value to the City. Consequently, the City Manager seeks authority to piggyback off the City of Fresno's competitively awarded contract. The City of Fresno contract with Aramark is BID# 9407 with a start date of January 5, 2019 through January 4, 2022.

BACKGROUND

The City of Berkeley piggybacked off the City of Hayward's bid for uniform rental, lease, and laundering services. The City of Hayward's contract with Aramark has expired and services continued through a standard purchase order agreement as a short-term bridge. The City of Berkeley now has an opportunity to piggyback off the City of Fresno's competitive bid contract.

ENVIRONMENTAL SUSTAINABILITY

The City of Fresno’s contract includes a commitment to provide current and environmentally friendly processing methods – such as adherence to the Sustainable Laundry Best Management Practices, standards employed by commercial laundry facilities to reduce their impact on the environment. Aramark’s laundering service, according to their proposal to Hayward, uses less water, less energy, and fewer chemicals than standard home laundering. In addition, Aramark manages the discharge of water in accordance with Environmental Protection Agency standards. Aramark’s sustainability objective over the next 12 years, or by 2030, is to reduce water loss and waste in its operations by 50%. To do so, Aramark is pursuing intervention in four areas: 1) responsible and local sourcing; 2) waste minimization; 3) efficient operations; and 4) fleet management.

Overall, the selection of Aramark is in alignment with the Environmental Preferable Purchasing Policy Resolution No. 62,693-N.S. (2004), establishing an environmental purchasing policy charging the City with protecting the public health and welfare of its residents and workers, as well as the health of the environment; and Aramark complies with the City’s sweatshop ordinance.

The City intends to work with Aramark for streamlining delivery and pick-up with the objective to reduce the number of miles per consignment. Moreover, the City will explore using new Aramark uniforms with an increased recycled fiber blend.

RATIONALE FOR RECOMMENDATION

The City of Fresno solicited, bid, and awarded a contract to Aramark; and as Berkeley City Charter Article XI. Public Works and Supplies, Section 67.2 allows for the use of competitively bid pricing from a public agency, the City seeks Council authority to piggyback off the City of Fresno’s contract pricing with Aramark. By piggybacking off the City of Fresno's contract pricing, the City will receive the advantage of cost savings due to the City of Fresno’s competitively bid and negotiated process.

ALTERNATIVE ACTIONS

Conducting an RFP solicitation was considered. After engaging market players, assessing departmental needs and considering transition expenses, it was determined that the costs and risks of an RFP solicitation outweigh the benefits of piggybacking off the negotiated City of Fresno’s contract. An RFP would not guarantee the City of Fresno’s contract pricing level and it would require between 70 and 120 of City staff hours to finalize the solicitation process.

CONTACT PERSON

Dennis Dang, Acting General Services Manager, (510) 981-7329

Attachments:
1: Resolution

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

PURCHASE ORDER AGREEMENTS: ARAMARK UNIFORM RENTAL AND LAUNDRY SERVICE

WHEREAS, the Berkeley City Charter Article XI. Public Works and Supplies, Section 67.2 allows for the use of competitively bid pricing from a public agency; and

WHEREAS, the City of Berkeley has been piggybacking off the City of Hayward competitively negotiated contract which has expired and services continued through a standard purchase order agreement as a short-term bridge; and

WHEREAS, providing protective clothing and equipment to authorized City employees is agreed to in the MOU between the City and Local 1021 (maintenance) with a provision to supply protective clothing to employees at no cost; and

WHEREAS, the City of Fresno has bid and awarded contract BID# 9407 with a start date of January 5, 2019 through January 4, 2022 to Aramark Uniform Services.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to enter into annual Purchase Order agreements and any amendments with Aramark Uniform Services to provide rental and laundering of uniforms, walk-off mats, towels, and miscellaneous items for various departments as needed for a period covering September 1, 2019 through January 4, 2022 for \$64,178 from September 1, 2019 through December 31, 2019 and \$198,735 in Year 2 and \$205,134 in Year 3 through January 4, 2022 for a total not to exceed amount of \$468,047 during this period, subject to the City's annual budget appropriation process.



Office of the City Manager

CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council

From: Dee-Williams Ridley, City Manager

Submitted by: Henry Oyekanmi, Director of Finance

Subject: Toshiba Managed Printed Services – Participation in Cooperative Contract:
Region 4 Education Service Center/Omnia Partners

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to piggyback off Region 4 Education Service Center Contract No. R171405 (hereinafter Region 4 Contract) and enter into annual Purchase Order agreements and any amendments with Toshiba Business Solutions Inc. (TBS) for the provision of citywide managed print and copy services. Expenditures are projected to amount to \$267,938 in FY2020, \$275,976 in FY2021, and \$284,255 in FY2022, for a total not to exceed amount of \$828,170 for three (3) years coverage, subject to the City's annual budget appropriation process.

FINANCIAL IMPLICATIONS

Funds are available in each individual department's budget. The City currently spends approximately \$250,000 annually with TBS for the lease of 66 multifunction printers/photocopiers and the maintenance of 12 printers/photocopiers that various departments purchased. TBS printers/photocopiers afford the City approximately 500,000 prints per month corresponding to an average cost per copy of \$0.0416, excluding paper. By piggybacking off the Region 4 Contract the City will maintain existing pricing over the next three years term and, increase the level of service via enhanced capability to access new online fleet management tools, data analysis software, and streamlined customer service procedures.

After an evaluation of available service options, inclusive of price and service comparisons from other providers, Finance General Services determined piggybacking off the Region 4 Contract presents the overall best value to the City. Expenditures are projected to amount to \$267,938 in FY2020, \$275,976 in FY2021, and \$284,255 in FY2022, for a total not to exceed value of \$828,170 for three (3) years coverage, subject to the City's annual budget appropriation process.

CURRENT SITUATION AND ITS EFFECTS

On July 1, 2013 the City executed Contract No. 10190 with TBS, piggybacking off the Contra Costa County Copier Program Agreement BID#1201-003B (Contract Costa County Copier Program). Subsequently, TBS provided the City with 78 multifunction

printers and copiers, out of which 66 are leased and 12 owned. Contract No. 10190 terminated on June 30, 2019 with continuing service for four months provided through a standard expenditure contract as a short-term bridge prior to effecting a piggyback off the Region 4 Contract. Consequently, the City Manager seeks the authority to piggyback off the Region 4 competitively awarded contract, thus maintaining current pricing over the next three years with TBS offering enhanced services. City departments will issue purchase orders for each equipment placement utilizing established pricing. Concurrently, Finance General Services and the IT departments will engage in collaborative programs with TBS to maximize value by monitoring consumption and by promoting a Reduce, Reuse and Recycle work environment.

BACKGROUND

The City consolidated managed printing/copy services with TBS as a single provider in August 2007, after execution of Contract No. 7395 authorized by Resolution No. 63,590-N.S. Since July 1, 2013 the City has been piggybacking off the Contra Costa County Copier Program with adoption of Resolution No. 66,297-N.S that authorized Contract No.10190. Contract No. 10190 terminated on June 30, 2019 with continuing service for four months provided through a standard expenditure contract as a short-term bridge prior to effecting a piggyback off the Region 4 Contract. Region 4 Education Service Center is part of Omnia Partners, a cooperative purchasing organization that serves more than 60,000 public entities and boasts roughly \$13 billion in purchasing power. On March 1, 2018 Region 4 concluded TBS Contract No. R171405 for managed print and copy services. Contract No. R171405 has a three (3) year term with an option to renew annually for an additional two (2) years. By piggybacking off the Region 4 Contract, the City will stabilize printing and copying costs over the next three years and, at the same time, add service value through enhanced consumption monitoring tools, data analysis software and a streamlined customer service delivery model.

ENVIRONMENTAL SUSTAINABILITY

Toshiba Group in 2017 reduced the environmental impacts of its manufacturing processes by cutting back greenhouse gas emissions by approximately 12 million t-CO², by curbing 37,000 tons of landfill waste and by bringing the water received per unit of production at 89% of FY2013 level. Additionally, TBS provides the City with a no cost Zero Waste recycling program for disposing of consumables such as toner, fax cartridges and drum units. TBS will also collaborate with Finance General Services, the IT Department and other citywide users in order to promote a Reduce, Reuse and Recycle culture.

RATIONALE FOR RECOMMENDATION

After a thorough and comprehensive analysis that looked at customer and business requirements, current spend, future spend, and the market, it was concluded that the Region 4 Contract is the best value option to stabilize print and copy prices over the next three years and, simultaneously, enhance the level of service through consumption monitoring tools, data analysis software and a streamlined customer service delivery model.

ALTERNATIVE ACTIONS

Conducting an RFP solicitation was considered. After engaging market players, assessing departmental needs and considering transition expenses, it was determined that the costs and risks of an RFP solicitation outweigh the benefits of piggybacking off the negotiated Region 4 Contract. An RFP would not guarantee the Region 4 pricing level and it would require between 70 and 120 of City staff hours to finalize the solicitation process.

CONTACT PERSON

Dennis Dang, Acting General Services Manager, Finance Department, 510-981-7329

Attachments:

1: Resolution

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

PURCHASE ORDER AGREEMENT FOR TOSHIBA BUSINESS SOLUTIONS
MANAGED PRINTING AND COPY SERVICES

WHEREAS, all City departments need printers and copiers to conduct daily activities;
and

WHEREAS, the City has been piggybacking off Contra Costa County Copier Program
Agreement BID#1201-003B through Contract No. 1091; and

WHEREAS, Contract No. 1091 term expired on June 30, 2019 with continuing service
provided for four months via a standard purchase order agreement; and

WHEREAS, after an evaluation of available service options it was determined that
piggybacking off the competitively negotiated Region 4 Education Service Center
Contract No. R171405 offered the best overall value to the City; and

WHEREAS, Region 4 Education Service Center Contract No. R171405 allows the City
to stabilize printing prices over the next three years and to receive an enhanced level of
service via consumption monitoring tools, data analysis software, and a streamlined
customer service delivery model.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the
City Manager is authorized to enter into annual Purchase Order agreements and any
amendments with Toshiba Business Solutions Inc. for the provision of citywide
managed printer and copier services. Expenditures are projected to amount to \$267,938
in FY2020, \$275,976 in FY2021 and \$284,255 in FY2022 for a total not to exceed of
\$828,170 for three (3) years coverage, subject to the City's annual budget appropriation
process.



Office of the City Manager

CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Kelly Wallace, Interim Director, Health, Housing & Community Services Department

Subject: Contract No. 010561 Amendment: Alameda County Network of Mental Health Clients / Berkeley Drop-In Center (BDIC) to Operate a Secure Storage Program

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to amend Contract No. 010561 with the Alameda County Network of Mental Health Clients / Berkeley Drop-In Center, adding \$50,000 in state Homeless Emergency Aid Program (HEAP) funding for a homeless storage locker program. This addition of \$50,000 will support eligible program-related activities for the period of one year and will increase the total not-to-exceed (NTE) amount of the existing contract to a revised amount of \$85,721.

FISCAL IMPACTS OF RECOMMENDATION

The amendment will add \$50,000 in HEAP funds set aside for homeless storage lockers, as approved by Council on March 12, 2019 (budget code: 336-51-504-535-0000-000-444-636110). These funds will be appropriated with the First Amendment of the FY2020 Annual Appropriations Ordinance (AAO#1).

CURRENT SITUATION AND ITS EFFECTS

Pursuant to Berkeley's shelter crisis re-authorization passed on 10/31/2017, the City Manager has been granted authority to sole source a contract for "services that will be provided within or to support temporary shelter facilities." Lack of storage for personal belongings is one of the top 6 reasons cited in the 2017 Berkeley Point-in-Time Count and Survey that homeless persons do not access shelter services.¹ The storage program is designed, in part, to support unsheltered people in accessing beds they may not otherwise be interested in utilizing.

Berkeley Drop-In Center already offers storage lockers for its clients. This recommendation would add to that program, with the following parameters:

¹ See: http://everyonehome.org/wp-content/uploads/2016/02/BERKELEY_5-Final-1.pdf

- (i) *Location.* 84 storage lockers (of dimension 12" W by 24" D by 36" L) are already owned by the City and will be installed alongside existing locker facilities at BDIC (3234 Adeline Street). In addition, the funding will support 6 20-35 gallon secured totes for additional storage of larger items.
- (ii) *Hours.* Lockers would be available 5 days a week (Monday-Friday, 9:30 am-4 pm).
- (iii) *Access:* BDIC staff would oversee locker access.
- (iv) *Rules.* Rules and hours would be posted and participants will be given a written sheet describing them as well.

BACKGROUND

On December 5, 2017, as part of the mid-year budget process, Council allocated \$50,000 towards the establishment of a downtown homeless storage pilot program.

After the allocation of these funds, HHCS staff began researching program models and locations that could be feasibly supported by this funding amount, and ultimately circulated a Request for Information (RFI) to all Berkeley homeless services nonprofits to solicit interest and capacity in operating a program to provide storage in the downtown area for \$50,000. The Homeless Commission was invited to designate a representative to review responses alongside city staff, which they did with an action taken on April 11, 2018. BOSS was the lone respondent to this RFI and submitted a proposal to utilize the MASC Courtyard for this purpose. The City Manager awarded the contract to that agency. BOSS provided a locker program at the MASC from October 2018 through July 2019. On June 25, 2019, Council awarded funding for both a Drop-In Center and for the continuation of the locker program to Dorothy Day House.

On May 29, Council referred to the FY2019 budget process the allocation of an additional \$100,000 in funding for two homeless storage sites—one downtown, and one in West Berkeley. The City Manager subsequently recommended that this cost be covered by HEAP funding and incorporated the \$100,000 into the HEAP funding recommendations approved by Council in March 2019.

City staff approached Berkeley Drop-In Center to expand options away from the downtown and into South Berkeley, prompting the current recommendation from staff to move forward with a \$50,000 downtown program at this time.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental impacts or opportunities associated with the action recommended in this report.

RATIONALE FOR RECOMMENDATION

Staff has determined that sole sourcing HEAP moneys to BDIC for locker expansion would have multiple benefits, including:

- Ensuring timely provision of these important services;
- Maximizing administrative efficiency and minimizing additional delays by leveraging an existing City contract at an existing program that already has a locker component;
- Ensuring the City stays on track to meet aggressive, County-imposed expenditure deadlines for HEAP (60% of all funds expended by June 30, 2020);
- Increasing access to storage options for persons experiencing homelessness in South Berkeley.

ALTERNATIVE ACTIONS CONSIDERED

As an alternative action, Council could instead direct staff to circulate a new RFI or formal Request for Proposals (RFP) to competitively solicit a different vendor.

CONTACT PERSON

Peter Radu, Homeless Services Coordinator, HHCS, (510) 981-5435.

Attachments:

1: Resolution

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

CONTRACT NO. 010561 AMENDMENT: BERKELEY DROP-IN CENTER FOR HOMELESS STORAGE LOCKER PROGRAM

WHEREAS, the Berkeley City Council authorized the extension of a homeless shelter crisis on October 31, 2017 and in so doing authorized the City Manager to “waive non-voter approved purchasing and bid requirements for the installation of facilities and services that are directly related to providing temporary shelter for the homeless”; and

WHEREAS, the 2017 point-in-time count and survey of persons experiencing homelessness in Berkeley found that 11% of individuals reported not using shelter because they have no place to store their belongings; and

WHEREAS, the Berkeley City Council approved using \$50,000 in California Homeless Emergency Aid Program (HEAP) funding towards the creation of a second homeless storage program on March 12, 2019; and

WHEREAS, city staff has identified Berkeley Drop-In Center as an operator for the second homeless storage program.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute an amendment to Contract No. 010561 with the Alameda County Network of Mental Health Clients / Berkeley Drop-In Center for the operation of a locker storage program for persons experiencing homelessness, increasing the contract by \$50,000 to bring the revised total of that contract to an amount not to exceed \$85,721 (Contract No. 010561B).

BE IT FURTHER RESOLVED that the City Manager is authorized to use HEAP funds in an amount not to exceed \$50,000 for the amended Berkeley Drop-In Center contract. Such funds will be used to support locker program staffing and operations for one year. A signed copy of said documents, agreements and any amendments will be kept on file with the Office of the City Clerk.



Office of the City Manager

CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Kelly Wallace, Interim Director, Health, Housing & Community Services

Subject: Contract: Alameda County Public Health Department, Office of Dental Health to Provide Dental Services to the Berkeley Unified School District

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to execute a contract and any amendments or extensions with Alameda County in an amount not to exceed \$159,000 to provide dental services in Berkeley Unified School District for the period of July 1, 2019 through June 30, 2022.

FISCAL IMPACTS OF RECOMMENDATION

Funding for this contract is in the approved biennial FY 20/21 budgets. The annual contract amount is \$53,000 budgeted in General Ledger Code 011-51-506-559-2073-000-451-636110. The contract has been entered into the City's Contract Management System and assigned CMS No. D5Z73.

CURRENT SITUATION AND ITS EFFECTS

Research increasingly shows that although dental caries (tooth decay) are largely preventable, tooth decay remains the most common chronic disease of children aged six to 11 years. Nationally, children of racial and ethnic minority groups have twice as much untreated decay in their permanent teeth, but only receive about half as many dental sealants, as non-minority children.

Through this collaboration with Alameda County, the City's Oral Health program provides school-based preventive treatments for elementary-school aged children, increasing the number of children receiving fluoride, sealants and oral health screenings. City of Berkeley staff coordinates follow-up for those children at highest risk who are currently uninsured or unconnected to a dental health provider but in need of care. There is a direct relationship between the children served and City's work in addressing health inequities.

BACKGROUND

The City of Berkeley Public Health Division's Oral Health Program has provided dental health services, outreach and education, in partnership with Alameda County Public Health Department, Office of Dental Health and Berkeley Unified School District for the

past eighteen years. This contract makes possible the provision of dental screenings, free dental sealants, and preventive dental education for third grade students in BUSD and, where necessary, referral and linkages to dental appointments and health insurance.

ENVIRONMENTAL SUSTAINABILITY

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

RATIONALE FOR RECOMMENDATION

By engaging in this agreement with Alameda County, we assure that children in Berkeley Public Elementary Schools have access to these oral health preventive resources.

ALTERNATIVE ACTIONS CONSIDERED

This service is essential to the Public Health Division's mission and goals. The Public Health Division does not have adequate resources or technical expertise to deliver these services directly. The alternative action of not working with Alameda County to deliver these services is that children would not receive these preventive services.

CONTACT PERSON

Janice Chin, MPH, Public Health Division Manager, HHCS, (510) 981-5121

Attachments:

1: Resolution

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

CONTRACT: ALAMEDA COUNTY PUBLIC HEALTH DEPARTMENT, OFFICE OF DENTAL HEALTH FOR ORAL HEALTH SERVICES TO BERKELEY UNIFIED SCHOOL DISTRICT

WHEREAS, dental decay is one of the most prevalent and untreated diseases of children and it remains the most common chronic disease of children aged 6 to 11 years (25%) and children of racial and ethnic minority groups have twice as much untreated decay in their permanent teeth; and

WHEREAS, the number of elementary aged children receiving sealants and fluoride treatments in Berkeley Unified elementary schools has been steadily increasing since the COB School-Based Oral Health program began; and

WHEREAS, the City Council has authorized a sole source contract with the Alameda County Public Health Department since 2000 due to the Department's existing relations for providing dental health services, outreach and education to schools within the Berkeley Unified School District as well as their working knowledge of program and state requirements for the provision of these services; and

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services works to promote healthy environments and behaviors, protect residents from disease, and prevent illness, disability, and premature death; and

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services seeks to eliminate health inequities.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is hereby authorized to execute a sole source contract with Alameda County, and any amendments or extensions thereto, in an amount not to exceed \$159,000 (\$53,000 annual), to provide dental services in Berkeley Unified School District for the period of July 1, 2019 through June 30, 2022. General Ledger Code 011-51-506-559-2073-000-451-636110 (Expenditure). CMS No. D5Z73. A record signature copy of said contract shall be on file in the office of the City Clerk.



Office of the City Manager

CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Kelly Wallace, Interim Director, Health, Housing & Community Services

Subject: Authorization to Execute a Revised Programmatic Agreement with the California State Historic Preservation Officer (SHPO)

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a revised Programmatic Agreement (PA) with the California State Historic Preservation Officer (SHPO) to clarify which rehabilitation activities would not require SHPO's review.

FISCAL IMPACTS OF RECOMMENDATION

The proposed changes will streamline the environmental review process by reducing staff time for certain projects, thereby allowing accessibility improvements for disabled residents to be completed more quickly.

CURRENT SITUATION AND ITS EFFECTS

The City of Berkeley administers federal funding from the Department of Housing and Urban Development (HUD) to carry out various types of projects, including major and minor rehabilitation. Federal regulations (24 CFR Part 58) require that recipients of HUD funds conduct an environmental review before undertaking any of these rehabilitation projects. One component of this review is to comply with federal and state laws governing historic preservation. To streamline the review process for historic preservation, the City entered into a Programmatic Agreement (PA) on February 3, 1993 with the California State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP). The PA allows the City, the SHPO (a state agency), and the ACHP (a federal agency) to mutually agree that certain types of projects will not be reviewed by either agency because the projects are too minor to warrant such a review. ACHP recommends executing a PA for programs that have similar or repetitive effects on properties to avoid the need for a separate historic preservation review for each project.

Under the current PA, the City sends approximately 15 projects to SHPO annually for their concurrence with staff's documented determination of "no effects on historic properties." About half of these projects consist of exterior alterations to improve accessibility for disabled residents of the properties, such as the installation of lifts and construction of wheelchair ramps. SHPO has not objected to any of these

determinations and these types of projects do not rise to the level of ACHP review. Staff is proposing to modify the existing PA in order to include additional types of accessibility improvements and landscaping changes to be excluded from state review. The proposed revisions are modeled after San Francisco's PA and will allow the City to move these types of accessibility projects to completion more quickly than could be accomplished currently.

The Landmark Preservation Commission (LPC) and the City's Historic Preservation Planner have reviewed the proposed changes and do not object. SHPO has reviewed the revised PA several times and notably requested the removal of ACHP as a signatory since none of the projects covered by the PA would require ACHP review. ACHP requested that the City include stipulations that address emergencies and public outreach.

BACKGROUND

Under 24 CFR Part 58, the City of Berkeley is the Responsible Entity and assumes the responsibility of HUD for environmental review, decision-making, and action. A component of the environmental review is historic preservation. Section 106 of the National Historic Preservation Act (NHPA) requires that a federal agency take into account the effect of their undertaking on historic properties. The PA streamlines that process by laying out the agreed upon terms and conditions to resolve potential adverse effects of undertakings and programs affected by the use of funding from HUD.

The City has several programs that use the following HUD funding sources: Community Development Block Grant (CDBG), Emergency Shelter Grant (ESG), and HOME Investment Partnerships (HOME) program. The City's Housing Trust Fund (HTF), which provides loans and grants to create, maintain, or expand the City's affordable housing stock, contains CDBG and HOME funds. The City also provides HUD funds to several programs where community agencies conduct home repairs for low income households and construction of access ramps and lifts for disabled households.

In 2012, staff submitted a revised PA for the LPC and general public to review and comment and in 2015, Council adopted Resolution No. 67,260–N.S. to authorize the City Manager's execution of a revised PA. However, due to changing priorities and conflicting schedules, the revised PA was not executed. When staff attempted to execute the PA in 2018, ACHP recommended staff reach out to consulting parties and the public again. In December 2018, a modified draft of the PA was reviewed by LPC and the general public. Since the current version of the revised PA differed from the version submitted to Council in 2015, a new authorization is requested.

In addition to the proposed revisions already mentioned in the report, the new PA also contains the following notable changes:

- Clarifies the use of any revenue from HUD is subject to Section 106 and not just programs previously listed in the PA;

- Includes stipulations that address emergencies and public outreach as requested by the ACHP;
- Changes the usage of several terms for consistency (e.g. “COB” changed to “City”);
- Includes a “definitions” section; and
- Eliminates poor drafting errors, such as an erroneous reference to federal law.

ENVIRONMENTAL SUSTAINABILITY

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

RATIONALE FOR RECOMMENDATION

The PA delegates certain decision making responsibilities to the City of Berkeley by allowing all parties to mutually agree that certain activities will not require review by SHPO. The proposed revisions to the PA will reduce the amount of time it takes for the City to complete its environmental review and this will allow the rehabilitation projects to occur sooner, thereby assisting disabled Berkeley residents quicker.

ALTERNATIVE ACTIONS CONSIDERED

If the Council does not authorize the execution of the revised PA, staff would continue using the existing PA which requires requesting concurrence with SHPO on projects containing exterior modifications associated with improving accessibility for disabled City of Berkeley residents. This adds the cost of staffing time and delays implementation of projects that SHPO and ACHP think are unnecessary.

CONTACT PERSON

Be Tran, Associate Planner, HHCS, (510) 981-5422

Attachments:

1: Resolution

Exhibit A: Proposed Programmatic Agreement (with strike-out)

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

REVISED PROGRAMMATIC AGREEMENT WITH THE CALIFORNIA STATE
HISTORIC PRESERVATION OFFICER

WHEREAS, the City is a recipient of the Community Development Block Grant Program, the HOME Investment Partnerships Program, and the Emergency Shelter Grant Program administered by the Department of Housing and Urban Development (HUD); and

WHEREAS, the City is the Responsible Entity and assumes the responsibility of HUD to comply with the environmental review procedures under the National Environmental Policy Act and Section 106 review requirements under the National Historic Preservation Act; and

WHEREAS, the City executed a Programmatic Agreement with the California State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP) on February 3, 1993 to allow for expedited review of HUD funded projects affecting historic properties; and

WHEREAS, the City proposes to revise the Programmatic Agreement to include undertakings that would not require SHPO or ACHP review such as modifications associated with accessibility for disabled people; and

WHEREAS, the City Council previously approved Resolution No. 67,260–N.S. authorizing the City Manager to execute the revised PA in 2015 but the PA was not executed; and

WHEREAS, a new resolution is sought because the current version of the PA differs from the version previously submitted to Council.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute the new revised Programmatic Agreement with SHPO, including any additional changes proposed by SHPO and ACHP.

Exhibits

A: Proposed Programmatic Agreement (with strike-out)

PROGRAMMATIC AGREEMENT
 BY AND AMONG
 THE CITY OF BERKELEY,
~~THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,~~
 AND THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER

REGARDING HISTORIC PROPERTIES AFFECTED BY USE
 OF ~~REVENUE FROM THE DEPARTMENT OF HOUSING AND URBAN
 DEVELOPMENT PART 58 PROGRAMS COMMUNITY DEVELOPMENT BLOCK
 GRANTS; RENTAL REHABILITATION BLOCK GRANTS; AND MCKINNEY ACT
 HOMELESS PROGRAMS INCLUDING
 THE EMERGENCY SHELTER GRANTS PROGRAM, TRANSITIONAL HOUSING,
 PERMANENT HOUSING FOR THE HOMELESS HANDICAPPED,
 AND SUPPLEMENTAL ASSISTANCE FOR FACILITIES TO ASSIST THE HOMELESS;
 THE HOPE II PROGRAM; THE HOME PROGRAM; THE HOPWA PROGRAM
 AND THE SHELTER PLUS CARE PROGRAM~~

WHEREAS, the City of Berkeley (~~COB~~ City), a “Responsible Entity” under 24 CFR Part 58, proposes to administer and fund projects and programs (hereinafter referred to as “Undertakings,” as defined in 36 CFR 800.16y) in the City of Berkeley, California with monies from the U.S. Department of Housing and Urban Development (“HUD”) programs (“Programs”) delegated to the City pursuant to 24 CFR Part 58 or any other pertinent HUD regulations; and Community Development Block Grant program (CDBG) of the Department of Housing and Urban Development under Title I of the Housing and Community Development Act of 1974; the McKinney Homeless Programs including the Emergency Shelter Grants Program, Transitional Housing, Permanent Housing for the Homeless Handicapped, and Supplemental Assistance for Facilities to Assist the Homeless; the Hope II program; the HOME program; and the Shelter Plus Care program; and

WHEREAS, ~~COB~~ the City has determined the administration of these ~~projects~~ Undertakings and ~~p~~Programs may have an effect on properties included in or eligible for inclusion in the National Register of Historic Places (“h~~H~~istoric p~~P~~roperties) and has consulted with the California State Historic Preservation Officer (“SHPO”) and the Advisory Council on Historic Preservation (Council) (“ACHP”) pursuant to 36 CFR Part 800.13 of the regulations implementing Section 106 of the National Historic Preservation Act (16 USC 470f) (“Act”); and

WHEREAS, pursuant to the Advisory Council on Historic Preservation’s (“ACHP”) Section 106 regulations, “Protection of Historic Properties” (“Regulations”) [36 CFR Part 800], the City has requested the comments of the ACHP; and

WHEREAS, pursuant to ACHP’s Section 106 regulations, the City has conducted outreach and has actively sought and requested the comments and participation of Indian tribes that attach religious and cultural significance to historic properties that may be affected by Undertakings funded under the terms of this Agreement; and these Tribes did not respond to our requests to engage in such consultation; and

WHEREAS, the City will continue to conduct outreach and will actively seek and request the comments and participation of Indian tribes that attach religious and cultural significance to historic properties that may be affected by Undertakings funded under the terms of this Agreement; and

WHEREAS, pursuant to ACHP's Section 106 Regulations, the City has considered the nature of the program and its likely effects on historic properties and has taken steps to involve individuals, organizations and entities likely to be effected by the Undertaking; and

WHEREAS, pursuant to ACHP's Section 106 Regulations, the City has arranged for public participation appropriate to the subject matter and scope of the Programmatic Agreement by providing notice to the public and has held meetings before the Landmarks Preservation Commission concerning the Undertaking for the purpose of informing the public and including them in the consultation process; and

WHEREAS, subrecipients receiving Part 58 funds, which are the subject matter of this agreement, by, from, or through the City agree as a condition of receiving funding to comply fully with the requirements of the National Historic Preservation Act of 1966 (16 USC 470) and the procedures set forth in 36 CFR Part 800 on the Historic Preservation Procedures for Protection of Historic Properties; and

NOW, THEREFORE, ~~COB~~the City, and the SHPO, ~~and the Council~~ ACHP agree that the ~~programs~~ Undertakings shall be administered in accordance with the following stipulations to satisfy ~~SHRA's~~ the City's Section 106 responsibilities under Section 106 for all individual ~~u~~Undertakings of the ~~p~~Programs, ~~involving rehabilitation.~~

STIPULATIONS

The City of Berkeley shall ensure the following measures are carried out:

I. TERMINATION OF EXISTING PROGRAMMATIC AGREEMENT

The Programmatic Agreement ("PA") entered into on December 3, 1992 by the Advisory Council on Historic Preservation, the California State Historic Preservation Officer and the City of Berkeley is hereby terminated by mutual agreement and is no longer in effect as of the effective date of this Programmatic Agreement. The stipulations agreed to in the PA are replaced in their entirety by the stipulations agreed to in this PA.

II. APPLICABILITY OF THE PROGRAMMATIC AGREEMENT

~~COB~~ The City shall comply with the stipulations set forth in this Agreement-PA for all ~~u~~Undertakings within the City of Berkeley, California, which involve the exterior or interior rehabilitation of residential and commercial structures and is assisted entirely or in part by monies from the ~~p~~Programs of the U.S. Department of Housing and Urban Development ~~listed above~~ subject to 24 CFR Part 58. This agreement is also applicable to ~~u~~Undertakings which involve solely acquisition and rehabilitation of structures provided that such ~~u~~Undertakings do not involve demolition or new construction. The review process established by this Agreement-PA shall be completed prior to ~~COB's~~ the City's final approval of any application for assistance under these ~~p~~Programs, and prior to ~~COB~~ the City or the property owner altering the property, or initiating construction or making irrevocable commitment for construction that may affect a property that is fifty (50) years of age or older. Any ~~u~~Undertaking that does not qualify for review under the terms of this Agreement-PA shall be reviewed in accordance with the procedures outlined in 36 CFR Part 800.

III. COORDINATION WITH OTHER FEDERAL AGENCIES—36 CFR § 800.2(c)(4)

Other Federal agencies providing permits, licenses, or financial assistance for Program activities covered under the terms of this PA may, with the concurrence of the City and SHPO, satisfy their Section 106 responsibilities by accepting and complying with the terms of this PA. In such situations, the City and the Federal Agency shall notify the SHPO in writing of their intent to use this PA to achieve compliance with Section 106 requirements. If the SHPO does not respond within 21 days of receipt of such a notice of intent, the City and other Federal agency will assume SHPO's concurrence, as referenced above. Copies of all such notification letters shall be maintained in the files established by the City for each such Undertaking.

IV. UNDERTAKING NOT REQUIRING REVIEW BY SHPO ~~OR THE COUNCIL~~
The following Undertakings do not require review by SHPO and no signatory is required by this PA to determine the National Register of Historic Places ("NRHP") eligibility of properties affected by these Undertakings.

A. Undertakings not requiring review by the SHPO ~~or the Council~~ are enumerated in Attachment "A." An Undertaking consisting of activities ~~enumerated in Attachment "A" as well as activities~~ not listed in Attachment "A" shall be reviewed pursuant to the terms of this ~~Agreement~~PA. ~~An undertaking, unless exempt from review under the provisions of Stipulation II.B. below, which is exempted from review under Attachment "A" nevertheless will be designed to be in conformity~~ Undertakings involving Historic Properties but nevertheless exempt from review pursuant to Attachment "A" shall be designed to conform with the California State Historic Building Code [State of California, Title 24 Building Standards, Part 8 ("SHBC")], ~~as well as the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Building ("Standards").~~

B. Undertakings affecting only properties that are less than fifty (50) years of age do not require review pursuant to the terms of this ~~Agreement~~PA.

C. Undertakings which are limited to the rehabilitation of interior spaces with in single family residential structures where such work will not be visible ~~from~~ from the exterior of the structure do not require review pursuant to the terms of this ~~Agreement~~PA.

III.V. AREA OF POTENTIAL EFFECTS

It is agreed for the purposes of this ~~Agreement~~PA, with the exception of Stipulation VII.B., that the Area of Potential Effects ("APE") will be limited to the individual building when a proposed project is limited to the rehabilitation of its existing interior or exterior features.

IV.I. IDENTIFICATION OF HISTORIC PROPERTIES

A. ~~COB~~ The City shall review all existing information on any property within the APE that may be affected by the use of these funds, including the

National Register of Historic Places and lists of ~~h~~Historic ~~p~~Properties maintained by the City of Berkeley.

1. If the property proposed for rehabilitation is listed in the National Register or has already been determined eligible for inclusion in the National Register, ~~COB~~the City shall proceed with the review of the project pursuant to Stipulation ~~VII~~I, unless exempted under Stipulation ~~IV~~IV.
 2. If the property has been determined by ~~COB~~the City, in written consultation with the SHPO, within the last five (5) years prior to the current ~~u~~Undertaking to be ineligible for inclusion in the National Register, then the ~~u~~Undertaking may proceed without further review under the terms of this ~~Agreement~~PA.
- B. If the property proposed for rehabilitation is not listed in the National Register, has not been evaluated for the National Register eligibility within the last five (5) years, and is at least 50 years of age, then ~~COB~~the City shall submit the documentation required pursuant to 36 CFR 800.4 plus a completed California Historic Resources Inventory form (DPR523) to the SHPO for review, ~~included in Attachment "B" to this Agreement~~. Other information may be requested by the SHPO if necessary. ~~COB~~The City shall apply the National Register ~~e~~Criteria and notify the SHPO of its determination in the submittal.
1. If the SHPO agrees with ~~COB~~the City that a property is eligible under the criteria, the property shall be considered eligible for the National Register for purposes of this ~~Agreement~~PA, and shall hereinafter be referred to as a ~~h~~Historic ~~p~~Property. The ~~COB~~City shall continue consultation in accordance with the terms of this ~~Agreement~~PA for all such properties.
 2. If the SHPO agrees with the ~~COB~~City that the criteria are not met, the property shall be considered ineligible for the inclusion in the National Register for a period of five (5) years from the date of the SHPO's review. Such properties need not be reevaluated during this five (5) year period, unless a party to this ~~Agreement~~PA notifies the ~~COB~~City in writing of changing perceptions of significance warrants a property reevaluation. Such properties require no further review under this ~~Agreement~~PA.
 3. If the SHPO disagrees with the ~~COB's~~City's determination regarding eligibility, ~~COB~~the City shall consult further with the SHPO to reach agreement. If agreement cannot be reached, ~~COB~~the City shall obtain a final determination from the Secretary of the

Interior pursuant to the applicable National Park Services regulations, 36 CFR Part 63.

VII. ASSESSMENTS OF EFFECTS

- A. Prior to undertaking any activities that are not exempt under Stipulation ~~IV~~, ~~GOB the City~~ shall provide the SHPO with clear, unobstructed photographs of the historic property and a general work description which adequately details the scope of work for each rehabilitation project that may affect a ~~h~~Historic ~~p~~Property, including work write-ups, working drawings and specifications, as appropriate, and any additional documentation necessary to understand the ~~u~~Undertaking. The ~~GOB City~~ shall ensure that the SHBC will be employed to the greatest extent feasible in all rehabilitation projects. The ~~GOB City~~ shall apply Criteria of Effect and Adverse Effect (36 CFR 800.9) to any ~~h~~Historic ~~p~~Property that may be affected by an ~~u~~Undertaking, and will review the scope of work to determine if the ~~u~~Undertaking conforms to the SHBC as well as the recommended approached approaches contained in the The Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (Standards) Standards.
1. If the ~~GOB City~~ determines that an ~~u~~Undertaking will have no effect, the ~~GOB City~~ shall notify the SHPO in writing of this finding. If SHPO does not object to this written notice within fifteen (15) days, the Undertaking may proceed without further review.
 2. If the ~~GOB City~~ determines that an ~~u~~Undertaking conforms to the Standards and complies with SHBC, ~~GOB the City~~ shall notify the SHPO in writing of this finding. If the SHPO does not object in writing to this determination within thirty (30) days after receipt, the Undertaking shall be considered to not adversely ~~effect affect~~ ~~h~~Historic ~~p~~Properties and may proceed as submitted without further review.
 3. If the ~~GOB City~~ or the SHPO find that an ~~u~~Undertaking does not conform to the Standards or comply with SHBC, the Undertaking will be considered to adversely affect ~~h~~Historic ~~p~~Properties. The SHPO may recommend modifications to the scope of work or conditions under which the Undertaking would be found to conform to the Standards and the SHBC in its response to ~~SHRA the City~~. ~~SHRA The City~~ shall consult further with the SHPO to seek ways to avoid, minimize, or mitigate the adverse effect. If all adverse effects cannot be avoided, the ~~GOB City~~ shall initiate consultation with the SHPO and Council in accordance with 36CFR 800.56.
 4. The ~~GOB City~~ will notify the SHPO of any changes to the scope of work and shall provide the SHPO with the opportunity to review and approve such changes. If the changes do not conform to the Standards or comply with the SHBC, the parties shall consult

further and the ~~COB-City~~ will initiate consultation with the SHPO ~~and Council~~ in accordance with 36 CFR 800.5(e)6 if an adverse effect cannot be avoided.

5. The ~~COB-City~~ shall provide completion photographs on each rehabilitation project to the SHPO and shall retain documentation of the rehabilitation, including the work write-ups and photographs as part of its permanent records.
- B. Additionally, the ~~COB-City~~ shall consult in writing with the SHPO to determine if an ~~u~~Undertaking which includes ground disturbing activities has the potential to affect ~~an a~~Archeological ~~properties-Resource~~ (as defined by the Archaeological Resources Protection Act of 1979) that may be eligible for inclusion in the National Register. ~~COB-The City~~ shall investigate historical records and pertinent information available at the ~~North-Central Information Center at California State University, Sacramento-Northwest Information Center of the California Historical Resources Information System at Sonoma State University~~ or some institution containing similar records acceptable to SHPO. The ~~COB-City~~ also shall complete any further studies recommended by the SHPO to determine if the ~~u~~Undertaking has the potential to affect ~~a~~Archeological ~~propertiesResources~~ that may be eligible for inclusion in the National Register. It is agreed that the following ground disturbing activities have the potential to affect ~~historic-properties~~Archeological Resources: excavation for footings and foundations; installation of utilities such as sewer, water, storm drains, electrical, gas, leach lines and septic tanks except where installation is restricted solely to areas previously disturbed by the installation of these utilities and ~~installation is restricted to areas previously disturbed by the installation of such~~ systems.
1. If an ~~u~~Undertaking has the potential to affect any ~~a~~Archeological ~~property-Resource~~ that may be eligible for inclusion in the National Register, ~~COB-the City~~ shall redesign the project to avoid the ~~a~~Archeological ~~property-Resource~~ and shall provide the SHPO with documentation regarding the property and the steps it has taken to avoid such property.
 2. If the Undertaking cannot be redesigned to avoid the ~~a~~Archeological ~~propertyResource~~, ~~COB-the City~~ shall develop a plan in consultation with the SHPO to complete the identification, evaluation and, if necessary, mitigation of the impact on the propertyArcheological Resource. If ~~COB-the City~~ and the SHPO cannot agree that whether the potential to affect ~~a~~Archeological ~~properties-Resources~~ exists or cannot agree on a plan for the consideration of such ~~propertiesresources~~, ~~COB-the City~~ will initiate

consultation with the SHPO ~~and Council~~ in accordance with 36 CFR 800.5(e)~~6~~.

VIII. COMBINED REVIEW OF ELIGIBILITY AND EFFECT

~~COB~~ The City may elect to submit the documentation set out in Stipulations ~~IV-VI~~ and ~~V-VII~~ above in one package for the SHPO's review. The SHPO will provide comments on the ~~COB's~~ City's determinations of eligibility and effect within thirty (30) days after receipt of such submission. ~~COB~~ The City will review any such comment of the SHPO and refer to the detailed procedures set out in Stipulations ~~IV-VI~~ and ~~V-VII~~ to determine if additional review by the SHPO ~~or the Council~~ is required to fulfill the terms of this Agreement~~PA~~.

~~VIII~~X. SHPO RESPONSIBILITIES

- A. The SHPO is permitted thirty (30) calendar days after receipt of any submitted documentation to review and comment on such material, with the exception of Stipulation VII.A.1. If the SHPO does not provide comments within this time period, the ~~COB~~ City may assume that the SHPO does not object to its determination.
- B. The SHPO will provide technical assistance and training on the application of the Standards and the SHBC to the ~~COB~~ City to the extent possible.

X. EMERGENCY UNDERTAKINGS

- A. This Stipulation shall apply only to situations in which a duly authorized local official has determined in accordance with applicable law, that an imminent threat to the public health and safety exists and that such threat must be removed forthwith ("Emergency Conditions").
- B. When the City determines that Emergency Conditions require immediate demolition of a Historic Property in connection with an activity subject to this PA, the City shall in writing concurrently notify the ACHP, the Landmarks Preservation Commission (LPC), the State Historic Preservation Officer and any Indian Tribe that may attach religious and cultural significance of the proposed removal and afford these parties a maximum of seven (7) days to comment on the proposed demolition. Any notification by the City shall be accompanied by documentation that includes, but is not limited to, a description of the Emergency Conditions, the name, location, and significance of the affected Historic Property, an assessment of the historic Property's current condition supplemented by photographs, and the date by which the Emergency Conditions must be abated. If the City determines that circumstances do not permit seven (7) days for comment, the City shall notify the ACHP, the SHPO, the LPC and the Indian tribe and invite any comments within the time available.
- C. The City shall require that any mitigation measures recommended by the ACHP, the LPC, the SHPO and any affected Indian Tribe be implemented if the City deems such measures to be feasible.
- D. The City shall document the actions taken pursuant to this Stipulation in the manner prescribed by Stipulation XIX.A.

E. Immediate rescue and salvage operations conducted to preserve life and property are exempt from the provisions of Section 106 [36 CFR §800.12(d)].

XI. PUBLIC INVOLVEMENT

- A. The City shall identify any public interest in the Undertakings subject to this PA by informing the public about Historic Properties when complying with the public participation requirements set forth in 24 CFR Part 58 and in the regulations for any other Program delegated by HUD to the City as may be applicable.
- B. The City shall, except where appropriate to protect confidentiality concerns of affected parties, provide the public with information about an Undertaking and its effects on historic properties and seek public comment and input. Members of the public may also provide views on their own initiative for the agency official to consider in decision-making. The City may use the agency's procedures for public involvement under the National Environmental Policy Act or other program requirements in lieu of public involvement requirements in sSubpart B of 36 CFR pPart 800, if they provide adequate opportunities for public involvement consistent with that subpart.
- C. At any time during implementation of the measures stipulated in this PA, should a member of the public raise an objection pertaining to delineation of an APE or to treatment of a Historic Property, the City shall notify the SHPO immediately of the objection and then proceed to consider the objection and consult, as needed, with the objecting party and the SHPO, for a period of time not to exceed fifteen (15) calendar days. The City's responsibility to carry out all other actions under this PA that are not the subject of the dispute shall remain unchanged.

~~VIII~~XII. DISCOVERIES AND UNFORESEEN EFFECTS

If, during the implementation of these ~~p~~Programs, a previously unidentified property that may be eligible for the inclusion in the National Register is encountered, or a known ~~h~~Historic ~~p~~Property may be affected in an unanticipated manner, ~~COB~~ the City will assume its responsibility pursuant to 36 CFR 800.41(b)(2)13(b).

~~IX~~XIII. REPORTING

~~COB~~ The City shall forward an annual report of all ~~u~~Undertakings covered by the terms of this ~~Agreement~~ PA to the SHPO, ~~council~~ and the U.S. Department of Housing and Urban Development, San Francisco Regional Office, Region IX [or State of California, Department of Housing and Community Development]. This report will list the ~~u~~Undertakings exempted under Stipulation ~~H~~IV and those that were reviewed under the terms of this ~~Agreement~~ PA. The ~~u~~Undertakings should be listed by property address.

XIV. MONITORING

The SHPO ~~and the Council~~ may monitor any activities carried out pursuant to this ~~Agreement~~ PA ~~and the Council~~ will review such activity if requested. ~~COB~~ The City will cooperate with the SHPO ~~and the Council~~ in carrying out these monitoring and review responsibilities.

XVI. DISPUTE RESOLUTION

If ~~COB~~ the City and the SHPO are unable to resolve any disagreement arising under the provisions of this ~~Agreement~~ PA, ~~COB~~ the City shall, unless the dispute relates to the National Register eligibility of any property, forward full documentation regarding the

project, the basis for the dispute, and request the comments of ~~the Council~~ ACHP in accordance with 36 CFR 800. ~~5(e)-6(b)(1)(v)~~.

~~XII~~ XVI. ~~COB-CITY~~ STAFFING

~~COB~~ The City ~~still will~~ assign staff to assure that rehabilitation work is carried out in accordance with the specifications and work descriptions provided to the SHPO for review in determining effect, including any project modifications recommended by the SHPO which were adopted by ~~COB~~ the City. Such staff will also monitor ~~u~~ Undertakings limited to work items enumerated in Attachment "A" which are exempted from review by the SHPO to assure that only qualifying work items are properly performed.

Responsible ~~COB~~ City staff will certify that work was carried out as planned, and will maintain records for each project which document compliance with the terms of this

Agreement PA.

~~XIII~~ XVII. AMENDMENTS

Any party to this Agreement PA may request it be amended, whereupon the parties will consult in accordance with 36 CFR 800. ~~13-14~~ to consider such amendment. No amendment to this Agreement PA will go into effect without written concurrence of all consulting parties.

~~XIV~~ XVIII. TERMINATION

Any party to this Agreement PA may terminate it by providing thirty (30) days notice to the other parties, provided that the parties will consult during the period prior to the termination to seek agreement on amendments or other actions that would avoid termination. In the event of termination, ~~COB~~ the City will comply with 36 CFR Part 800. ~~4-800.6~~ with respect to individual ~~u~~ undertakings Undertakings covered by this

Agreement PA.

~~XIX~~ V. FAILURE TO COMPLY WITH TERMS OF THE PROGRAMMATIC AGREEMENT

In the event ~~COB~~ the City cannot carry out the terms of this Agreement PA, it the City shall not take or sanction any action or make any irreversible commitment pursuant to a Program or to carry out an Undertaking that would result in an adverse effect to Historic Properties or would foreclose the Council's SHPO's consideration of modifications or alternatives to the Undertaking, and ~~COB~~ the City will comply with 36 CFR Part 800. ~~4-800.6~~ with regard to each individual ~~u~~ Undertaking covered by this Agreement PA.

EXECUTION AND IMPLEMENTATION of this Programmatic Agreement evidences that ~~COB~~ the City of Berkeley has afforded the ~~Council~~ SHPO a reasonable opportunity to commit on the program and that ~~COB~~ the City has taken into account the effects of the program on ~~h~~ Historic ~~p~~ Properties.

CITY OF BERKELEY

By: _____ Date _____
~~Director of Housing Department~~ Dee Williams-Ridley, City Manager

APPROVED AS TO FORM

By: _____ Date _____
Farimah Brown, City Attorney

CALIFORNIA STATE HISTORIC PRESERVATION OFFICER

By: _____ Date _____
Julianne Polanco

~~ADVISORY COUNCIL ON HISTORIC PRESERVATION~~

By: _____ Date _____
John Fowler, Executive Director

ATTACHMENT "A"
Programmatic Agreement for Rehabilitation

~~PROJECT ACTIVITIES NOT REQUIRING REVIEW~~ The following Undertakings require only administrative review by the City and not the SHPO pursuant to Stipulation IV of this PA.

1. Electrical work, limited to upgrading or in-kind replacement;
2. Plumbing work, limited to upgrading or in-kind replacement, with the exception of historic fixtures which shall be repaired when possible;
3. Installation of mechanical equipment which does not affect the exterior of the building or requiring installation of new duct work throughout the interior;
4. Repainting of existing painted surfaces if destructive surface preparation treatments, including, but not limited to waterblasting, sandblasting and chemical removal are not used;
5. Repair or partial replacement of porches, decks, cornices, exterior siding, doors, thresholds, balustrades, stairs or other trim, when the repair or replacement is done in-kind to exactly-closely match existing material and form;
6. Replacement of deteriorated windows when the replacement is done in-kind to exactly-closely match the existing material or form;
7. Replacement of window panes in-kind or with double or triple glazing so long as glazing is clear and untinted and replacement does not alter the existing window material or form;
8. Caulking and weatherstripping with compatibly colored materials;
9. Roof repair or replacement with materials which exactly-closely match the existing material and form;
10. Installation of insulation, with the exception of urea formaldehyde foam insulation or any other type of thermal insulation which contains water in its chemical composition and is installed within wall cavities, provided that decorative interior plaster or woodwork or exterior siding is not altered by this work item;
11. Installation of fire, ~~or~~ smoke, and carbon monoxide detectors;
12. Installation of security devices including dead bolts, door locks, window latches, door peepholes, and the installation of electronic security systems;

13. Repair or replacement of ~~driveways or walkways when work is done in-kind to exactly match the existing materials and form;~~existing roads, driveways, sidewalks, curbs, curb ramps, speed bumps and gutters provided that work is done in-kind to closely match existing materials and forms and provided that there are only minimal changes in the dimensions and configurations of these features;
14. Repair or replacement of fencing, gates, and freestanding exterior walls when work is done in-kind to ~~exactly~~closely match the existing materials and form;
15. Floor refinishing;
16. Repair or replacement of floors when work is done in-kind to ~~exactly~~closely match the existing materials and form;
17. Installation of grab bars, handrails, guardrails and minor interior and exterior modifications for handicapped accessibility;
18. Modifications of and improvements to path of travel for persons with disabilities from, to, and within a building, structure, playground, or park and includes the installation of exterior ramps and chairlifts for handicapped accessibility;
- ~~18-19.~~ 19. Repair or replacement of signs or awnings when work is done in-kind to ~~exactly~~closely match existing materials and form; ~~and~~
20. Repair or replacement of interior stairs when work is done in-kind to ~~exactly~~closely match the existing materials and form.;
21. Repair, replacement, or installation of gutters and down spouts;
22. Repair, replacement, and installation of the following, regardless of their location within or adjacent to an historic district:
 - a. Park furniture, including benches, picnic tables, chairs, planter boxes, barbecue pits and trellises.
 - b. Outdoor yard improvements, including play structure, matting, fencing, gates, play ground lighting, drinking fountain, play ground equipments, path of travel and ramps.
 - c. Landscaping, including tree planting, tree pruning, shrub removal, play court resurfacing or sodding, irrigation, murals and painting of game lines for school play yards and grounds.
23. Repair, replacement or installation of water, gas, storm, and sewer lines when the work qualifies as an exemption pursuant to Stipulation V.5; and
24. Stabilization of foundations and addition of foundation bolts.

ATTACHMENT “B”
DEFINITIONS

<u>“Act”</u>	<u>“Act” means the National Historic Preservation Act of 1966, as amended, 16 USC §470.</u>
<u>“ACHP”</u>	<u>“ACHP” means the Advisory Council on Historic Preservation or a Council member or employee designated to act for the Council.</u>
<u>“Archeological Resource”</u>	<u>“Archeological Resource” means any material remains of past human life or activities which are of archaeological interest as determined under uniform regulations promulgated pursuant to 16 USC §470aa-mm.</u>
<u>“Area of Potential Effects” (APE)</u>	<u>“Area of Potential Effects” means the geographic area or areas within which an Undertaking may cause changes in the character or use of historic properties, if any such properties exist.</u>
<u>“City”</u>	<u>“City” means the City of Berkeley.</u>
<u>“Historic Property”</u>	<u>“Historic Property” means any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places. The term includes, for purposes of this PA, artifacts, records, and remains that are related to and located within such properties. The term “eligible for inclusion in the National Register” includes both properties formally determined as such by the Secretary of the Interior and all other properties that meet National Register of Historic Places listing criteria.</u>
<u>“National Register Criteria”</u>	<u>“National Register Criteria” means the criteria established by the Secretary of the Interior for use in evaluating the eligibility of properties for the National Register (36 CFR Part 60).</u>

<u>“National Register of Historic Places” (NRHP)</u>	<u>“National Register of Historic Places” (NRHP) maintained by the Secretary of the Interior and administered by the National Parks Service, is the official list of the Nation's cultural resources worthy of preservation.</u>
<u>“National Register”</u>	<u>“National Register” means the National Register of Historic Places maintained by the Secretary of the Interior.</u>
<u>“Programmatic Agreement” (PA)</u>	<u>“Programmatic Agreement” means the agreement pursuant to 36 CFR § 800.14(b), between the City, and the SHPO to allow for expedited review of HUD funded projects affecting cultural resources.</u>
<u>“Secretary”</u>	<u>“Secretary” means the Secretary of the Interior</u>
<u>“Standards”</u>	<u>“Standards” means the Secretary of the Interior’s Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, & Reconstructing Historic Buildings.</u>
<u>“State Historic Preservation Officer” (SHPO)</u>	<u>“State Historic Preservation Officer” means the official appointed or designated pursuant to §101(b)(1) of the Act to administer the State Historic Preservation program or a representative designated to act for the State Historic Preservation Officer.</u>
<u>“Undertaking”</u>	<u>“Undertaking” means any project, activity, or Program that can result in changes in the character or use of historic properties, if any such historic properties are located in the area of potential effects. The project, activity, or program must be under the direct or indirect jurisdiction of a Federal agency or licensed or assisted by a Federal agency. Undertakings include new and continuing projects, activities, or programs and any of their elements not previously considered under Section 106.</u>



Office of the City Manager

CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Kelly Wallace, Interim Director, Health, Housing, and Community Services Department

Subject: Authorization to use Measure E Reserves to Procure Consulting Services for Easy Does It

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to use Measure E reserve funds to procure a consultant and enter into any agreements with the winning bidder to provide Easy Does It (EDI) with operational, management, and organizational culture consulting services for an amount not to exceed \$100,000 to ensure initial and sustained implementation of audit findings.

FISCAL IMPACTS OF RECOMMENDATION

Funds are currently available in the Measure E reserves fund balance (Fund #107) to support the cost of procuring a consultant. Acceptance of this recommendation will reduce the Measure E reserve by up to approximately \$100,000. Should City Council approve this recommendation Staff will proceed with releasing a Request for Proposals (RFP) and that funds would be appropriated as part of the First or Second Amendment to the FY 2020 Annual Appropriations Ordinance.

CURRENT SITUATION AND ITS EFFECTS

On May 1, 2018, the City Auditor submitted its report, [*Stronger Oversight Necessary to Ensure Continued Assistance for Severely Physically Disabled Persons*](#)¹, with recommendations to assist EDI in complying with its City grant agreement and strengthening its oversight and management of taxpayer money.

According to a memo from the Auditor dated May 21, 2019, EDI has made little progress in implementing the audit recommendations from the 2018 audit. Due to the extent of change recommended by the Auditor and the significant amount of public funds committed to EDI annually, Staff believe it is necessary to procure expert

¹ Stronger Oversight Necessary to Ensure Continued Assistance for Severely Physically Disabled Persons (05/01/18): <http://bit.ly/2vrlbnx>

professional services to address these outstanding recommendations and to provide EDI with the training and tools it needs sustain these changes over time.

BACKGROUND

Measure E funds, as outlined in Ordinance No. 6,468-N.S., were established in 1998 to provide emergency services and incidental case management for severely physically disabled persons. Revenue is raised through a special tax per square foot of property improvements.

Easy Does It is the nonprofit organization that provides 24/7 emergency services to Berkeley residents with severe physical disabilities. Services include emergency attendant care, accessible transportation, equipment repair; and on-demand paratransit, and limited case-management services. Easy Does It receives approximately \$1.3 million annually in Berkeley Measure E and Measure B grant funding to provide those services.

ENVIRONMENTAL SUSTAINABILITY

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

RATIONALE FOR RECOMMENDATION

The audit for EDI recommended extensive improvements to EDI's fiscal and administrative operations, management and oversight. The use of Measure E reserves to procure consulting services to address the Auditor's recommendation is intended to strengthen EDI's capacity to manage and sustain its operations and staff. This is necessary to ensure that taxpayer money is being used for its intended purposes under the Measure E requirements.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Mary-Claire Katz, Associate Management Analyst, Health, Housing, and Community Services Department, 510-981-5414

Attachments:

- 1: Resolution
- 2: Easy Does It Audit Report
- 3: Easy Does It's Measure E Contract and Outstanding Audit Recommendations Memo

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

AUTHORIZE THE CITY MANAGER OR HER DESIGNEE TO USE MEASURE E RESERVES TO PROCURE A CONSULTANT TO PROVIDE EASY DOES IT WITH OPERATIONAL, MANAGEMENT, AND ORGANIZATIONAL CULTURE CONSULTING SERVICES

WHEREAS, in 1998 the City of Berkeley voters passed Measure E to fund emergency services for Berkeley residents with severe physical disabilities; and

WHEREAS, the City of Berkeley has a contract with Easy Does It (EDI) and EDI has been the organization administering Measure E by providing emergency services to residents with disabilities; and

WHEREAS, the City of Berkeley Auditor has recommended extensive improvements to EDI's fiscal and administrative operations and management; and

WHEREAS, City staff will procure consulting services for Easy Does It (EDI) to improve operational, management, and organizational culture to respond to the audit findings; and

WHEREAS, Measure E reserve funds are available to support the procurement of a consultant (ERMA GL Code # 107-51-504-530-0000-000-444-636110-).

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is hereby authorized to use Measure E reserve funds to procure a consultant and enter into any agreements with the winning bidder to provide EDI with operational, management, and organizational culture consulting services for an amount not to exceed \$100,000. A signed copy of any agreements and any amendments will be kept on file with the Office of the City Clerk.

**City of Berkeley City Auditor’s Office
Audit Findings and Recommendations Response Form**

Audit Title: Stronger Oversight Necessary to Ensure Continued Assistance for Severely Physically Disabled Persons		
Finding 1: Easy Does It unable to substantiate compliance with funding requirements		
Recommendations	EDI Response	Auditor Response May 2019
<p>1.1 Recruit and cultivate qualified people with the business and financial expertise necessary to serve as active Easy Does It board members. Include a process for vetting and voting on nominees to ensure members have the required skills and time to commit to the development and support of Easy Does It.</p>	<p>Expected: TBD</p> <p>Ongoing; first steps taken immediately</p> <p>Initial Status 5.1.18: Partially implemented. Easy Does It is actively recruiting qualified board members with business and financial expertise. All candidates will be required to submit resume, references and be interviewed by board. The board will vote on candidate and candidate will be accepted with a majority vote.</p> <p>Updated 3.4.19: Implemented. Easy Does It has a new treasurer with financial experience and continues to recruit qualified people.</p>	<p>Auditor Response: We considered this recommendation closed. The addition of a new treasurer is a good first step of an ongoing process to have a board that consists of qualified people who are to be involved with strategic and financial planning, oversight, etc. The long-term solvency of the organization is dependent on EDI continuing to cultivate new board members who are able to help with strategic planning, risk management, and fundraising.</p>
<p>1.2 Have staff and board members jointly perform a risk assessment of all major processes to identify the operational weaknesses that leave Easy Does It vulnerable to fraud, misuse, and abuse, and result in noncompliance with funding</p>	<p>Expected: July 1, 2018</p> <p>Process started March 1, 2018</p> <p>Updated July 1, 2018</p> <p>Initial Status 5.1.18: Not implemented. We are</p>	<p>Auditor Response: We consider this recommendation closed and implemented via the incorporation of our audit recommendations into the contract granting EDI city funding. Doing so provides a mechanism by which to hold EDI accountable for addressing the risks of fraud,</p>

Audit Findings and Recommendations Response Form

Audit Title: Stronger Oversight Necessary to Ensure Continued Assistance for Severely Physically Disabled Persons		
Finding 1: Easy Does It unable to substantiate compliance with funding requirements		
Recommendations	EDI Response	Auditor Response May 2019
	<p>requirements. Rate the risks to identify those most significant to preventing Easy Does It from achieving its mission and becoming fiscally stable.</p> <p>currently reviewing all of our major processes to identify operational weaknesses and making changes to prevent fraud misuse and abuse in noncompliance with funding requirements.</p> <p>Updated 3.4.19: Implemented. Easy Does It reviewed and did a risk assessment all major processes. They updated their payroll procedures, client intake form and dispatch triage service call eligibility procedures to ensure compliance with funding requirements.</p>	waste, and misuse (noncompliance).
1.3	<p>Have management and board members jointly establish a written strategic plan that includes short- and long-term goals using the recommendations from this audit and the risk assessment performed in response to recommendation 1.2. Include target implementation dates in the strategic plan. Prioritize implementation of goals identified as presenting the highest risk. Use the plan to guide the changes needed for an adequate system of internal controls,</p> <p>Expected: October 2018 Initial Phase Completion Expected: May 10, 2018 Updated November 2018</p> <p>Initial Status 5.1.18: Not implemented. The board and management will be having a board retreat in May to discuss development, implementation, and timeline to complete strategic plan.</p> <p>Updated 3.4.19: Implemented. Easy Does It developed a new strategic plan in November 2018 and are in the process of refining goals and target implementation dates.</p>	<p>Auditor Response: We consider this recommendation closed and implemented via the incorporation of our audit recommendations into the contract granting EDI city funding. Doing so provides a mechanism by which to hold EDI accountable for addressing the risks of fraud, waste, and misuse (noncompliance); and laying out plan for long-term fiscal health and financial accountability.</p>

Audit Findings and Recommendations Response Form

Audit Title: Stronger Oversight Necessary to Ensure Continued Assistance for Severely Physically Disabled Persons			
Finding 1: Easy Does It unable to substantiate compliance with funding requirements			
Recommendations		EDI Response	Auditor Response May 2019
	including the recommendations in this report.		
1.4	<p>Create and enforce written payroll processing and monitoring procedures that include practices for detecting and deterring fraud, waste, and abuse; and that ensure payroll accuracy. This includes but is not limited to:</p> <ul style="list-style-type: none"> • Ensuring that no single person performs all the tasks related to a single transaction cycle. • Designating a second person to review and sign off on approved timesheets, changes to payroll data, time entry, and payroll pre-process registers. 	<p>Expected: May 31, 2018 [Revised employee handbook with updated policies and procedures]</p> <p>Initial Phase Completion Expected: April 30 2018 [Change in procedures]</p> <p>Updated May 2018</p> <p>Initial Status 5.1.18: Not implemented. We are writing up new payroll processing and monitoring procedures. We are dividing payroll tasks between office manager, program manager and bookkeeper so no single person performs all tasks. This segregation of duties will detect and deter fraud. We are also consulting our payroll company to aid in the development of these procedures. These procedures will then be reviewed by the executive director and approved by board to eliminate risk of fraud.</p> <p>Updated 3.4.19: Implemented. Employee handbook has been updated. All staff have been trained on overtime policy.</p>	<p>Auditor Response: We consider this recommendation closed and implemented via the incorporation of our audit recommendations into the contract granting EDI city funding. Doing so provides a mechanism by which to hold EDI accountable for using payroll processing procedures designed to detect and deter fraud, waste, and misuse (noncompliance); and ensure payroll accuracy.</p>

Audit Findings and Recommendations Response Form

Audit Title: Stronger Oversight Necessary to Ensure Continued Assistance for Severely Physically Disabled Persons			
Finding 1: Easy Does It unable to substantiate compliance with funding requirements			
Recommendations		EDI Response	Auditor Response May 2019
1.5	Perform a staff scheduling and service needs analysis to establish optimal staffing schedules. Perform the analysis on a recurring basis, e.g., quarterly, to identify needed changes.	<p>Expected: June 1, 2018</p> <p>Implemented June 1, 2018</p> <p>Initial Status 5.1.18: Not implemented. Running an emergency service organization is uniquely challenging in that emergencies do not follow schedules so there may not be a consistent time when emergencies arise. However we will do a review and an analysis to determine staffing schedules quarterly to determine optimal staffing levels.</p> <p>Updated 3.4.19: Implemented. Easy Does It did review all staff schedules and service needs and continues to do this on an ongoing basis. They have reduced some staffing during some shifts. However, due to the unpredictable nature of emergencies, they do not feel they can reduce staffing on every shift.</p>	<p>Auditor Response: We consider this recommendation closed and implemented via the incorporation of our audit recommendations into the contract granting EDI city funding. Doing so provides a mechanism by which to hold EDI accountable for using a staffing analysis to schedule attendants consistent with what is supported by Measure E as clarified by the City Attorney (see Rec. # 1.17).</p>
1.6	Create and enforce written procedures for analyzing and managing staff schedules. Include the requirement for conducting the analysis on a recurring basis to keep up with scheduling change needs.	<p>Expected: June 1, 2018</p> <p>Completed June 1, 2018</p> <p>Initial Status 5.1.18: Not implemented. A written procedure will be developed to do review quarterly.</p>	<p>Auditor Response: We consider this recommendation closed and implemented via the incorporation of our audit recommendations into the contract granting EDI city funding. Doing so provides a mechanism by which to hold EDI accountable for using a staffing analysis to</p>

Audit Findings and Recommendations Response Form

Audit Title: Stronger Oversight Necessary to Ensure Continued Assistance for Severely Physically Disabled Persons			
Finding 1: Easy Does It unable to substantiate compliance with funding requirements			
Recommendations		EDI Response	Auditor Response May 2019
		<p>Updated 3.4.19: Implemented. A written procedure was developed and is reviewed quarterly.</p>	<p>schedule attendants consistent with what is supported by Measure E as clarified by the City Attorney (see Rec. # 1.17).</p>
1.7	<p>Establish and enforce clear written procedures for evaluating individual eligibility for Measure E services during client intake and service delivery. Use the City contract as a guide in creating the procedures and include:</p> <ul style="list-style-type: none"> • Definitions for severe physical disability and emergency that are in alignment with Measure E requirements. • Requirement to complete intake and evaluation forms, and to thoroughly document and data enter Measure E eligibility criteria: residency, severity and type of disability, and reason the client situation is an emergency. 	<p>Expected: April 6, 2018</p> <p>Intake form changed: March 31, 2018</p> <p>Dispatcher initial training: February 27, 2018</p> <p>Effective immediately: Data from intake and service sheets are entered in Salesforce database</p> <p>Completed April 2018</p> <p>Initial Status 5.1.18: Not implemented. We will be redesigning new client intake form to include more detailed disability information to ensure alignment with Measure E definition of severe physical disability and to collect new data to coincide with new City Data Services information requirements. We usually ask clients to update their information yearly generally in the month of July. We are going to start updating client information as soon as new intake is complete. We will include questions:</p>	<p>Auditor Response: We consider this recommendation closed and implemented via the incorporation of our audit recommendations into the contract granting EDI city funding. Doing so provides a mechanism by which to hold EDI accountable for using procedures to track and record services so that they can demonstrate that those services were eligible for Measure E funding.</p>

Audit Findings and Recommendations Response Form

Audit Title: Stronger Oversight Necessary to Ensure Continued Assistance for Severely Physically Disabled Persons

Finding 1: Easy Does It unable to substantiate compliance with funding requirements

Recommendations	EDI Response	Auditor Response May 2019
	<ul style="list-style-type: none"> - Because of your disability do you experience substantial limitations and need personal assistance with activities of daily living such as dressing, meal prep, bathing, transferring, toileting, housekeeping, taking medication, mobility assistance? - Are you an IHSS recipient? - Are you a Regional Center client? - Do you use East Bay Paratransit? - Are you signed up with Berkeley Paratransit? - Do you know about the Berkeley Paratransit Voucher program? <p>These changes to client intake will clearly show client has a severe physical disability even if they do not have an identified diagnosis.</p> <p>Some of our clients have cognitive and or intellectual disabilities and may not self-identify as having a severe physical disability but our highly experienced staff can clearly make that determination onsite. We will review with staff in an upcoming staff meeting what is</p>	

Audit Findings and Recommendations Response Form

Audit Title: Stronger Oversight Necessary to Ensure Continued Assistance for Severely Physically Disabled Persons		
Finding 1: Easy Does It unable to substantiate compliance with funding requirements		
Recommendations	EDI Response	Auditor Response May 2019
		<p>considered a severe physical disability and will train new staff on making that determination.</p> <p>It is also difficult to complete an intake with our homeless clients. They are often very suspicious and reluctant to answer intake questions and quickly become agitated if they feel we are prying too much. We have created a streamlined version of intake for our homeless clients in order to get basic information. We always attempt to get the information but if a client is highly agitated we will not do a complete intake for the safety of our staff.</p> <p>We will develop a written procedure for this process.</p> <p>During the dispatch process we are asking more questions to screen and triage emergency calls. We have updating our service sheets to include questions that will further determine if service call is an emergency. The following questions have been added:</p> <ul style="list-style-type: none"> - I was unable to find assistance from other sources prompting my call to Easy Does It

Audit Findings and Recommendations Response Form

Audit Title: Stronger Oversight Necessary to Ensure Continued Assistance for Severely Physically Disabled Persons		
Finding 1: Easy Does It unable to substantiate compliance with funding requirements		
Recommendations	EDI Response	Auditor Response May 2019
	<ul style="list-style-type: none"> - Without this call I would have to call 911 for assistance. - I was unable to get assistance from other wheelchair repair shops within 24 hours - There was no other accessible transportation available to fill this urgent need - This is an urgent call because <p>The changes to service sheet clearly identify this service request as an emergency need. Dispatchers have been trained on the new procedures.</p> <p>Updated 3.4.19: Implemented. Easy Does It has been using new intake forms, service sheets, and dispatch procedures since April 2018.</p>	

Audit Findings and Recommendations Response Form

Audit Title: Stronger Oversight Necessary to Ensure Continued Assistance for Severely Physically Disabled Persons			
Finding 1: Easy Does It unable to substantiate compliance with funding requirements			
Recommendations		EDI Response	Auditor Response May 2019
1.8	Update all forms used for client intake and eligibility evaluation with guidance for identifying the severe physical disability and emergency that are in alignment with Measure E requirements. Include on the intake form an area for staff to conclude as to whether the services provided are considered Measure E eligible. Use the City contract as a guide in creating the forms.	<p>Expected: April 6, 2018</p> <p>Completed April 2018</p> <p>Initial Status 5.1.18: Not implemented. We will be redesigning new client intake form to include more detailed disability information to ensure alignment with Measure E definition of severe physical disability and to collect new data to coincide with new City Data Services information requirements.</p> <p>Updated 3.4.19: Implemented. Easy Does It has been using new intake forms since April 2018.</p>	<p>Auditor Response: We consider this recommendation closed and implemented via the incorporation of our audit recommendations into the contract granting EDI city funding. Doing so provides a mechanism by which to hold EDI accountable for demonstrating that those services paid for with Measure E money were eligible for that funding source.</p>
1.9	Record services to the financial system to clearly account for expenditures that are funded by Measure E and those that are not. Use the information collected during the improved screening, intake, and eligibility evaluation processes to identify the appropriate funding source.	<p>Actual: March 15, 2018; prior to audit issue</p> <p>Initial Status 5.1.18: Implemented. The bookkeeper has implemented cost centers into accounting system to delineate services to appropriate funding stream. New dispatch procedure and service sheets determine eligibility for Measure E and B funds.</p>	<p>Auditor Response: We consider this recommendation closed and implemented via the incorporation of our audit recommendations into the contract granting EDI city funding. Doing so provides a mechanism by which to hold EDI accountable for properly recording expenditures to its financial system to track services funded by Measure E versus those that are not.</p>
1.10	Create written case management procedures and enforce the	Expected: May 1, 2018	<p>Auditor Response: We consider this recommendation closed and implemented via</p>

Audit Findings and Recommendations Response Form

Audit Title: Stronger Oversight Necessary to Ensure Continued Assistance for Severely Physically Disabled Persons		
Finding 1: Easy Does It unable to substantiate compliance with funding requirements		
Recommendations	EDI Response	Auditor Response May 2019
<p>requirements for Measure E clients when usage exceeds the threshold. Ensure the procedures and any related forms are consistent with Measure E contract requirements for basic case management. Use the City contract as a guide in creating the procedures and include written processes for:</p> <ul style="list-style-type: none"> • Identifying and documenting client overuse • Creating case management files • Assessing client needs • Developing a plan with the client • Identifying and documenting clients who refuse assistance • Documenting all support and intervention, including progress made in, or obstacles 	<p>Implemented May 1, 2018</p> <p>Initial Status 5.1.18: Not Implemented. We have established written case management procedures. We will review these procedures and make changes as necessary to comply with city contract. We have established a new Salesforce database that will make it easier for case manager to track usage of service and identify high-users more quickly.</p> <p>An immediate change now requires case manager to include a case note when a file is closed documenting the outcome of case, referrals given if any and any follow up she intends to do.</p> <p>Updated 3.4.19: Implemented. Updated written case management procedures to include closing case file that document outcomes and referrals given. Case manager now uses Salesforce to track client usage of service and identify high users.</p>	<p>the incorporation of our audit recommendations into the contract granting EDI city funding. Doing so provides a mechanism by which to hold EDI for using its stated thresholds and providing case management to those who exceed those thresholds.</p>

Audit Findings and Recommendations Response Form

Audit Title: Stronger Oversight Necessary to Ensure Continued Assistance for Severely Physically Disabled Persons			
Finding 1: Easy Does It unable to substantiate compliance with funding requirements			
Recommendations		EDI Response	Auditor Response May 2019
	to, obtaining reliable attendant care		
1.11	Enforce the use of the written Measure B voucher processing procedures developed by HHCS personnel to capture information necessary to obtain reimbursement from the City of Berkeley.	Actual: March 1, 2018 Initial Status 5.1.18: Implemented. We just received written Measure B voucher processing procedures from HHCS after this audit was performed. We will follow these procedures. HHCS has changed the vouchers multiple times in the last year and has not given us directions on new processing procedures despite our request they do so. HHCS has never notified us when a voucher was completed incorrectly.	Auditor Response: We consider this recommendation closed and implemented. During our audit, we found this area to be low risk as EDI was generally in compliance with Measure B requirements. Therefore, we accept EDI's response.
1.12	Create written and improved gas card and van use monitoring procedures that will allow management to detect fraud and misuse, and that require reconciliation of gas and van use to service data.	Actual: March 31, 2018 Initial Status 5.1.18: Implemented. We have reviewed our gas card procedures. We have revised our log sheet to include mileage so it will be easier to detect fraud. We are also designating a specific card for each vehicle. We will update our written procedures to reflect these changes. We will train staff on procedure changes. Logs will be reconciled by transportation manager monthly, and office manager will do a reconciliation to detect fraud and misuse.	Auditor Response: We consider this recommendation closed and implemented. EDI created procedures that allow the agency to detect fraud and misuse as it relates to the use of a gas card.

Audit Findings and Recommendations Response Form

Audit Title: Stronger Oversight Necessary to Ensure Continued Assistance for Severely Physically Disabled Persons			
Finding 1: Easy Does It unable to substantiate compliance with funding requirements			
Recommendations		EDI Response	Auditor Response May 2019
1.13	Train staff on all procedures including those created in response the recommendations in this audit and any developed as a result of the risk assessment performed in response to recommendation 1.2. Monitor staff's work and provide additional training as may be warranted to ensure staff follow procedures.	<p>Expected: TBD</p> <p>Initial: March 1, 2018</p> <p>Implemented March 1, 2018</p> <p>Initial Status 5.1.18: Partially implemented. We have monthly all staff meetings. As part of monthly staff meetings we do and will continue to review Easy Does It personnel policies and will train staff of procedure changes as they are made. We also hold bimonthly office team meetings and we will train on procedure changes as they are made.</p> <p>The executive director and program manager have an informal open door policy in which we welcome staff to discuss individual concerns about any Easy Does It policy or procedure.</p> <p>Updated 3.4.19: Implemented. Easy Does It does ongoing monthly meetings with staff and train on new policies and procedures as needed.</p>	<p>Auditor Response: We consider this recommendation closed and implemented via the incorporation of our audit recommendations into the contract granting EDI city funding. Doing so provides a mechanism by which to hold EDI accountable for ensuring its staff receive training and, most specifically, understanding how Measure E money is to be used and identifying when services qualify that funding stream.</p>
1.14	Create informational literature that helps educate the public on why Easy Does It service is almost entirely limited to	<p>Expected: June 1, 2018</p>	<p>Auditor Response: We consider this recommendation closed and implemented via the incorporation of our audit recommendations</p>

Audit Findings and Recommendations Response Form

Audit Title: Stronger Oversight Necessary to Ensure Continued Assistance for Severely Physically Disabled Persons			
Finding 1: Easy Does It unable to substantiate compliance with funding requirements			
Recommendations		EDI Response	Auditor Response May 2019
	Measure E eligible services. Provide this literature to new clients and their families, as well as staff, to help clarify any misconceptions about Easy Does It's service delivery restrictions and capabilities.	<p>Immediate: Sending information on limits of Measure E to clients that over use service.</p> <p>Completed June 1, 2018</p> <p>Initial Status 5.1.18: Not implemented. We will be sending out information packets to all clients when we update our client intake forms. Packet information will outline our services and the limitations Measure E places on Easy Does It as an emergency service. We have already begun sending information on the limits of Measure E to clients that overuse service.</p> <p>Initial Status 3.4.19: Implemented. Easy Does It sent out information to all clients about limits of Measure E program.</p>	into the contract granting EDI city funding. Doing so provides a mechanism by which to hold EDI accountable for educating its clients that EDI limits its own service delivery capabilities by significantly relying on Measure E funding meant for emergency response needs.
1.15	If funding allows, implement a mobile, electronic data collection system that allows Easy Does It staff to capture and record client intake, service, and billing data to the central database. Train staff on the use of the system and enforce its requirements. Update procedures as may	<p>Expected: TBD</p> <p>Initial: March 2, 2018</p> <p>Initial Status 5.1.18: Partially Implemented. We now have a new Salesforce database that is much more user friendly and easier to do data entry in than our previous Filemaker database. It is also easier to run reports and to determine if there is missing data. It</p>	Auditor Response: We consider this recommendation closed and implemented. EDI is using Salesforce and will be required via its city contract to demonstrate it is properly tracking client information.

Audit Findings and Recommendations Response Form

Audit Title: Stronger Oversight Necessary to Ensure Continued Assistance for Severely Physically Disabled Persons			
Finding 1: Easy Does It unable to substantiate compliance with funding requirements			
Recommendations		EDI Response	Auditor Response May 2019
	be necessary to reflect the use of the system.	<p>allows us to enter service information when calls come into our dispatch program. We will continue to refine data capture as the database is fully implemented.</p> <p>We have made some personnel changes and data is now being inputted in a more timely manner. Our dispatchers are also now able to input a call directly into the database making it easier to track calls. Each call is assigned a case number and the case number will now be put on the service sheet so we can track a service throughout the service process. We will be writing up a procedure for how this process will work and outlining staff responsibilities and duties.</p> <p>We are also testing Verizon Field Force phone app to do data collection at the time of service.</p> <p>Updated 3.4.19: Implemented. Easy Does It field tested Verizon Field Force phone app but determined it was not cost effective and did not fit the needs of staff. They are using the Salesforce database more efficiently and staff find it is capturing data sufficiently.</p>	
1.16	If funding allows, integrate an electronic scheduling and timekeeping software	Expected: TBD	Auditor Response: We consider this recommendation closed and implemented. EDI

Audit Findings and Recommendations Response Form

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Finding 1: Easy Does It unable to substantiate compliance with funding requirements			
Recommendations		EDI Response	Auditor Response May 2019
	<p>application with the current payroll system that will allow for a more efficient analysis of staffing trends as aligned with service delivery needs. Train staff on the use of the system and enforce its requirements. Update procedures as may be necessary to reflect the use of the application.</p>	<p>Not implementing due to lack of appropriateness for our agency.</p> <p>Initial Status 5.1.18: Not implemented. We will discuss with our Salesforce consultant if it is capable to do electronic scheduling and timekeeping and determine if it is appropriate for our agency. Funding permitting we will consider purchasing a system if Salesforce does not allow us to do this function.</p> <p>Updated 3.4.19: Not Implemented. Easy Does It looked into different software options but determined it was not useful or cost effective for our specific needs.</p>	<p>determined that funding did not allow for the purchase.</p>
1.17	<p>Request an opinion from the City Attorney on whether the use of Measure E, per the governing legislation, is intended for:</p> <ul style="list-style-type: none"> Persons who work or go to school, but do not reside, in the City of Berkeley. 	n/a	<p>Auditor Response: We consider this recommendation closed and implemented. We verified that the City Attorney provided HHCS guidance.</p>

Audit Findings and Recommendations Response Form

Audit Title: Stronger Oversight Necessary to Ensure Continued Assistance for Severely Physically Disabled Persons			
Finding 1: Easy Does It unable to substantiate compliance with funding requirements			
Recommendations		EDI Response	Auditor Response May 2019
	<ul style="list-style-type: none"> Ensuring one male and one female attendant are on staff or on call at all times. Ensuring optional staff availability to work with clients who are known to be abusive or who refuse to work with specific attendants. 24-hour service availability. Other items HHCS believe require clarification. Maintain documented opinion to allow for transparency and reference. 		
1.18	<p>Use the City Attorney opinion to:</p> <ul style="list-style-type: none"> Inform Easy Does It on whether or not Measure E money may be used for: non-Berkeley residents who work and/or go to school in 	n/a	<p>Auditor Response: We consider this recommendation partially implemented. We verified that HHCS informed EDI of the City Attorney’s guidance but are waiting for the contract renewal to confirm this information was incorporated into the city contract.</p>

Audit Findings and Recommendations Response Form

Audit Title: Stronger Oversight Necessary to Ensure Continued Assistance for Severely Physically Disabled Persons			
Finding 1: Easy Does It unable to substantiate compliance with funding requirements			
Recommendations		EDI Response	Auditor Response May 2019
	<p>Berkeley; staffing both a male and female attendant at all times; and providing 24-hour services.</p> <ul style="list-style-type: none"> Clarify in the scope of services of new City contracts using Measure E funding whether or not Measure E money may be used for: non-Berkeley residents who work and/or go to school in Berkeley; staffing both a male and female attendant at all times; and providing 24-hour services. 		
1.19	<p>Work with EDI to lower the thresholds for high-use clients. For example, identify high-use clients as those with 10 or more calls a month, and require clients obtain case management services once they reach 20 calls in one month. Incorporate those thresholds into new City contracts for Measure E funding.</p>	n/a	<p>Auditor Response: We consider this recommendation partially implemented. EDI slightly modified their thresholds. However, we are waiting for the contract renewal to confirm this information was incorporated into the city contract.</p>

Audit Findings and Recommendations Response Form

Audit Title: Stronger Oversight Necessary to Ensure Continued Assistance for Severely Physically Disabled Persons			
Finding 1: Easy Does It unable to substantiate compliance with funding requirements			
Recommendations		EDI Response	Auditor Response May 2019
1.20	Communicate with Easy Does it when there are changes to Measure B requirements and provide EDI with updated Measure B procedures discussing those changes.		Auditor Response: We consider this recommendation closed and implemented. HHCS has improved its communication with EDI regarding Measure B requirements.



BERKELEY CITY AUDITOR

MEMORANDUM

Date: May 21, 2019
 To: Kelly Wallace, Interim Director of Health Housing and Community Services
 From: Jenny Wong, City Auditor
 Subject: **Easy Does It's Measure E Contract and Outstanding Audit Recommendations**

Easy Does It (EDI) has made little progress on implementing audit recommendations from our May 2018 audit. This is a problem because there are significant deficiencies in the agency's operations that leave Measure E funds at risk of misuse. Therefore, we recommend that HHCS add specific language to the scope of services in the upcoming FY 2020-2023 contract with EDI requiring the agency to address these outstanding recommendations in a timely manner.

Background

In May 2018, our office released a performance audit of EDI¹. The objective of the audit was to determine if EDI complied with City contract requirements and if they used Measure E and B funds as intended by taxpayers. Our office found that significant deficiencies in **EDI's** operations left the agency unable to show that it had used Measure E taxpayer money as voters intended and put the funds at risk of theft.

Without the funding, individuals needing specialized emergency care face threats to their life, safety, and health. Therefore, it is vital to take precautions to safeguard the money and use it as taxpayers intended. If used incorrectly, the City risks losing taxpayer confidence or worse, those who need services will not receive assistance.

Our office issued 20 recommendations to assist EDI in complying with its City contract and strengthening its oversight and management of taxpayer money. We requested that the City Manager report to Council annually regarding the status of the audit recommendations.

¹ Stronger Oversight Necessary to Ensure Continued Assistance for Severely Physically Disabled Persons
<http://bit.ly/2vrlbnx>

Current Situation

We received **EDI's** updated responses regarding the status of the audit recommendations as well as Health Housing and Community Services (HHCS) comments on EDI's response. While EDI has made some progress, there is much more that the agency needs to do to ensure the safeguarding of Measure E funds.

In their upcoming fiscal year 2020 community agency contract, EDI is set to receive a proposed \$1.4 million annually from the voter approved Measure E: *Emergency Services for Severely Disabled Persons Special Tax Fund*.

Our office has identified the outstanding recommendations that we believe pose the most significant threat to the City and Measure E funds. These recommendations include:

1.3 - Establish a written strategic plan that includes short-term and long-term goals. Including using the plan to guide the changes needed for adequate system internal controls, including recommendations from our report.

1.4 – Create and enforce written payroll processing, and monitoring procedures that includes practices for detecting fraud, waste, and abuse, and ensuring payroll accuracy.

1.5 - Perform a staff scheduling and service needs analysis to establish optimal staffing schedules. Measure E staff and service needs analysis should take into consideration the City **Attorney's information provided in response to recommendation 1.17.**

1.7 – Establish and enforce written procedures for evaluating individual eligibility for Measure E services during client intake and service delivery.

1.8 – Update all client intake forms and eligibility evaluation with guidance for identifying the severe physical disability and emergency that are in alignment in Measure E requirements. Include on the intake form an area for staff to conclude as to whether the services provided are considered Measure E eligible.

1.9 – Record services to the financial system to clearly account for expenditures that are funded by Measure E and those that are not.

1.13 – Train staff on all procedures including those created in response to the recommendations in the audit and any developed because of the risk assessment performed in response to recommendation 1.2.

1.14 – Create informational literature that helps educate the public on why EDI service is almost entirely limited to Measure E eligible services. Provide the literature to new clients and their families, as well as **staff, to help clarify any misconceptions about EDI’s service delivery** restrictions and capabilities.

Proposed HHCS Actions

HHCS can hold EDI accountable to implementing the specific high-risk audit recommendations we identified above by including the recommendation language in the fiscal years 2020-2023 contract. Those audit recommendations will require that EDI:

- Document a strategic plan to help it remain solvent;
- Establish procedures for safeguarding city money from theft, misuse, and waste;
- Track and record services in its financial to show that services paid for with Measure E were eligible for that funding source; and
- Use its staffing analysis to schedule attendants consistent with what is supported by Measure E as clarified by the City Attorney.

Including the City Attorney’s response to recommendation 1.17 in the contract will help clarify the intended use of Measure E funds and guide EDI as they conduct their strategic plan and staffing analysis. Additionally, HHCS can include the case management thresholds EDI established in response to recommendation 1.10 in the contract to ensure clients are not overusing Measure E services and to identify other resources available to them.

Cc: Dee Williams-Ridley, City Manager
Paul Buddenhagen, Deputy City Manager
Amy Davidson, Interim Manager of Housing and Community Services
Rhianna Babka, Community Services Specialist III
Mary-Claire Katz, Associate Management Analyst



Office of the City Manager

CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: LaTanya Bellow, Director of Human Resources
 Subject: State Minimum Wage Increases: Camps' Classification Salaries State Minimum Wage Increase – July 1, 2019 through June 30, 2022

RECOMMENDATION

Adopt a Resolution approving salary increases for certain Unrepresented Camp Classification salaries in Unit X1, for the period July 1, 2019 through December 31, 2020 pursuant to State of California Minimum Wage Order (MW-2019), and amending Resolution No. 68,534-N.S. (Salary).

FISCAL IMPACTS OF RECOMMENDATION

Staff projects the State Minimum Wage increases will result in an approximate \$22,500 increase in labor expenditures to the Camps Fund in Fiscal Year 2020, and an additional \$21,400 increase in Fiscal Year 2021. These costs were projected as part of the Fiscal Year 20-21 biennial budget cycle, and will be paid for out of the Camps Fund hourly labor budget line.

CURRENT SITUATION AND ITS EFFECTS

The State of California published new Minimum Wage orders effective January 1, 2019 through December 31, 2022. State Minimum Wages increased from \$11.00 per hour to \$12.00 per hour effective January 1, 2019, will increase from \$12.00/hr. to \$13.00/hr. effective January 1, 2020, will increase from \$13.00/hr. to \$14.00/hr. effective January 1, 2021, and will increase from \$14.00/hr. to \$15.00/hr. effective January 1, 2022.

Berkeley Minimum Wage	California Minimum Wage Calendar Year 2019 – 2022			
FY 7/1/2019 - 6/30/2020	CY 2019	CY 2020	CY 2021	CY 2022
\$15.59	\$12.00	\$13.00	\$14.00	\$15.00

It is now necessary to adjust the classification starting salary to reflect the increases to the California State Minimum Wage effective through 12/31/2022.

This increase impacts starting salaries of approximately 50 part-time unrepresented seasonal camp staff working at the City's remote camp facilities: Berkeley Echo Lake

Camp, and, in the future, Berkeley Tuolumne Camp. These staff are a vital part of the City's summer camp programs which serve thousands of youth and adult participants each year.

The table below shows the impact of the increase in minimum wage on affected staff daily rates. Daily rates incorporate wage, credit for the value of the meals and lodging provided for each staff member in compliance with the State Minimum Wage Order and Berkeley Minimum Wage Ordinance.

Classification Title	Current Wage Range (Daily Rate)		Effective 6/26/19-12/31/19 (Daily Rate)		Effective 1/1/20-12/31/20 (Daily Rate)	
	Min.	Max	Min.	Max	Min.	Max
Camp Medical Staff Member	\$64.7664	\$97.1496	\$66.9400 +\$2.176	\$97.1496 \$0	\$72.4400 \$5.5000	\$97.1496 \$0
Camp Staff Leader	\$64.7664	\$97.1496	\$66.9400 +\$2.176	\$97.1496 \$0	\$72.4400 \$5.5000	\$97.1496 \$0
Camp Staff Member	\$43.1776	\$64.7664	\$52.4700 +\$9.294	\$66.9400 +\$2.1736	\$56.8400 +\$4.3700	\$72.4400 +\$5.5000

Green text indicates the State Minimum Wage Increase to the Minimum and Maximum Daily Rates for each Fiscal Year.

BACKGROUND

Pursuant to California Labor Code Section 1182.4 and State of California Wage Order MW-2019, California law provides organized camps special labor rules allowing wages of camp staffers for each day worked rather than by the hour. Under those same laws, the City may claim a state wage credit for the value of the meals and lodging provided for each staff member to calculate the Current Wage Range (Daily Rate).

It is now necessary to adjust the Camp Medical Staff Member, Camp Staff Leader, Camp Staff Member classifications salaries to reflect the increases to the California State Minimum Wage and Berkeley Minimum Wage Ordinance. Camp Staff Supervisor will not be impacted this year. The required minimum wage increase will not exceed the maximum range and will remain within the projected Fiscal Year 20-21 biennial budget cycle.

ENVIRONMENTAL SUSTAINABILITY

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

RATIONALE FOR RECOMMENDATION

This is a state-mandated salary increase, required by State of California Labor Code Section 1182.4 and Wage Order MW-2019, published by the State of California

Department of Industrial Relations, the department that sets wages within the State of California.

ALTERNATIVE ACTIONS CONSIDERED

None. This is a state-mandated minimum salary increase.

CONTACT PERSON

LaTanya Bellow, Director of Human Resources, 981-6807

Attachments:

1: Resolution

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

AUTHORIZING SALARY INCREASES TO CAMP MEDICAL STAFF MEMBER, CAMP STAFF LEADER, AND CAMP STAFF MEMBER CLASSIFICATIONS PURSUANT TO THE STATE OF CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS WAGE ORDER MW-2019, EFFECTIVE JUNE 26, 2019-DECEMBER 31, 2020 AND AMENDING RESOLUTION NO. 68,534-N.S. (SALARY)

WHEREAS, the City of Berkeley employs approximately 50 part-time seasonal temporary employees in the Camp Medical Staff Member, Camp Staff Leader, and Camp Staff Member classifications; and

WHEREAS, the State of California Department of Industrial Relations Wage Order MW-2019 increased the State of California Minimum Wage from \$11.00/hr. to \$12.00/hr. for employers with 26 or more employees effective January 1, 2019; and

WHEREAS, the State of California Department of Industrial Relations Wage Order MW-2019 increased the State of California Minimum Wage from \$12.00/hr. to \$13.00/hr. for employers with 26 or more employees effective January 1, 2020; and

WHEREAS, the State of California Department of Industrial Relations Wage Order MW-2019 increased the State of California Meal and Lodging Credits; and

WHEREAS, the City of Berkeley, in compliance with State of California Labor Code Section 1182.4 is allowed special labor rules allowing wages of camp staffers for each day worked rather than by the hour; and

WHEREAS, these costs were projected as part of the FY20-21 biennial budget cycle, and funds are available in the Camps Fund hourly labor budget line.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to increase the salary of the Camp Medical Staff Member, Camp Staff Leader, and Camp Staff Member classifications, pursuant to State of California, Department of Industrial Relations Wage Order MW-2019 as shown below, and that Resolution 68,534-N.S. (Salary) be amended:

Employee Classification	Effective 6/26/19-12/31/19 (Daily Rate)		Effective 1/1/20-12/31/20 (Daily Rate)	
	Min.	Max	Min.	Max
Camp Medical Staff Member	\$66.9400	\$97.1496	\$72.4400	\$97.1496
Camp Staff Leader	\$66.9400	\$97.1496	\$72.4400	\$97.1496
Camp Staff Member	\$52.4700	\$66.9400	\$56.8400	\$72.4400



Office of the City Manager

CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: LaTanya Bellow, Director of Human Resources

Subject: Berkeley Minimum Wage Increases: Salary Adjustments in accordance with Berkeley Minimum Wage Ordinance – July 1, 2019 through June 30, 2021

RECOMMENDATION

Adopt a Resolution approving salary increases for certain Unrepresented Classification salaries in Unit X1, for the period July 1, 2019 through June 30, 2020 pursuant to Berkeley Minimum Wage Ordinance, adopt future CPI-W increases through June 30, 2021 pursuant to Berkeley Minimum Wage Ordinance B.M.C. 13.99, and amending Resolution No.68,534-N.S. (Salary).

FISCAL IMPACTS OF RECOMMENDATION

Parks, Recreations and Waterfront projects the Berkeley Minimum Wage increases will result in an approximate \$22,500 increase in labor expenditures to the Camps Fund in Fiscal Year 2020, and an additional \$21,400 increase in Fiscal Year 2021. These costs were projected as part of the Fiscal Year 20-21 biennial budget cycle, and will be paid out of the Camps Fund hourly labor budget line.

Police Department projects the Berkeley Minimum Wage increases will result in an approximate \$3,000 increase in labor expenditures to Police Funds in Fiscal Year 2020, and an additional \$3,100 increase in Fiscal Year 2021. These costs were projected as part of the Fiscal Year 20-21 biennial budget cycle, and will be paid out of the Police Reserves General Fund hourly labor budget line.

Health, Housing and Community Services projects the YouthWorks Berkeley Minimum Wage increase will result in an approximate \$169,075 increase in labor expenditures to Youth Salary Fund in Fiscal Year 2020, and an additional \$194,275 increase in Fiscal Year 2021. The Fiscal Year 2021 increase is tied to the Calendar Year 2020 Consumer Price Index pursuant to the Berkeley Minimum Wage Ordinance. Therefore, the Fiscal Year 2021 Wage projections were increased by \$0.50 which is the minimum it will be increased. These costs were projected as part of the Fiscal Year 20-21 biennial budget

cycle, and will be paid out of the Temporary Summer Youth General Fund Salary hourly labor budget line.

CURRENT SITUATION AND ITS EFFECTS

The City of Berkeley (City) has set its own minimum wage rate that applies to employees of all companies who do business within Berkeley in accordance to City of Berkeley Minimum Wage Ordinance B.M.C. 13.99. The City of Berkeley Minimum Wage increased July 1, 2019 to \$15.59 hourly. Because City of Berkeley Minimum Wage has a higher minimum wage rate than the one set by California or the Federal government, the higher local minimum wage rate takes precedence and must be paid to all employees covered by the local minimum wage regulation including City of Berkeley employees. Keep in mind that California and the Federal Fair Labor Standards Act both define various minimum wage exemptions and other labor laws that may apply to employees in Berkeley.

Berkeley Minimum Wage		
Effective October 1, 2018	Effective July 1 2019	Effective July 1, 2020
\$15.00/hour	\$15.59/hour	\$15.59/hour + CPI

It is now necessary to adjust various City Job Classifications' starting salary to reflect the increases to the Berkeley Minimum Wage effective through 06/30/2021.

This increase impacts starting salaries of approximately 100 part-time unrepresented hourly staff working at the City's remote Parks, Recreation, and Waterfront (PRW) facilities. These staff are a vital part of the City's Parks, Recreation, and Waterfront programs which serve thousands of youth and adult participants each year.

The Police Retired Annuitants are not at the lowest step; therefore there is no impact. There are approximately 20 Reserve Officers that only receive the lowest rates for specific functions. In Fiscal Year 2019, a total of 556 hours were worked at the lowest rates for as needed support to special events.

On July 1, 2019 the Employer YouthWorks Minimum Wage increased \$1.25 per hour from \$13.25 per hour to \$14.50 per hour, and on every July 1 thereafter, the YouthWorks Minimum Wage shall be increased by \$1.25 per hour until it is equal to the Berkeley Minimum Wage paid by all other employers pursuant to the Berkeley Minimum Wage Ordinance. The increase impacts salaries of approximately 345 part-time unrepresented YouthWorkers per year in Health, Housing and Community Services.

The tables below show the impact of the increase in minimum wage on affected staff hourly rates.

Parks Recreation and Waterfront July 1, 2019 Minimum Wage Increase (\$15.59 per Hour) Effective 07/01/2019						
Classification Title	Grade	1	2	3	4	5
Aquatics Spec I Hrly	785	\$15.3000	\$15.3550	\$16.1905	\$17.0500	\$17.9449
New Rate	785	\$15.5900	\$15.6460	\$16.4974	\$17.3732	\$18.2850
Playground Leader Trainee Hrly	405	\$0.0000	\$0.0000	\$0.0000	\$15.3000	\$15.9732
New Rate	405	\$0.0000	\$0.0000	\$0.0000	\$15.5900	\$16.2760

Police July 1, 2019 Minimum Wage Increase (\$15.59 per Hour) Effective 07/01/2019						
Classification Title	Grade	1	2	3	4	5
Reserve Police Offcr I H	520	\$15.3000	\$0.0000	\$0.0000	\$0.0000	\$31.9211
New Rate	520	\$15.5900	\$0.0000	\$0.0000	\$0.0000	\$31.9211
Reserve Police Offcr II H	519	\$15.3000	\$0.0000	\$0.0000	\$0.0000	\$24.2987
New Rate	519	\$15.5900	\$0.0000	\$0.0000	\$0.0000	\$24.2987
Retired Annuitant Hourly	805	\$15.3000	\$137.2158			
New Rate	805	\$15.5900	\$137.2158			

YouthWorks Minimum Wage		
Effective October 1, 2018	Effective July 1 2019	Effective July 1, 2020
\$13.25/hour	\$14.50/hour	\$14.50 + up to \$1.25/hour NTE Berkeley Minimum Wage

BACKGROUND

On August 31, 2016, City Council Amended the Minimum Wage Ordinance (B.M.C. 13.99) to increase Berkeley’s Minimum Wage. The amendment incorporated annual adjustments beginning July 1, 2019, and thereafter on the 1st of July each year, the Berkeley Minimum Wage shall increase by an amount corresponding to the prior calendar year’s increase, if any, in the Consumer Price Index for urban wage earners and clerical workers (CPI-W) for the San Francisco-Oakland-San Jose, CA metropolitan statistical area.

It is now necessary to adjust Berkeley’s Minimum Wage to reflect the July 1, 2019 increases to the current CPI-W. The required minimum wage increase will not exceed the

maximum range and will remain within the projected Fiscal Year 20-21 biennial budget cycle.

ENVIRONMENTAL SUSTAINABILITY

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

RATIONALE FOR RECOMMENDATION

This is a City-mandated salary increase, required by City of Berkeley Ordinance B.M.C. 13.99 Minimum Wage Ordinance.

ALTERNATIVE ACTIONS CONSIDERED

There are no alternative actions considered for Parks, Recreations and Waterfront or Police. Health, Housing and Community Services alternative action would be to reduce the amount of YouthWorkers hired. This is a Berkeley Municipal Code-mandated minimum salary increase.

CONTACT PERSON

LaTanya Bellow, Director of Human Resources, 981-6807

Attachments:

1: Resolution

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

AUTHORIZING SALARY INCREASES FOR CERTAIN UNREPRESENTED CLASSIFICATION SALARIES IN UNIT X1, EFFECTIVE JULY 1, 2019-JUNE 30, 2020 PURSUANT TO THE CITY OF BERKELEY MINIMUM WAGE ORDINANCE B.M.C. 13.99, ADOPT FUTURE CPI-W INCREASES THROUGH JUNE 30, 2021 PURSUANT TO BERKELEY MINIMUM WAGE ORDINANCE B.M.C. 13.99, AND AMENDING RESOLUTION NO. 68,534-N.S. (SALARY)

WHEREAS, the City of Berkeley employs approximately 100 part-time hourly employees in the Aquatics Specialists I Hourly, Playground Leader Trainee, Reserve Police Officer I Hourly, Reserve Police Officer II Hourly, Retired Annuitant, Hourly, and 250 part-time temporary and YouthWorks hourly classifications; and

WHEREAS, the City of Berkeley Minimum Wage Ordinance 13.99 increased the Berkeley Minimum Wage from \$15.00/hr. to \$15.59/hr. for employers with 100 or more employees effective July 1, 2019 and increased the Berkeley Minimum Wage for YouthWorks from \$13.25/hr. to \$14.50/hr; and

WHEREAS, these costs were projected as part of the FY20-21 biennial budget cycle, and funds are available for Aquatics Spec I Hrly and Playground Leader Trainer from Camps Fund hourly labor budget line 330-5996-450.11-03, and Reserve Police Officer I H, Reserve Police Offcr II H, and Retired Annuitant Hourly from Police Reserves hourly labor budget line 010-7203-420-13.03, and YouthWorks from Temporary Summer Youth Salary hourly labor budget line 010-7912-463.12-12.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to increase the salary of the Aquatics Specialists I Hourly, Playground Leader Trainee, Reserve Police Officer I Hourly, Reserve Police Officer II Hourly, and Retired Annuitant classifications, pursuant to City of Berkeley Minimum Wage Ordinance 13.99 as shown below, adopt future CPI-W increases through June 30, 2021 pursuant to Berkeley Minimum Wage Ordinance 13.99, and that Resolution 68,534-N.S. (Salary) be amended:

July 1, 2019 Minimum Wage Increase Effective 07/01/2019						
Employee Classification	Grade	1	2	3	4	5
Aquatics Spec I Hrly	785	\$15.5900	\$15.6460	\$16.4974	\$17.3732	\$18.2850
Playground Leader Trainee	405	\$0.0000	\$0.0000	\$0.0000	\$15.5900	\$16.2760
Reserve Police Offcr I H	520	\$15.5900	\$0.0000	\$0.0000	\$0.0000	\$31.9211
Reserve Police Offcr II H	519	\$15.5900	\$0.0000	\$0.0000	\$0.0000	\$24.2987
Retired Annuitant Hourly	805	\$15.5900	\$137.2158			
YouthWorks	67180	\$14.5000	\$0.0000	\$0.0000	\$0.0000	\$0.0000



Office of the City Manager

CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Savita Chaudhary, Director, Department of Information Technology
 Subject: Presidio Networked Solutions Group, LLC: Using National Association of State Procurement Officials (NASPO) ValuePoint Cooperative Purchasing Agreement for Computer Hardware and Software Purchase Orders

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to increase spending authority with Presidio Networked Solutions Group, LLC (“Presidio”) for the purchase of networking equipment hardware and software, utilizing pricing and contracts, amendments, and extensions from the National Association of State Procurement Officials (NASPO) ValuePoint for the period beginning September 10, 2019 to June 30, 2020 for an amount not-to-exceed (NTE) \$200,000.

FISCAL IMPACTS OF RECOMMENDATION

Funding for the FY 2020 Network Replacement program is available in the Department of Information Technology’s Fiscal Year (FY) 2020 IT Cost Allocation budget. Departments will address funding at the time of citywide purchases, as needed.

FY 2020 Cost	Budget Code	Description
\$136,614	680-35-363-380-0000-000-473-651110	FY 2020 Network Replacement
\$63,386	To Be Determined	FY 2020 Citywide Spending As Needed
\$200,000	Total FY 2020 Spending	

CURRENT SITUATION AND ITS EFFECTS

The City of Berkeley participates in a cooperative purchasing agreement negotiated by NASPO ValuePoint to obtain Cisco networking products which include but are not limited to hardware, software, and other goods related to the City’s Network Device Replacement Program. The City replaces a portion of the networking equipment each year to maintain the current network hardware and software to support critical backend infrastructure needed to provide City services. Cisco sells this networking equipment including hardware, software, and services purchased through their resellers. Presidio is an

authorized reseller for Cisco. The purpose of these programs are to maximize the value of the City's investment by adopting a citywide standard.

As part of its technology procurement practices, the City typically upgrades and deploys core City hardware and software in a timeframe that keeps the versions at, or near, current commercial release versions and latest hardware. The Network Device Replacement project is an annual infrastructure equipment replacement Project designed to support the Digital Strategic Plan and the City's Strategic Plan goal of advancing our City's strategic goal to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.

BACKGROUND

In 1994, the City of Berkeley began using the Western States Contracting Alliance (WSCA) cooperative purchasing agreement as a starting for hardware negotiations. In 2013, NASPO consolidated WSCA and the NASPO Cooperative to form NASPO ValuePoint to meet the increasing needs for resource assistance in cooperative procurement among users.

The City of Berkeley utilizes Cisco products as its standardized networking equipment at the network devices, routers, and switches. The City purchases Cisco hardware, software, and services through Cisco authorized resellers.

In May 2019, the Department of Information Technology staff reached out to the authorized resellers of Cisco hardware to request quotes for operational network equipment such as routers and switches that were due for replacement. Cooperative contract pricing was required of the vendors. After receiving three quotes and evaluating the quotes, Staff determined that Presidio best met the City's technological and fiscal requirements.

ENVIRONMENTAL SUSTAINABILITY

A fast, secure, and reliable network allows for increased collaboration between City facilities, and also provides the backbone infrastructure that supports the City's online services, reducing greenhouse gas emissions used to travel between City facilities.

RATIONALE FOR RECOMMENDATION

Using cooperative purchasing agreements significantly improves the quality of purchasing executed by the City, and participation in such agreements allows the City to gain greater efficiencies and economies of scale.

Cisco does not license its software directly, but instead requires purchase of hardware, software, and services of its products through a reseller. Staff considered issuing a specific bid for the purchase of network hardware, but doing so would not return better pricing than what is established through the cooperative NASPO contract.

ALTERNATIVE ACTIONS CONSIDERED

Staff considered postponing planned and budgeted network infrastructure upgrades however, given the number of citywide technology systems that depend on an improved networking infrastructure, the risk of postponement is very high and can have huge impacts to the daily operations of the City and in providing serving the community. Postponing will also require increased hardware, software licensing, and maintenance costs including unexpected downtime for major systems.

CONTACT PERSON

Savita Chaudhary, Director, Department of Information Technology, 510-981-6541

Attachments:

1: Resolution

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

PRESIDIO NETWORKED SOLUTIONS GROUP, LLC: USING NASPO VALUEPOINT
FOR COMPUTER HARDWARE AND SOFTWARE PURCHASE ORDERS

WHEREAS, the City of Berkeley participates in a cooperative purchasing agreement negotiated by National Association of State Procurement Officials (NASPO) ValuePoint ValuePoint to obtain Cisco networking products, the City of Berkeley is able to take advantage of pre-negotiated prices, economies of scale, and increased efficiencies for the City's Network Device Replacement Program; and

WHEREAS, the City typically upgrades and deploys core City hardware and software in a timeframe that keeps the versions at, or near, current commercial release versions and latest hardware; and

WHEREAS, the Network Device Replacement project is an annual infrastructure equipment replacement Project designed to support the Digital Strategic Plan and the City's Strategic Plan goal of advancing our City's strategic goal to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.

WHEREAS, Staff received three quotes and after comparing different quotes from three (3) vendors staff determined that the Presidio's proposal was the lowest bidder, and best met the City's technological, and fiscal requirements; and

WHEREAS, funding for the FY 2020 Network Replacement program is available in the Department of Information Technology's Fiscal Year (FY) 2020 IT Cost Allocation budget. Departments will address funding at the time of citywide purchases, as needed.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to increase spending authority with Presidio Networked Solutions Group, LLC ("Presidio") for the purchase of networking equipment hardware and software, utilizing pricing and contracts, amendments, and extensions from the National Association of State Procurement Officials (NASPO) ValuePoint for the period beginning September 10, 2019 to June 30, 2020 for an amount not-to-exceed (NTE) \$200,000.



Office of the City Manager

CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council
From: Dee Williams-Ridley, City Manager
Submitted by: Savita Chaudhary, Director, Information Technology
Subject: Contract No. 10414A Amendment: Geographic Technologies Group (GTG) for Geographic Information System (GIS) Master Plan

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to amend Contract No. 10414A with Geographic Technologies Group (GTG) for Geographic Information System (GIS) Master Plan, for a total not to exceed \$99,700 and for a total contract value of \$303,960 from September 14, 2016 to June 30, 2021.

FISCAL IMPACTS OF RECOMMENDATION

One time funding for this project in the amount of, \$99,700 is available in the Department of Information Technology’s FY20 General Fund budget.

\$99,700	FY 2020: 011-35-363-000-6002-000-412-612990 (IT General Fund, GIS, IT Professional Services)
\$99,700	Total FY 2020 Professional Services

The funding will be included as part of the First Amendment to the FY 2020 Annual Appropriations Ordinance

CURRENT SITUATION AND ITS EFFECTS

The GIS Master Plan development and planning process is a citywide effort involving key staff representing multiple departments. Geographic Technologies Group (GTG) has provided reliable consulting services and has proven to be a strong partner in this development and planning process. Two additional GIS projects are required for the City of Berkeley under the GIS Master Plan. Each project complements the City’s five-year GIS Master Plan strategy developed in 2017.

The first project is the GreenCityGIS Park Inventory. This project includes a comprehensive inventory of the City of Berkeley’s parks system. It is part of an international award winning GreenCityGIS strategic solution that emphasis SMART Cities and SMART parks. This project will document the field inventory of all infrastructure,

buildings, such as bathrooms, benches and newly planted trees in the city parks system. The City's existing tree inventory will need updates as a part of this project.

The second project is an enhancement of the City's existing Parcel Condition Widget (PCW). Currently, PCW is a custom application no longer supported. The existing PCW offers specific functionality such as access to parcel information only stored in the City's GIS database. This project will allow staff to seamlessly access parcel information stored in other systems, including the Accela permitting System, building permits, and County parcel maps. This project will also add a new overlay to the widget for Building Energy Saving Ordinance (BESO) Property Status.

BACKGROUND

In May 2016, the City issued a Request for Proposals (RFP) for a Geographical Information Systems (GIS) Master Plan under Specification No.16-11041-C. Of the nine responses, Geographic Technology Group (GTG) best met the City's operational, technology, and fiscal requirements.

The GIS Master Plan development and planning process was a citywide effort involving key staff representing many departments. GTG conducted surveys, interviews and onsite workshops with city staff to do an assessment and analysis of the City's current Enterprise GIS. GTG evaluated the readiness of existing system infrastructure (hardware, software, and network) to support enterprise GIS and maintain service during disasters, assessed parcels and address data sets to meet GIS business needs and Enterprise authoritative source requirements, and developed a governance plan that outlines the administration, maintenance, and support for the enterprise GIS.

In June 2017, Council approved a GTG recommendation that added seven additional GIS projects to compliment the strategy developed in 2016. All projects completed as of June 30, 2019.

1. **Conduct a Comprehensive GIS Data Assessment:** GTG conducted an assessment and analysis of the City's current Enterprise GIS system. GTG evaluated the readiness of existing system infrastructure (hardware, software, and network) to support enterprise GIS and maintain service during disasters, assessed parcels and address data sets to meet GIS business needs and Enterprise authoritative source requirements, and developed a governance plan that outlines the administration, maintenance, and support for the enterprise GIS. The assessment allows the City to have a comprehensive snapshot of the quality and completeness of all GIS data and establish a benchmark of data accuracy. It also allows the City to plan and prioritize improvements to its extensive data repository.
2. **Plan, Design, and Deploy a Public Portal Solution:** The GIS Community Portal, <https://www.cityofberkeley.info/gisportal/>, launched to the public in January 2019. The existing GIS web page had a legacy product known as "Parcel Popper" which allowed citizens to enter an address and receive information for a given property

including regulations. The new portal features a custom widget that mimics the functionality of Parcel Popper but also includes additional features. The GIS Community Portal allows community members, businesses, city officials, and developers the ability to better understand what zoning and land use policies apply to properties of interest to them.

- 3. Assessment of Current GIS Policies and Procedures:** Standard operating procedures (SOP) and policies detail the ways in which GIS technologies utilized within the City in order to meet user needs. SOPs prevent redundancy in data compilation, promote standardization and scalability of the enterprise GIS, and decreases organizational liability.
- 4. Develop a Mobile GIS Plan:** The mobility of GIS and the use of mobile technology to view, edit and analyze geospatial data, as well as make critical decisions in the field is a critical factor in building a true citywide, enterprise-wide, scalable, and enduring GIS. Multiple City departments indicated the business need to use GIS in the field as a data query tool. The mobile plan identified the mobile device needs for the upcoming projects for work order, fleet and facilities management.
- 5. Develop Key Performance Indicators (KPIs) for GIS:** In May 2018, City of Berkeley developed a Key Performance Indicators (KPIs) or measures for GIS. Measuring and monitoring the progress and success of the tasks associated with an enterprise GIS system is best practice. Developing organizational KPI's based on each GIS task outlined in the 2017 GIS Master Plan allows the City of Berkeley to accurately measure GIS performance, quantify the City's accomplishments, and articulate the benefits GIS provides to the community.
- 6. Establish City of Berkeley GIS Newsletter:** The inaugural issue of the GIS Newsletter, The Pin Drop, debuted earlier this year and next issue is due later this summer. Topics will include the launch of the GIS Community Portal and the Esri Disaster Preparedness Workshop. The GIS newsletter markets the program's successes and services and, in general, increases communications around GIS among the City departments. It provides transparency and accountability by keeping stakeholders and community members in the loop through easily accessible media.
- 7. Develop GIS Training Curriculum:** A formal ongoing GIS training plan is an approved outline of steps, schedules, and costs for continuing to train the City's employees. The GIS SharePoint portal offers the links to free resources for GIS training available to employees. It is important to have an ongoing training plan, considering that GIS is a rapidly evolving technology, and organizational needs are ever changing.

ENVIRONMENTAL SUSTAINABILITY

Geographic Technologies Group will conduct some of their work remotely, and when they do come on-site for face-to-face meetings, they will cluster those visits over multiple days to minimize both travel costs and greenhouse gas emissions related to travel

RATIONALE FOR RECOMMENDATION

Geographic Technologies Group is well versed in the requirements for public sector GIS. GTG has created and implemented over 200 comprehensive GIS Master Plans for local government. Clients include the California cities of Concord, Pasadena, West Sacramento, West Hollywood and Roseville. GTG has developed the GIS Community Portal for our city and the staff is recommending continuing using their services for the expansion of the functionality of the existing portal.

GIS technologies are powerful tools for improving the quality, accuracy, efficiency, and responsiveness of government services provided by the City of Berkeley. An Enterprise GIS guides a citywide approach to GIS, focused on:

- Using mutually accepted standards, policies, and business practices;
- Encouraging collaborative GIS efforts among City, government, and related organizations;
- Integrating GIS technologies into City business operations;
- Supporting emergency and disaster planning, response, and recovery; and
- Maximizing the cost-effectiveness of GIS investments.

The GIS Steering Committee established the Enterprise GIS Program in 2008 provides central shared resources to support these goals. The program currently includes the following GIS services: Data Services, Online Mapping Services, Applications, Software License Management, and Training and Support

ALTERNATIVE ACTIONS CONSIDERED

Staff considered planning and executing these projects without GTG, however the staff considered it would be beneficial to get an outside perspective that could bring with them industry best practices and experience working with other local municipalities to help setup a framework that the City can use for the next three years and beyond.

CONTACT PERSON

Savita Chaudhary, Director, Information Technology, 510-981-6541

Attachments:

1: Resolution

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

CONTRACT NO. 10414A AMENDMENT: GEOGRAPHIC TECHNOLOGIES GROUP
FOR GEOGRAPHICAL INFORMATION SYSTEM (GIS) MASTER PLAN

WHEREAS, on May 12, 2016, the City issued a Request for Proposals (RFP) for a Geographical Information Systems (GIS) Master Plan (Specification No.16-11041-C) and received nine qualifying vendor responses; and

WHEREAS, the RFP review committee evaluated each proposal and determined that the Geographic Technologies Group proposal best met the City's operational, technological, and fiscal requirements; and

WHEREAS, on November 02, 2016, the original contract was signed to develop a GIS Master Plan; and

WHEREAS, on September 08, 2017, the original contract was amended to include additional tasks to conduct a comprehensive GIS data assessment, deploy a web-based public facing GIS portal, develop GIS policies and SOPs for the City, and establish a one-year GIS work plan; and

WHEREAS, two additional projects are needed to enhance the functionality of recently deployed GIS Community portal, and a comprehensive inventory of the City of Berkeley's parks system to prepare for upcoming work order system; and

WHEREAS, funding for this project in the amount of, \$99,700 is available in the Department of Information Technology's Fiscal Year FY 2020 General Fund budget and will be included in the First Amendment to the FY 2020 Annual Appropriations Ordinance.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute an amendment to Contract No. 10414A with Geographic Technologies Group for Geographical Information Systems (GIS) Master Plan, for a total not to exceed \$99,700, and for a total contract value of \$303,960 from September 14, 2016 to June 30, 2021.



Office of the City Manager

CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Scott Ferris, Director, Parks Recreation & Waterfront
 Subject: Donation: Memorial Bench at Cesar Chavez Park in memory of Robert J. and Charlotte C. Coomber

RECOMMENDATION

Adopt a Resolution accepting a cash donation in the amount of \$3,400 for a memorial bench to be placed at Cesar Chavez Park at the Berkeley Marina in memory of Robert J. and Charlotte C. Coomber.

FISCAL IMPACTS OF RECOMMENDATION

The value of a single bench and memorial plaque is \$3,400, which covers the purchasing and installation costs performed by the City. The cash donation will be deposited into Marina Fund donation revenue budget code 608-52-544-591-0000-000-000-481110 and will be appropriated in FY 2020.

CURRENT SITUATION AND ITS EFFECTS

The family of Robert J. and Charlotte C. Coomber wishes to donate a memorial bench in their memory to be placed at Cesar Chavez Park at the Berkeley Marina with a cash donation of \$3,400. Per the City's Park Bench Donation Policy, individuals may donate memorial benches to the City's parks in selected locations, subject to the approval of the Director of the Parks Recreation & Waterfront Department, and pay for all associated costs, subject to Council disclosure and approval of the gift donation. The Director has determined that the proposed donation complies with the City's Bench Donation Policy as described in Resolution No. 64,148-N.S. and has approved the donation, subject to Council approval.

BACKGROUND

Benches are placed throughout the City in accordance with the City's Park Bench Donation Policy approved by Council on July 22, 2008 (Resolution No. 64,148-N.S.). The City's Open Governance Ordinance (OGO) requires City Council disclosure and approval of any gift to the City in excess of \$1,000 (BMC Section 2.06.150, Ord. 7,166-N.S.)

ENVIRONMENTAL SUSTAINABILITY

The City's vendor for benches, Dumor, Inc., makes its priority to purchase only sustainably-harvested wood derived from stringently-regulated timber source locations, including California, Oregon, Washington and British Columbia. This policy reduces solid waste volumes in landfills, helps conserve natural resources and limits the environmental effects resulting from the extraction of virgin materials. The benches therefore comply with the City's environmentally preferable purchasing policy, specifically section 3.7 Forest Conservation.

CONTACT PERSON

Alexandra Endress, Waterfront Manager, 981-6737

Attachments:

1: Resolution

RESOLUTION NO. -N.S.

DONATION: MEMORIAL BENCH AT CESAR CHAVEZ PARK AT THE BERKELEY MARINA IN MEMORY OF ROBERT J. AND CHARLOTTE C. COOMBER

WHEREAS, on July 22, 2008, Council adopted the Park Bench Donation Policy (Resolution No. 64,148-N.S.); and

WHEREAS, the City's Open Governance Ordinance (OGO) requires City Council disclosure and approval of any gift to the City in excess of \$1,000 (BMC Section 2.06.150, Ord. 7,166-N.S.); and

WHEREAS, the family of Robert J. and Charlotte C. Coomber wishes to donate a memorial bench in their memory to be placed at Cesar Chavez Park at the Berkeley Marina with a cash donation of \$3,400; and

WHEREAS, per the City's Park Bench Donation Policy, individuals may donate memorial benches to the City's parks in selected locations, subject to the approval of the Director of the Parks Recreation & Waterfront Department, and pay for all associated costs, subject to Council disclosure and approval of the gift donation; and

WHEREAS, the Director has determined that the proposed donation complies with City's Bench Donation Policy as described in Resolution No. 64,148-N.S. and has approved the proposed donation; and

WHEREAS, the cash donation will be deposited into Marina Fund donation revenue budget code 608-52-544-591-0000-000-000-481110 and will be appropriated in FY 2020.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that a cash donation in the amount of \$3,400 for a memorial bench to be placed at Cesar Chavez Park at the Berkeley Marina in memory of Robert J. and Charlotte C. Coomber is hereby accepted.



Office of the City Manager

CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Scott Ferris, Director, Parks Recreation & Waterfront
 Subject: Contract: United Site Services of California, Inc. for Portable Toilet Rental and Service

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with United Site Services of California, Inc. in an amount not to exceed \$360,000 for a period of two years, with an option to extend for three 12-month periods for a total amount not to exceed \$900,000 to provide portable toilet services for rental and service of portable toilet units for the period October 1, 2019 through September 30, 2024.

FISCAL IMPACTS OF RECOMMENDATION

Funding for this contract is included in the Parks, Recreation & Waterfront Department FY 2020 & FY 2021 budgets in the Parks Tax Fund (138-52-542-567-0000-000-461-612990-) for ongoing portable toilet rental and service in City parks; and in the General Fund (011-52-542-567-0000-000-461-612990-) for portable toilet rental and service for Day Laborers and special events. The contract includes pricing for additional units and services to be ordered as needed.

CURRENT SITUATION AND ITS EFFECTS

The current contract for rental and service of portable toilet units with United Site Services of California, Inc. ends on September 30, 2019. On June 18, 2019, the City issued a new Request for Proposals (RFP) #19-11336-C for portable toilet services. Despite targeted outreach to six portable toilet vendors, the City received one proposal. Staff evaluated the proposal and negotiated pricing that is consistent with the City's existing contract.

BACKGROUND

This contract is for the procurement of on-going and as-needed toilet services. The City of Berkeley has a need for portable toilet services to supplement existing park facilities, to provide services for events, programs and activities where no permanent facilities exist, at construction sites as needed, and in emergency situations.

ENVIRONMENTAL SUSTAINABILITY

Providing portable toilets in areas where permanent facilities are insufficient or unavailable helps to keep those environments more clean and safe for the public.

CONTACT PERSON

Christina Erickson, Deputy Director, 981-6703
Bruce Pratt, Parks Superintendent, 981-6632

Attachments:

1: Resolution

RESOLUTION NO. -N.S.

CONTRACT: UNITED SITE SERVICES OF CALIFORNIA, INC. FOR PORTABLE
TOILET RENTAL AND SERVICE

WHEREAS, on June 18, 2019 the City released a Request for Proposals (Specification No. 19-11336-C) seeking firms or individuals to provide rental and service of portable toilet units, and received one proposal; and

WHEREAS, the City of Berkeley has a need for portable toilet services to supplement existing facilities, to provide services for events, programs and activities where no permanent facilities exist, at construction sites as needed, and in emergency situations; and

WHEREAS, funding for this contract is included in the Parks, Recreation & Waterfront Department FY20-21 budget in the Parks Tax Fund for ongoing portable toilet rental and service in City parks; and in the General Fund for portable toilet rental and service for Day Laborers and special events; and additional units and services may be ordered as needed and funded; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to execute a contract and any amendments with United Site Services of California, Inc. in an amount not to exceed \$360,000 for a period of two years, with an option to extend for three 12-month periods for a total amount not to exceed \$900,000 to provide portable toilet services for rental and service of portable toilet units for the period October 1, 2019 through September 30, 2024.



Office of the City Manager

CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Timothy Burroughs, Director, Department of Planning and Development
 Subject: Contract: Rincon Consultants, Inc. for Southside Initial Study and Environmental Impact Report

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Rincon Consultants, Inc. to prepare an Initial Study/Environmental Impact Report (IS/EIR) for Zoning Ordinance changes in the Southside area for an amount not to exceed \$192,000 for a period of 18 months.

FISCAL IMPACTS OF RECOMMENDATION

Funding for this project is under the Permit Service Center Fund: 621-53-584-622-0000-000-472-612990.

CURRENT SITUATION AND ITS EFFECTS

On May 28, 2019, the City Council authorized issuance of a Request for Proposals (RFP) to conduct an Initial Study and EIR for Southside Zoning Ordinance changes. The Planning Department issued the RFP (Spec. #19-11332-C) on May 30, 2019, and received two responsive proposals. Based on those written proposals, Rincon Consultants, Inc. was selected as the preferred firm to perform the work.

Under this contract, Rincon Consultants will work with City staff to explore Zoning Ordinance modifications based on multiple existing City Council referrals, and develop potential Zoning Ordinance modifications that could provide more housing opportunities in the Southside area. Rincon and its sub-consultants will evaluate the existing conditions of the area and the environmental impacts of proposed Zoning Ordinance modifications, and prepare an Initial Study and an EIR. Rincon will also support staff by attending public meetings to scope the project and provide answers to questions about the documents, as well as provide responses to written comments. This work will allow decision makers to move forward with Zoning Ordinance changes to create additional housing opportunities.

BACKGROUND

Since July 2016, the City Council has adopted six referrals requesting the Planning Commission to consider Zoning Ordinance amendments that could increase opportunities for affordable housing.

Table 1: Description of Council Affordable Housing Referrals

Referral #	Date of Referral	Referral Description
1	7/12/16 (Worthington)	Allow increased development potential in the Telegraph Commercial (C-T) District between Dwight Avenue and Bancroft Avenue and refer to the City Manager to develop community benefit requirements, with a focus on labor practices and affordable housing.
2	4/4/17 (Worthington, Wengraf, Harrison)	Create a Use Permit process to allow non-commercial use on the ground floor in appropriate locations, where commercial might otherwise be required. A pilot project is suggested for the C-T District.
3	5/30/17 (Worthington, Bartlett and Arreguin)	Develop a pilot Density Bonus program for the C-T District to generate in-lieu fees that could be used to build housing for homeless and extremely low-income residents.
4	10/31/17 (Worthington, Harrison, Arreguin)	Facilitate student housing by increasing the height and Floor Area Ratio (FAR) in the portions of the R-SMU, R-S and R-3 District which are located within the Southside area west of College Avenue.
5	1/28/18 (Worthington, Harrison, Arreguin)	Convert commercial space in the C-T to residential use, expand the Car-Free Housing overlay in the Southside, allow two high-rises for student housing, and consider micro-units and modular units.
6	5/1/18 (Worthington)	Convert commercial space into residential use within all districts in the Southside located west of College Avenue.

Many of these referrals specifically focus on student housing or affordable housing in the 27 blocks immediately south of the UC Berkeley campus (“the Southside”). In response to these referrals, the Planning Commission has studied ways to create additional affordable housing in the Southside. Options which are most likely to result in significant increases in housing units would require a new environmental study, as the changes would result in growth beyond that anticipated in the existing Southside Plan EIR. Rincon Consultants, Inc. would be responsible for carrying out the environmental study.

Berkeley's Southside Plan, adopted in 2011 following thorough community engagement and plan development process, is the guiding framework for residential and commercial development in this area. The Southside is generally defined as the area bounded by Dwight Way on the south, Bancroft Way on the north, Prospect Street on the east, and Fulton Street on the west.

ENVIRONMENTAL SUSTAINABILITY

An Environmental Impact Report, such as the one Rincon will produce under this contract, informs City decision makers of the environmental impacts of a proposed policy and how to mitigate them.

RATIONALE FOR RECOMMENDATION

Rincon Consultants, Inc.'s proposal was the best match for the City of Berkeley's needs.

ALTERNATIVE ACTIONS CONSIDERED

Staff considered alternate services proposed by one other consulting firm that responded to the RFP. It was determined that Rincon Consultants, Inc. was the best fit for the City.

CONTACT PERSON

Steven Buckley, Manager, Land Use Division - Planning & Development Department,
510-981-7411

Attachments:

1: Resolution

Exhibit A: Draft Scope of Work

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

CONTRACT: RINCON CONSULTANTS, INC. FOR SOUTHSIDE ZONING
ORDINANCE INITIAL STUDY AND ENVIRONMENTAL IMPACT REPORT

WHEREAS the Council approved the recommendation for Request for Proposals (RFP) for possible issuance as Item 10 on the Consent Calendar for its May 28, 2019 regular meeting; and

WHEREAS the Planning Department issued the RFP (Spec. #19-11332-C) on May 30, 2019, and received two proposals on July 2, 2019; and

WHEREAS based on those written proposals, Rincon Consultants, Inc. was selected as the best qualified and most responsive firm to perform the work; and

WHEREAS, the cost of the contracted service is allocated in the Permit Service Center Fund 621-53-584-622-0000-000-472-612990; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a contract and any amendments, with Rincon Consultants, Inc. to prepare an Initial Study and Environmental Impact Report for an amount not to exceed \$192,000 for a period of 18 months.

BE IT FURTHER RESOLVED that a record signature copy of said contract and any amendments will be on file in the Office of the City Clerk.

Exhibit

A: Draft Scope of Work

SOUTHSIDE INITIAL STUDY AND ENVIRONMENTAL IMPACT REPORT**DRAFT SCOPE OF SERVICES**

The consultant will complete the required steps for environmental review discussed below. The work products must meet the requirements of the California Environmental Quality Act (CEQA) statute and Guidelines, the City's Environmental Review Procedures, and State Planning and Zoning laws. **All documents submitted to the City shall only be provided via the City's FTP site, and all documents submitted for review by the City shall be done so in MS Word format and in PDF format.**

1. **Project Management.** The Consultant will serve as project manager for the environmental review process, and will be responsible for the technical accuracy and adequacy of sub-consultant work products, including their findings, recommendations and conclusions. Members of the consultant team will be available for meetings with City staff and/or public presentations to support their analysis. The City will expect monthly progress and budget reports that describe the status of project tasks. The Consultant shall take the lead in developing agendas for meetings held with the City regarding CEQA issues. The City's in-house project manager will take the lead in logistics related to organizing City-Consultant team meetings.
2. **Initial Project Coordination Meeting.** The Consultant and appropriate sub-consultants will prepare for and attend an initial project coordination meeting with City staff and project representatives. The purpose is to discuss the expectations of stakeholders in this process, identify concerns and issues, the type and magnitude of Zoning Ordinance amendments to study in the environmental analysis, and review information needs, work products and schedules.
3. **Project Description.** The Consultant shall work with City staff to analyze Zoning Ordinance amendments based on City Council referrals and develop a description of the project to be studied in the Initial Study and EIR. The Consultant shall assume no more than two (2) rounds of review of the Project Description by City staff prior to conducting any analysis.
4. **Initial Study.** The Consultant shall prepare an Initial Study which documents the existing conditions, project impacts (if any), applicable City Conditions of Approval, mitigation measures (if required), and resulting level of significance for each of the topical areas required under CEQA. The scope of work for the Initial Study (IS) shall include preparation of adequate analyses for the following topics:
 - Aesthetics;
 - Agricultural and Forestry Resources;
 - Air Quality;
 - Biological Resources;
 - Energy;
 - Geology and Soils;
 - Hazards and Hazardous Materials;
 - Hydrology and Water Quality;
 - Mineral Resources;
 - Noise;
 - Public Services;
 - Recreation;
 - Tribal Cultural Resources;
 - Utilities and Service Systems; and
 - Wildfire.

It is assumed that the following topics will be analyzed in the EIR: Cultural Resources; Greenhouse Gas Emissions; Land Use and Planning; Population and Housing; and Transportation. The transportation analysis should use Vehicle Miles Traveled (VMT) as the primary metric, but also include a sampling of Level of Service (LOS) at selected intersections. For the purposes of this scope of work, it should be assumed that one (1) Administrative Draft IS, one (1) Screencheck Draft IS and one (1) Printcheck IS will be required.

5. **Notice of Preparation.** The Consultant will prepare and circulate a Notice of Preparation (NOP), notifying the public that an EIR will be prepared for the project. The Consultant shall satisfy all CEQA public noticing requirements. It should be assumed that the Initial Study will be circulated with the NOP.
6. **Scoping Meeting.** The Consultant shall attend a publicly noticed Scoping meeting to facilitate public comment on the scope of the EIR. The Consultant shall review all written and oral comments received during project scoping and shall alert the City if the scope of work should be revised in response to any comments.
7. **CEQA Review and Preparation of Environmental Document(s).** It is anticipated that an EIR will need to be prepared. The required components of review and preparation of the EIR are outlined below.
 - a. Administrative Draft EIR (ADEIR). The Consultant shall prepare an ADEIR to address any potentially significant and unavoidable impacts identified in the Initial Study, or issues of specific interest or concern. At this time, the topics anticipated to be addressed in the EIR include: Cultural Resources; Greenhouse Gas Emissions; Land Use and Planning; Population and Housing; and Transportation. The EIR will also include the following discussions: Introduction; Summary; Project Description; Alternatives (assume three (3) for the purpose of this scope); Other CEQA Considerations; and Report Preparers and References. The City of Berkeley Environmental Review Procedures require that a Mitigation Monitoring and Reporting Program (MMRP) be drafted earlier in the process than is usually required. The consultant shall include a draft MMRP with the ADEIR.

The City anticipates that there will be one (1) ADEIR, one (1) Screencheck Draft and one (1) Public Review Draft. The Consultant should be prepared that a second iteration may be required for any ADEIR section that does not meet the City's expectations. The City will consolidate all staff comments and edits for each round to ensure consistency. The consultant shall meet with City staff to review comments on the ADEIR.

- b. Draft EIR (DEIR). As directed by the City, the Consultant will revise the ADEIRs and produce 15 hard copies of the DEIR, suitable for public distribution, including copies of all referenced technical documents and the Notice of Availability. The Consultant shall also provide one (1) electronic copy (on CD or flash drive) of the document and any technical appendices in native file and PDF formats, along with 15 hard copies of the Summary Chapter for submittal to the State Clearinghouse. The Consultant shall attend one (1) public meeting (e.g. Planning Commission) during the 45-day comment period.
- c. Comments and Responses Matrix. After the close of the DEIR comment period, the Consultant will develop and submit a matrix of comments received, preliminary thoughts on the response to each comment, and indication where City staff is expected to take the lead on a response. Standard language for non-CEQA related comments should also be proposed. The purpose of this matrix is to allow staff to provide early input on how to approach the comments, and reduce the need for extensive revisions to the Administrative Draft of the Response to Comments. The matrix will then be discussed at a meeting with staff.
- d. Prepare Administrative Draft Response to Comments (ADRTC). The ADRTC will include the following sections: Introduction; List of Commenters; Comments and Responses (including enumerated copies of all letters received and captioner's record from hearings on the DEIR); and, DEIR Text Revisions. The Consultant shall assume one administrative draft and one (1) Screencheck draft. The City will consolidate all staff comments and edits for each round to ensure consistency.
- e. Final Response to Comments (FRTC). Once the Screencheck RTC is approved, a Final RTC will be prepared. The consultant shall prepare a legally adequate final environmental document based on comments received on the DEIR and any additional analysis or information that is needed, and provide 15 hard copies of the final document and one electronic copy of document and all technical appendices in native file and PDF format. The Consultant shall attend two (2) public meetings during the adoption of the Final EIR.
- f. CEQA Findings and Statement of Overriding Considerations. The Consultant shall prepare for use by the City all CEQA findings to facilitate action on the project.



Office of the City Manager

CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Timothy Burroughs, Director, Planning and Development Department
 Subject: Approval of match commitment letter for FEMA Hazard Mitigation Grant

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to submit a letter of commitment of matching funds for a Hazard Mitigation Grant application for the Retrofit Grants program to the Federal Emergency Management Agency (FEMA), and subject to its award, to accept the grant and execute any resultant revenue agreements and amendments including any additional funding allocations from the Hazard Mitigation Grant Program.

FISCAL IMPACTS OF RECOMMENDATION

The City of Berkeley has been deemed eligible to apply for a grant of up to \$3 million as part of FEMA's Hazardous Mitigation Grant Program for Retrofit Grants for Seismically Vulnerable Buildings. FEMA requires applicants to provide a letter committing to expend matching funds over the three-year grant duration of 25% of what will become the total project amount of \$4 million. The City match portion of \$1 million would include at least \$750,000 paid directly by the grant recipient property owners for their retrofit costs, which is considered local match by FEMA. The portion of the City match obligation, no more than \$250,000, is covered by the permit fees paid by the grant recipient property owners to the Permit Service Center Fund, which covers costs of plan check, inspections and administrative costs relating the retrofit projects.

The grant would be used to provide \$2,250,000 in grants to property owners to retrofit seismically vulnerable buildings, including soft story and other weak residential buildings, unreinforced masonry, tilt-up and non-ductile concrete buildings. The FEMA grant would provide an additional \$750,000 in operating costs. In addition to the \$3 million in new FEMA funding, the City would commit \$1 million in local match funding over three years as described above, for a total project size of \$4 million.

A portion of the project will fund City of Berkeley personnel costs to implement the project. The Resilient Buildings Program Manager and a Community Services Specialist will provide overall management of the project. The Community Services Specialist will conduct outreach to property owners and assist participants with applying for grants and meeting program requirements. Staff throughout the Building

and Safety Division will assist with property retrofits, including with plan review, permit issuance, inspection for code compliance, monitoring progress and compliance with state and federal requirements, and problem solving for difficult projects.

CURRENT SITUATION AND ITS EFFECTS

As a result of the declaration of a major federal disaster for the Paradise fires last year, the State of California is eligible for Hazard Mitigation Grant Program (HMGP) funding aimed at reducing or eliminating risks of future damages. Grants do not need to be used to mitigate the specific disaster in the region where it occurred. The California Office of Emergency Services anticipates that approximately \$350 million will be disbursed in California.

Berkeley submitted a Notice of Interest for a project to provide Retrofit Grants for Seismically Vulnerable Buildings and was invited to develop a full application for HMGP funding. The proposed project must be in conformance with Berkeley's FEMA-approved Local Hazard Mitigation Plan. This project would fulfill Berkeley's approach, as described in that plan, to encourage local residents and businesses to upgrade the hazard resistance of their own properties. The project would also advance the priority of reducing hazard vulnerabilities in Berkeley buildings, would help retain existing affordable housing by making it more resistant to earthquake damage, and helps to advance Berkeley's Strategic Plan goal of creating a resilient, safe, connected, and prepared city.

A new \$3 million FEMA grant would allow the Retrofit Grants Program to support additional seismic retrofits in Berkeley and allow greater flexibility in grant dispersal. Grant sizes will be based on the project size and complexity, building type, and benefit to the community. Design grants will not exceed 75% of design costs, and will be disbursed after the owner has completed design, applied for a building permit, and obtained City-approved plans for an eligible scope of work. Construction grants will typically not exceed 30% of actual construction costs, though grants up to 75% of the total retrofit costs may be offered for high priority projects. Increased grant amounts would reflect the increased complexity and size of retrofit projects that are expected to participate in future rounds of the program, as well as the likelihood that incentivizing voluntary seismic retrofits of larger projects will require larger grant sizes. In all cases, property owners will be required to pay a portion of the project costs, which will be used toward FEMA's local match requirement.

BACKGROUND

Berkeley property owners applied for over \$1 million in grants in the first round of the Retrofit Grants program in 2017. The first round focused on Soft Story buildings of five or more residential units and unreinforced masonry buildings, both of which are subject to Berkeley's mandatory retrofit requirements. A report on the first round of the program was prepared for the Council at its July 11, 2017 meeting, and is available at:

https://www.cityofberkeley.info/Clerk/City_Council/2017/07_Jul/Documents/2017-07-11_Item_43_Update_on_Retrofit.aspx.

The second round of Berkeley's Retrofit Grants program was opened for applications in May 2018, providing an additional \$1.1 million in FEMA funds to Berkeley property owners for seismic retrofits. Eligibility was expanded to include voluntary retrofits of smaller 3-4 unit Soft Story buildings as well as two additional categories of seismically vulnerable buildings: 1) older "non-ductile" concrete buildings, and 2) tilt-up buildings and similar "rigid wall - flexible diaphragm" buildings with deficient roof to wall anchorage systems. Seismic projects currently included in the Retrofit Grants Program are Pegasus Books on Solano Avenue, the Berkeley Repertory Theatre's warehouse on Eighth Street, and the future home of Habitot Children's Museum on Adeline Street, all of which are rigid-wall flexible-diaphragm buildings not subject to mandatory retrofit.

ENVIRONMENTAL SUSTAINABILITY

Retrofitted buildings will be less likely to suffer damage in the event of a major earthquake, and as a result will be less likely than non-retrofitted structures to create additional environmental impacts from demolition and rebuilding efforts.

RATIONALE FOR RECOMMENDATION

If the City receives funding under FEMA's Hazardous Mitigation Grant Program, more seismically vulnerable structures in Berkeley are likely to be retrofitted, affordable housing within the City will be retained, safety for tenants and other community members will be increased, and Berkeley will be more resilient in the event of a major seismic event.

ALTERNATIVE ACTIONS CONSIDERED

Staff has considered larger grant award amounts to upgrade individual properties.

CONTACT PERSONS

Galadriel Burr, Community Services Specialist, Planning and Development Department, 510-981-7475

Jenny McNulty, Resilient Buildings Program Manager, Planning and Development Department, 510-981-7451

Attachments:

- 1: Resolution
- 2: Cal OES 130 – Designation of Applicant's Agent Resolution

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

AUTHORIZING THE CITY MANAGER TO COMMIT MATCHING FUNDS FOR A HAZARD MITIGATION GRANT APPLICATION FOR THE RETROFIT GRANTS PROGRAM TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) AND SUBJECT TO ITS AWARD, TO ACCEPT THE GRANT AND EXECUTE ANY RESULTANT REVENUE AGREEMENTS AND AMENDMENTS, INCLUDING ANY ADDITIONAL FUNDING ALLOCATIONS FROM THE HAZARD MITIGATION GRANT PROGRAM.

WHEREAS, as a result of the declaration of a major federal disaster for DR-4407, the State of California is eligible for Hazard Mitigation Grant Program (HMGP) funding aimed at reducing or eliminating future damages; and

WHEREAS, federal funding is provided under the Robert T. Stafford Emergency Assistance and Disaster Relief Act (Stafford Act) through FEMA and the California Governor's Office of Emergency Services (Cal OES); Cal OES is responsible for identifying program priorities, reviewing applications and forwarding recommendations for funding to FEMA; FEMA has final approval for activity eligibility and funding; and

WHEREAS, the federal regulations governing the HMGP are found in Title 44 of the Code of Federal Regulations (44 CFR) Part 206, and the Uniform Administrative Requirements for Federal Awards are found in 2 CFR Part 200; and

WHEREAS, a Notice of Interest was approved for Retrofit Grants for Seismically Vulnerable Buildings and the City of Berkeley submitted a full application for HMGP funding on or before July 5, 2019; and

WHEREAS, a letter committing at least 25% matching funds, is required as part of the grant application; the matching funds must be from a non-federal source; and

WHEREAS, the match will consist of \$1 million over the three-year grant period; \$750,000 would be provided by eligible property owners who participate in the grant program in the form of construction costs; up to \$250,000 would be provided by staff time charged to the Permit Service Center Fund 833, funded from plan review and permit fees during Fiscal Years 2020, 2021, 2022 and 2023, that will be used to support project management and other personnel expenses associated with projects receiving grant funds; and

WHEREAS, the Permit Service Center Fund has an adequate fund balance to provide matching funds; and

WHEREAS, the \$3 million grant will be used to provide up to \$2,250,000 in grants to owners of hazardous buildings to reimburse them for a portion of retrofit costs and \$750,000 to support the Planning Department's costs to operate the program.

WHEREAS, on December 13, 2016, the Berkeley City Council authorized the City Manager to accept a previous \$3 million HMGP to provide Retrofit Grants for seismically vulnerable buildings, and this additional grant would allow the City to increase the grant funding available to support seismic retrofits by Berkeley property owners.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to submit a letter of commitment to provide \$1 million in local matching funds for the Building and Safety Division's application for a \$3 million Hazard Mitigation grant from FEMA, and to accept the grant and execute any resultant revenue agreements and amendments including any additional funding allocations from the Hazard Mitigation Program.

BE IT FURTHER RESOLVED that the City Manager or Deputy Managers are authorized to provide to the California Governor's Office of Emergency Services (Cal OES) for all matters pertaining to such state disaster assistance the assurances and agreements required.

STATE OF CALIFORNIA
CALIFORNIA GOVERNOR'S OFFICE OF EMERGENCY SERVICES
CAL OES 130

Cal OES ID No: _____

**DESIGNATION OF APPLICANT'S AGENT RESOLUTION
Hazard Mitigation Grant Program and Pre-Disaster Mitigation Program**

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF BERKELEY

THAT CITY MANAGER, OR
DEPUTY CITY MANAGER

is hereby authorized to execute for and on behalf of the CITY OF BERKELEY, a public entity established under the laws of the State of California, this application and to file it with the California Governor's Office of Emergency Service. for the purpose of obtaining certain federal financial assistance under Public Law 93-288 as amended by the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988, and/or state financial assistance under the California Disaster Assistance Act.

THAT the CITY OF BERKELEY, a public entity established under the laws of the State of California, hereby authorizes its agent(s) to provide to the California Governor's Office of Emergency Service for all matters pertaining to such state disaster assistance the assurances and agreements required.

Please check the appropriate box below:

This is a universal resolution and is effective for all open and futures Disasters/Grants up to three (3) years following the date of approval below.

This is a Disaster/Grant specific resolution and is effective for only Disaster/Grant name/number(s) 4407

Passed and approved this _____ day of _____, 20____

Ayes:

Noes:

Absent:

CERTIFICATION

I, _____, duly appointed and _____ of
(Name) (Title)

_____, do hereby certify that the above is a true and correct copy of a
(Name of Applicant)

Resolution passed and approved by the _____ of the _____
(Governing Body) (Name of Applicant)

on the _____ day of _____, 20____.

(Signature)

(Title)

STATE OF CALIFORNIA
CALIFORNIA GOVERNORS OFFICE OF EMERGENCY SERVICE
CAL OES 130 - INSTRUCTIONS

Cal OES Form 130
Instructions

A new Designation of Applicant’s Agent Resolution is required if the previously submitted document is older than three (3) years from the last date of Board/Council approval.

When completing the Cal OES Form 130, Applicants should fill in the blanks on page 1. The blanks are to be filled in as follows:

Resolution Section:

Governing Body: This is the individual or group responsible for appointing and approving the Authorized Agents. Examples include: Board of Directors, City Council, Board of Supervisors, etc.

Name of Applicant: This is the official name of the non-profit, agency, city, county or special district that has applied for the grant. Examples include: City of Sacramento; Sacramento County; or Los Angeles Unified School District.

Authorized Agent: These are the individuals that are authorized by the Governing Body to engage with the Federal Emergency Management Agency and the California Governor’s Office of Emergency Service regarding grants applied for by the Applicant. There are two ways of completing this section:

1. **Titles Only:** If the Governing Body so chooses, the titles of the Authorized Agents should be entered here, not their names. This allows the document to remain valid if an Authorized Agent leaves the position and is replaced by another individual. If “Titles Only” is the chosen method, this document must be accompanied by a cover letter naming the Authorized Agents by name and title. This cover letter can be completed by any authorized person within the agency (e.g.; City Clerk, the Authorized Agent, Secretary to the Director) and does not require the Governing Body’s signature.
2. **Names and Titles:** If the Governing Body so chooses, the names and titles of the Authorized Agents should be listed. A new Cal OES Form 130 will be required if any of the Authorized Agents are replaced, leave the position listed on the document or their title changes.

Governing Body Representative: These are the names and titles of the approving board members. Examples include: Chairman of the Board, Superintendent, etc. The names and titles cannot be one of the designated Authorized Agents.

Certification Section:

Name and Title: This is the individual that was in attendance and recorded the Resolution creation and approval. Examples include: City Clerk, Secretary to the Board of Directors, County Clerk, etc. This person cannot be one of the designated Authorized Agents to eliminate “Self Certification.”



Office of the City Manager

CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Phil Harrington, Director, Public Works
 Subject: Contract: DC Electric Group, Inc., for On-Call Electronic Traffic Calming Devices Maintenance Project

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with DC Electric Group, Inc., for the on-call general maintenance of electronic traffic calming devices for the period October 16, 2019 to June 30, 2024, with an option of up to three one-year extensions, for an amount not-to-exceed \$250,000.

FISCAL IMPACTS OF RECOMMENDATION

Initial funding is available in the FY 2020 budget from the State Transportation Tax Fund (account code 127-54-622-668-0000-000-431-612990) for On-Call Electronic Traffic Calming Device Maintenance services, and an annual recurring allocation of \$50,000 is subject to appropriation in future years. Additional funding sources may be requested for appropriation for installation of electronic traffic calming devices in new areas as the need arises.

The total not-to-exceed contract amount is \$250,000 during the term of the contract.

The Contract Management System number is W4XJY.

CURRENT SITUATION AND ITS EFFECTS

On June 26, 2019 Public Works-Transportation issued Specification No. 19-11337-C for an On-Call Electronic Traffic Calming Devices Maintenance Contract. A Request for Proposals (RFP) and Specifications was posted online for three weeks, and e-mail invitations were sent to several general contractors and vendors/distributors serving the Bay Area. Four proposals were received (Ray's Electric, Bear Electrical Solutions, Inc., St. Francis Electric, and DC Electric Group, Inc.) on July 25, 2019 meeting all requirements and specifications. The selection criteria established in the RFP were:

- Client references
- Qualifications and experience
- Costs

After evaluation of these proposals, the highest score was given to DC Electric Group, Inc. and staff recommends that the City Council award the contract for On-Call Electronic Traffic Calming Device Maintenance to DC Electric Group, Inc. This contract will provide on-call services to maintain these electronic traffic calming systems throughout the City.

BACKGROUND

The City of Berkeley has been in the forefront of traffic calming among other cities in the nation, and has taken the initiative to install and experiment with new technologies (including electronic traffic calming devices) to further improve the quality of life and enhance safety for residents and visitors. As a result, the City is responsible for ensuring maintenance of electronic traffic calming devices, including pedestrian crossing flashing beacons, rapid flashing beacons, and speed feedback signs, and must ensure their operation for pedestrian, bicyclist, and driver safety. This is especially important for marked crosswalks at un-signalized intersections and mid-block locations, particularly on high volume streets where drivers may have more difficulty recognizing pedestrians and bicyclists crossing roadways during peak hours, at night, or under rainy/foggy conditions. These devices also help to calm vehicular speeds at various locations.

The City does not have internal resources or technical expertise to conduct maintenance work on electronic traffic calming devices. This work has been performed by outside contractors for the past five years.

On-Call Electronic Traffic Calming Devices Maintenance is a Strategic Plan Priority Project, advancing our goal to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.

ENVIRONMENTAL SUSTAINABILITY

Selection of this contractor is consistent with the City's efforts to improve efficiency of movement of people and vehicles throughout the City's roadway network. For example, traffic calming devices that are regularly maintained for optimal function are expected to have a positive effect on traffic flow including bicycles and pedestrians, and contribute to the reduction of greenhouse gases and pollutants that impact air quality.

RATIONALE FOR RECOMMENDATION

The City does not have adequate staff, experience or equipment to repair, replace, and maintain electronic traffic control devices installed throughout the city.

ALTERNATIVE ACTIONS CONSIDERED

No alternative action is feasible.

Contract: DC Electric Group, Inc., for On-Call
Electronic Traffic Calming Devices Maintenance

CONSENT CALENDAR
September 10, 2019

CONTACT PERSON

Farid Javandel, Transportation Manager, Public Works, 981-7061
Jesse Peoples, Assistant Traffic Engineer, Public Works, 981-6416

Attachments:

1: Resolution

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

CONTRACT: DC ELECTRIC GROUP, INC., FOR ON-CALL ELECTRONIC TRAFFIC CALMING DEVICES MAINTENANCE

WHEREAS, the City must periodically maintain electronic traffic calming devices to ensure that they are in a good operating condition for pedestrian, bicyclist, and motorist safety, especially on marked crosswalks at un-signalized intersections and mid-block locations, and to calm vehicular speeding at sensitive locations; and

WHEREAS, the City does not have internal recourses or technical expertise to provide the required repair, replacement, and maintenance in a timely or cost-effective manner; and

WHEREAS, an invitation for a Request for Proposal (RFP) was advertised on June 26, 2019, and four contractors responded to the RFP on July 25, 2019, meeting all requirements of the proposal for On-Call Electronic Traffic Calming Devices Maintenance; and

WHEREAS, staff evaluated both proposals, and based on the selection criteria established in the RFP, the highest scoring and selected contractor is DC Electric Group, Inc.; and

WHEREAS, initial funding is available in the FY 2020 budget from the State Transportation Tax Fund (account code 127-54-622-668-0000-000-431-612990) for On-Call Electronic Traffic Calming Device Maintenance services, and an annual recurring allocation of \$50,000 is subject to appropriation in future years; and additional funding sources may be requested for appropriation for installation of electronic traffic calming devices in new areas as the need arises; and

WHEREAS, the contract has been entered into the City's database as CMS number W4XJY.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the proposal from DC Electric Group, Inc., received on July 25, 2019 is accepted; and the City Manager is authorized to execute a contract and any amendments with DC Electric Group, Inc., in an amount not to exceed \$250,000 to repair, replace and maintain electronic traffic calming devices for the period October 16, 2019 to June 30, 2024 with an option for up to three one-year extensions. A record signature copy of said agreement and any amendments to be on file in the Office of the City Clerk.



Office of the City Manager

CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council
From: Dee Williams-Ridley, City Manager
Submitted by: Phillip L. Harrington, Director, Department of Public Works
Subject: Contract No. 10298 Amendment: C. Overaa & Co. for the Center Street Parking Garage

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to amend Contract No. 10298 with C. Overaa & Co. for the Center Street Parking Garage Project, increasing the contract amount by \$473,835 for a total amount not to exceed \$38,944,818.

FISCAL IMPACTS OF RECOMMENDATION

Funding for this contract amendment will be appropriated as part of the First Amendment to the FY 2020 Annual Appropriations Ordinance in the Center Street Parking Garage project budget from the Off Street Parking Fund (627).

No other funding is required, and no other projects will be delayed due to this expenditure.

Original contract not-to-exceed (NTE) amount	\$33,524,400
Prior amendment (shoring change order)	\$3,446,583
Prior amendment.....	\$1,500,000
This amendment	\$473,835
Amended contract NTE amount	\$38,944,818

This contract amendment has been assigned CMS No. PG8LN.

CURRENT SITUATION AND ITS EFFECTS

During the final stages of construction, inspections by the State of California elevator inspector, the City’s fire department, and the City’s building division identified a number of omissions and deficiencies to the original contract documents that were required to be corrected before occupancy was allowed. This resulted in additional work having to be performed by the contractor, C.Overaa & Co. (Overaa). This additional work was primarily for electrical work related to garage lighting, emergency lighting, lighting controls, art lighting, elevator controls, and the solar photo voltaic system. Extra work was also required to correct ADA accessibility, and signage issues. In order to not further delay the opening of the garage, a significant portion of the extra work was

performed on overtime, which also increased the cost. The City negotiated this final change order with Overaa for which an increase in the not to exceed authorization is needed from the City Council.

On October 26, 2018, the City received an occupancy permit, which was followed by a ribbon cutting and grand opening of the garage on November 2, 2018. Since that time, the Center Street Garage has received multiple awards, including the:

- 2019 Light & Architecture Design Award
- 2019 Berkeley Design Advocates Design Award
- 2019 Parking Today Best New Parking Structure
- 2019 IES Illumination Award of Merit
- 2019 New Building \$20-50M Construction Management Association of America
- 2019 Metal Architecture Design Award – Sustainable
- 2019 The Plan Award
- 2019 Chicago Athenaeum: American Architecture Award

BACKGROUND

In December 2013, Council approved a contract with Conversion Management Associates, Inc. (CMA) for Project Planning and Project Management Services for the reconstruction of the City's Center Street Garage, in an amount of \$1 million (Resolution No. 66,392-N.S.). In April 2015, Council authorized CMA for design development and to prepare the construction documents (plans and specifications), in an amount of \$2.6 million (Resolution No. 66,996-N.S.). CMA completed the construction documents and the project was advertised for bids on March 7, 2016.

Of the bids received from interested construction firms, Overaa was found to be the lowest responsive and responsible bidder. The City Council authorized the City Manager to execute a contract with Overaa, for the construction of the Center Street Garage project at its June 14, 2016 meeting for a total amount not to exceed \$33,524,400. The City Council, at its February 28, 2017 meeting, authorized the City Manager to amend the contract with Overaa, increasing the contract amount by \$3,446,583 to address needed shoring design and installation to ensure the safety of the adjacent buildings.

During construction, deficiencies discovered in the contract plans and specifications required extra work to be performed. The additional work was primarily related to changes to signage and parking guidance, utility coordination, electrical work, and structural steel supporting the photo voltaic system. The City Council, at its July 24, 2018 meeting, authorized the City Manager to amend the contract with Overaa, increasing the contract amount by \$1,500,000 to complete the additional work.

The replacement of the City's Center Street Garage, located in the heart of the Downtown Arts District was one of the City's highest priority projects.

The project included the demolition of the five story structure and the construction of an eight-story structure with 720 parking spaces that meets current seismic standards. The new garage includes retail spaces, a café, and an art gallery; public restroom facilities; secure self-park and valet bicycle parking for up to 350 bicycles; 20 electric vehicle charging stations; and two tire inflation stations. Vehicles may access the garage on both Center and Addison Streets, at flexible entrances that allow for multiple entry and exit lanes as determined by demand. The garage also includes a state-of-the-art guidance system, with overhead units lit with green or red lights next to cameras monitoring the traffic flow at garage intersections. The displays allow drivers to see where to find the empty spaces.

The Center Street Garage is a Strategic Plan Priority Project, advancing our goal to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.

ENVIRONMENTAL SUSTAINABILITY

The new Center Street Garage is in the Downtown Mixed Use District, which requires new buildings to be LEED Gold or higher or "attain building performance equivalent to this rating as determined." Since LEED does not certify parking garages, the City is pursuing a ParkSmart Gold rating, the equivalent for parking garages.

The new garage contains a multitude of sustainable features, including rooftop solar panels, LED lighting, designated car sharing spaces, electric vehicle charging stations, secure bicycle packing, rainwater collection cistern, and stormwater treatment vegetation. Providing an operationally efficient and cost-competitive parking option for visitors and business people will reduce greenhouse gas emissions from vehicles circling for other parking spaces.

RATIONALE FOR RECOMMENDATION

Overaa is currently under contract with the City for the construction of the Project. It was practical and cost-effective to amend the contract with C. Overaa & Company for this additional work, and there are funds available to cover the additional expense. The City did not have the resources to perform the work.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Phillip L. Harrington, Director, Department of Public Works, 981-6303
Nisha Patel, Manager of Engineering, Department of Public Works, 981-6406
Joe Enke, Supervising Civil Engineer, Department of Public Works, 981-6411

Attachments:

1: Resolution

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

CONTRACT NO. 10298 AMENDMENT: C. OVERAA & CO. FOR CENTER STREET
PARKING GARAGE

WHEREAS, on June 14, 2016 by Resolution No. 65,138-N.S., the City Council authorized Contract No. 10298 with C. Overaa & Co. (Overaa) in an amount not to exceed \$33,524,400 for the Center Street Parking Garage; and

WHEREAS, the Center Street Parking Garage project was competitively bid (Specification No. 16-10996-C), and Overaa was the lowest responsive and responsible bidder; and

WHEREAS, on February 28, 2017 by Resolution No. 67,847-N.S., the City Council authorized the City Manager to amend Contract No. 10298 with Overaa, increasing the contract amount by \$3,446,583; and

WHEREAS, on July 24, 2018 by Resolution No. 68,554-N.S., the City Council authorized the City Manager to amend Contract No. 10298 with Overaa, increasing the contract amount by \$1,500,000; and

WHEREAS, an increase of \$473,835 is needed for the construction change order for electrical changes to complete the contract; and

WHEREAS, \$473,835 in funds is available from the Fiscal Year 2020 Center Street Parking Garage project (14CB10) from Off Street Parking Fund 627, and the contract amendment has been entered in the City database with CMS number DFLB8.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute an amendment to Contract No. 10298 with C. Overaa & Co. for the Center Street Parking Garage, increasing the amount by \$473,835 for a total amount not to exceed \$38,944,818. A record copy of said contract amendment will be on file with the Office of the City Clerk.



Office of the City Manager

CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council
From: Dee Williams-Ridley, City Manager
Submitted by: Phillip L. Harrington, Director, Public Works
Subject: Contract No. 9082C Amendment: Northgate Environmental Management, Inc. for On-Call Environmental Consulting Services

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to amend Contract No. 9082C with Northgate Environmental Management, Inc. for on-call environmental consulting services, increasing the current contract by \$50,000 for a total contract amount not to exceed \$234,500.

FISCAL IMPACTS OF RECOMMENDATION

Funding for the amendment is available in the following Fund accounts listed below:

Clean Storm Water 616.....	\$30,000
Equipment Maintenance Fund 672	\$20,000
Contract Amendment Amount	\$50,000

This contract amendment has been entered into the Contract Management System as CMS No. NT8B7.

CURRENT SITUATION AND ITS EFFECTS

The existing contract is approaching the not to exceed amount as there have been several unanticipated groundwater and soil consulting tasks requiring Northgate’s immediate response. They are currently providing staff augmentation to support compliance with Municipal Regional Stormwater Permit while we actively work to backfill the City staff position. Routinely, Northgate assists the City for compliance with the Hazardous Materials Business Program at permitted City facilities. A Request for Qualifications Specification 19-11329-C was released on July 24, 2019 to establish new environmental consulting contracts.

This contract amendment supports the City’s Strategic Plan Goal of being a global leader in addressing climate change, advancing environmental justice, and protecting the environment.

BACKGROUND

The City issued a Request for Qualifications in April 2012 for On-Call Environmental Consulting Services for providing sampling services, storm water sampling and analysis, and other environmental consulting services (Specification No. 12-10673). AMEC (now WOOD) and Northgate Environmental were both selected through that competitive bid process, and they both have active contracts with the City.

Northgate’s original contract was approved by the City manager for a not-to-exceed amount of \$25,000 for the period July 1, 2012 to July 1, 2015. On October 28, 2013, the City Manager authorized an amendment Contract No. 9082A for an increase of \$24,500 for a new not-to-exceed amount of \$49,500.

On December 16, 2014 by Resolution No. 66,890- N.S. Council authorized the City Manager to enter into Contract No. 9082B for a new total not to exceed \$109,500 and to extend the contract term through September 30, 2017.

On September 12, 2017 by Resolution Council 68,153-N.S. authorized the City Manager to enter into Contract No. 9082C for a new total not to exceed \$184,500 and to extend the contract term through December 30, 2020.

Original contract amount.....	\$25,000
Previous contract amendments.....	\$159,500
<u>This contract amendment.....</u>	<u>\$50,000</u>
Revised NTE amount.....	\$234,500

ENVIRONMENTAL SUSTAINABILITY

Northgate’s environmental consulting services help ensure the City maintains compliance with environmental regulations regarding municipal stormwater and hazardous materials.

RATIONALE FOR RECOMMENDATION

The recommended amendment will enable the City to continue to comply with complex environmental regulations. Northgate has consistently provided excellent, cost effective, and timely professional services to the City.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Joy Brown, Senior Management Analyst, Public Works, (510) 981-6629
Phil Harrington, Director, Public Works, (510) 981-6303

Attachments:
1: Resolution

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

CONTRACT NO. 9082C AMENDMENT: NORTHGATE ENVIRONMENTAL SERVICES, INC. FOR ON-CALL ENVIRONMENTAL CONSULTING SERVICES

WHEREAS, Northgate Environmental Services, Inc. has provided reliable environmental consulting services during the contract term; and

WHEREAS, in 2012 the City requested proposals for on-call environmental services and Northgate Environmental Services, Inc. was selected through the City's competitive bid process; and

WHEREAS, in July 2012, the City Manager executed a contract with the corporation to provide on-call environmental consulting services in an amount not to exceed \$25,000 for a three year term; and

WHEREAS, the City Manager executed an amendment to the contract to provide these services in an amount not to exceed \$49,500; and

WHEREAS, on December 16, 2014 by Resolution No. 66,890- N.S. Council authorized the City Manager to enter into Contract No. 9082B for a new total not to exceed \$109,500 and extend the contract term through September 30, 2017; and

WHEREAS, on September 12, 2017 by Resolution 68,153-N.S Council authorized the City Manager to enter into Contract No. 9082C for a new total not to exceed \$184,500 and to extend the contract term through December 30, 2020; and

WHEREAS, Northgate Environmental Services, Inc. supports the City environmental compliance efforts and funds have been identified and a new solicitation of environmental consultants has been issued Specification 19-11329-C.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute an amendment to Contract No. 9082C with Northgate Environmental Services, Inc. for on-call environmental consulting services, increasing the current contract by \$50,000 for a total contract amount not to exceed \$234,500. A record signature copy of the contract and any amendments to be on file in the City Clerk Department.



Office of the City Manager

CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Phillip Harrington, Director, Public Works

Subject: Correction to Resolution No. 68,901-N.S. to Authorize Enhanced Fine Tow Zones on UC Berkeley Football Game Days

RECOMMENDATION

Adopt a Resolution re-establishing new parking restrictions on UC Berkeley football game days, correcting the inadvertent omission of Enhanced Fine tow zones in Resolution No. 68,901-N.S., and rescinding Resolution No. 68,901-N.S.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

Resolution 68,901-N.S. was approved by Council on May 14, 2019, authorizing the establishment of “Enhanced Fine Areas” in portions of Residential Preferential Parking (RPP) Areas B, D, F, G, and I in neighborhoods most impacted by UC football home game day parking demand. In preparing to implement the new enforcement program, staff discovered that language specifically identifying the streets for new tow-away zones for vehicles without a valid RPP permit was unintentionally omitted from the Resolution. In order to proceed with enforcement in these areas as staff originally presented and Council subsequently approved, the Resolution needs to be updated to define these streets.

The new Resolution also adds Dwight Way from Warring Street to the Oakland/Berkeley border to the “Enhanced Fine Area,” correcting a minor typo from the original report.

BACKGROUND

At the May 14, 2019 Council Meeting, staff presented a package of “mid-term” reforms to the RPP Program.¹ Among these recommendations was a staff response to two Council referrals regarding parking enforcement in neighborhoods closest to campus on UC Berkeley home football game days. The resulting proposal, summarized in the staff

¹ May 14, 2019 *City Council Agenda: Residential Preferential Parking (RPP) Program Reform and Expansion Phase II: Recommendations for Increased Staffing, Enhanced Football Game Day Enforcement, and Expansion* <http://bit.ly/2ZW6Ee5>

report and depicted graphically in a map included as Attachment 7 to the report, included:

- New tow-away zones for vehicles without a valid RPP permit on streets within one quarter-mile of the stadium (including portions of RPP Zones D and I), where demand was heaviest on a game day analyzed by staff in fall 2017; and
- New “Enhanced Fine Areas” on streets within one half-mile of the stadium (including portions of RPP Zones F and G north of campus and portions of Zones B, D, and I south of campus), where vehicles without a valid RPP permit will be subject to a one-time fine of \$225.

At the meeting, Council approved Resolutions No. 68,901-N.S., which established the geographic boundaries for Enhanced Fine Areas, and No. 68,901-N.S., which established a new Parking Fine Schedule including a fine of \$225 for parking in Enhanced Fine Areas without a valid RPP permit.

ENVIRONMENTAL SUSTAINABILITY

This item has no discernible environmental effects.

RATIONALE FOR RECOMMENDATION

Language explicitly authorizing new Enhanced Fine tow-away zones on specific residential streets closest to Cal Memorial Stadium on UC home football game days was unintentionally omitted from Resolution No. 68,901-N.S. The Resolution included herein corrects this mistake and allows enforcement to proceed as planned this football season.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Farid Javandel, Transportation Manager, Public Works (510) 981-7061
Danette Perry, Parking Services Manager, Public Works (510) 981-7057
Gordon Hansen, Senior Planner, Public Works (510) 981-7064

Attachments:

- 1: Resolution
- 2: Resolution 68,901-N.S., with Recommended Changes Noted

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

ESTABLISHING THE ZONES FOR “ENHANCED FINE AREAS” AND FOOTBALL GAME DAY VIOLATIONS, AND AUTHORIZING THE CITY MANAGER TO MAKE AN ANNUAL DETERMINATION AND NOTICE OF DATES ON WHICH FOOTBALL DAY VIOLATIONS WILL BE ISSUED; AND RESCINDING RESOLUTION NO. 68,901-N.S.

WHEREAS, City Council Resolution No. 68,901-N.S. restated the geographic area for football game day citations, inadvertently omitting geographic boundaries for Enhanced Fine tow-away zones requested in the Council action; and

WHEREAS, University of California football games attract a large number of visitors who drive to the game and park in residential neighborhoods to the north and south of campus, which typically makes it difficult for residents to find parking in close proximity to their homes on football game days; and

WHEREAS, current enforcement of the two-hour time limit for vehicles without a valid permit in portions of Residential Preferential Parking (RPP) Zones closest to the stadium is time intensive, reducing the ability of Parking Enforcement to maximize limited staff capacity on game days; and

WHEREAS, the permanent double parking fine program established by Resolution No. 63,800-N.S. has not deterred extended game day parking in portions of RPP Zones B and D, particularly in comparison to private off-street facilities in the vicinity of the stadium offering game day parking for up to \$100; and

WHEREAS, staff have confirmed with Parking Enforcement leadership that new “Enhanced Fine Areas,” in which vehicles without a valid RPP permit would not be permitted to park on football game days, would maximize limited enforcement capacity on football game days; and

WHEREAS, concurrent with this Resolution, the Council is considering adoption of another Resolution establishing a new schedule of parking violations and fines for parking violations, including in new “Enhanced Fine Areas;” and

WHEREAS, the existing “double parking fine” program would continue to be in effect on football game days in addition to the new “Enhanced Fine Areas;” and

WHEREAS, the schedule of parking violations and fines for parking violations may be revised in the future without affecting established zones for football day citations and Enhanced Fine Areas and the City Manager’s authorization to determine and provide public noticing of dates for these violations.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the established zone for the northerly Enhanced Fine Area is north to (not including) Cedar Street, west to (not including) Shattuck Avenue, south to Hearst Avenue, and east to the existing boundary of RPP Zones F and G.

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that the established zone for the southerly Enhanced Fine Area is north to Dwight Way between Telegraph Avenue and Regent Street, north to Haste Street between Regent Street and Bowditch Street, north to Dwight Way between Bowditch Street and College Avenue; east to (but not including) College Avenue between Dwight Way and Parker Street; north to (but not including) Parker Street between College Avenue and Warring Street; east to Warring Street between Parker Street and Derby Street; north to Derby Street between Warring Street and Belrose Avenue; east to (but not including) Belrose Avenue/Claremont Boulevard between Derby Street and Russell Street; south to (but not including) Russell Street between Belrose Avenue/Claremont Boulevard and Telegraph Avenue; and west to (but not including) Telegraph Avenue between Russell Street and Dwight Way.

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that the established zone for the easterly Enhanced Fine Area is north to the southern boundary of RPP Zone K between Channing Way and the Berkeley-Oakland city limits; east to the Berkeley-Oakland city limits; south to Dwight Way between the Berkeley-Oakland city limits and Prospect Street; and west to (but not including) Prospect Street between Dwight Way and Channing Way.

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that the established zone for Enhanced Fine tow-away zones includes the following streets: Channing Way west to (but not including) College Avenue and east to Prospect Street; Haste Street west to (but not including) College Avenue and east to Piedmont Avenue; Dwight Way west to College Avenue and east to Prospect Street; Parker Street west to College Avenue and east to Warring Street; College Avenue north to Dwight Way and south to Parker Street; Etna Street north to Dwight Way and south to Parker Street; Piedmont Avenue north to Channing Way and south to Parker Street; Warring Street north to Dwight Way and south to Parker Street; only the east side of Warring Street north to Channing Way and south to Dwight Way; and Prospect Street north to Channing Way and south to Dwight Way.

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that the established zone for football day citations is north to (not including) Cedar Street, south and east to the Berkeley-Oakland city limits, and west to Oxford and Fulton Streets (including both sides of these streets).

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that the City Manager is directed to annually determine the dates during which there are higher parking fines for football day citations, and provide reasonable notice to the public of these dates.

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that Resolution No. 68,901-N.S. is hereby rescinded.

RESOLUTION NO. 68,901-N.S.

ESTABLISHING THE ZONES FOR “ENHANCED FINE AREAS” AND FOOTBALL GAME DAY VIOLATIONS, AND AUTHORIZING THE CITY MANAGER TO MAKE AN ANNUAL DETERMINATION AND NOTICE OF DATES ON WHICH FOOTBALL DAY VIOLATIONS WILL BE ISSUED

WHEREAS, City Council Resolution No. ~~65,81368,901~~-N.S. restated the geographic area for football game day citations, inadvertently omitting geographic boundaries for recommended Enhanced Fine tow-away zones requested in the Council action; and

WHEREAS, University of California football games attract a large number of visitors who drive to the game and park in residential neighborhoods to the north and south of campus, which typically makes it difficult for residents to find parking in close proximity to their homes on football game days; and

WHEREAS, current enforcement of the two-hour time limit for vehicles without a valid permit in portions of Residential Preferential Parking (RPP) Zones closest to the stadium is time intensive, reducing the ability of Parking Enforcement to maximize limited staff capacity on game days; and

WHEREAS, the permanent double parking fine program established by Resolution No. 63,800-N.S. has not deterred extended game day parking in portions of RPP Zones B and D, particularly in comparison to private off-street facilities in the vicinity of the stadium offering game day parking for up to \$100; and

WHEREAS, staff have confirmed with Parking Enforcement leadership that new “Enhanced Fine Areas,” in which vehicles without a valid RPP permit would not be permitted to park on football game days, would maximize limited enforcement capacity on football game days; and

WHEREAS, concurrent with this Resolution, the Council is considering adoption of another Resolution establishing a new schedule of parking violations and fines for parking violations, including in new “Enhanced Fine Areas;” and

WHEREAS, the existing “double parking fine” program would continue to be in effect on football game days in addition to the new “Enhanced Fine Areas;” and

WHEREAS, the schedule of parking violations and fines for parking violations may be revised in the future without affecting established zones for football day citations and Enhanced Fine Areas and the City Manager’s authorization to determine and provide public noticing of dates for these violations.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the established zone for the northerly Enhanced Fine Area is north to (not including) Cedar Street, west to (not including) Shattuck Avenue, south to Hearst Avenue, and east to the existing boundary of RPP Zones F and G.

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that the established zone for the southerly Enhanced Fine Area is north to Dwight Way between Telegraph Avenue and Regent Street, north to Haste Street between Regent Street and Bowditch Street, north to Dwight Way between Bowditch Street and College Avenue; east to (but not including) College Avenue between Dwight Way and Parker Street; north to (but not including) Parker Street between College Avenue and Warring Street; east to Warring Street between Parker Street and Derby Street; north to Derby Street between Warring Street and Belrose Avenue; east to (but not including) Belrose Avenue/Claremont Boulevard between Derby Street and Russell Street; south to (but not including) Russell Street between Belrose Avenue/Claremont Boulevard and Telegraph Avenue; and west to (but not including) Telegraph Avenue between Russell Street and Dwight Way.

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that the established zone for the easterly Enhanced Fine Area is north to the southern boundary of RPP Zone K between Channing Way and the Berkeley-Oakland city limits; east to the Berkeley-Oakland city limits; south to ~~(but not including) Dwight Way between the Berkeley-Oakland city limits and Prospect Street;~~ and west to (but not including) Prospect Street between Dwight Way and Channing Way.

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that the established zone for Enhanced Fine tow-away zones includes the following streets: Channing Way west to (but not including) College Avenue and east to Prospect Street; Haste Street west to (but not including) College Avenue and east to Piedmont Avenue; Dwight Way west to College Avenue and east to Prospect Street; Parker Street west to College Avenue and east to Warring Street; College Avenue north to Dwight Way and south to Parker Street; Etna Street north to Dwight Way and south to Parker Street; Piedmont Avenue north to Channing Way and south to Parker Street; Warring Street north to Dwight Way and south to Parker Street; the east side of Warring Street north to Channing Way and south to Dwight Way; and Prospect Street north to Channing Way and south to Dwight Way.

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that the established zone for football day citations is north to (not including) Cedar Street, south and east to the Berkeley-Oakland city limits, and west to Oxford and Fulton Streets (including both sides of these streets).

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that the City Manager is directed to annually determine the dates during which there are higher parking fines for football day citations, and provide reasonable notice to the public of these dates.

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that Resolution No. ~~65,81368,901~~-N.S. is hereby rescinded.



Office of the City Manager

CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Phillip L. Harrington, Director, Department of Public Works
 Subject: Agreement with East Bay Regional Park District for Drainage, Slope, and Maintenance Access Easements in Tilden Regional Park

RECOMMENDATION

Adopt first reading of an Ordinance authorizing the City Manager to execute an agreement with the East Bay Regional Park District for Drainage, Slope and Maintenance Access Easements at Tilden Regional Park.

FISCAL IMPACTS OF RECOMMENDATION

East Bay Regional Park District (EBRPD) is providing three easements at no cost to the City. EBRPD Resolution No. 2018-09-215 (Attachment 2) approved granting the easements to the City. The City will incur costs for the future preventative maintenance of the drainage infrastructure and the slope within the easements. Maintenance will be limited to seasonal cleaning of inlets and isolated erosion repairs. This will be funded through the Clean Stormwater Fund 616as part of the routine operations budget.

CURRENT SITUATION AND ITS EFFECTS

The City of Berkeley constructed a slope repair and installed drainage infrastructure on EBRPD property as part of the Wildcat Canyon Road Slide Repair Project to mitigate erosion of City right-of-way. The City has maintained the improvements and desires to acquire easements from the EBRPD to continue the maintenance.

The easement agreement, provided as Exhibit A of the attached Ordinance, will convey rights to the City of Berkeley to maintain the drainage infrastructure within the unimproved portion of Tilden Regional Park, property of EBRPD, along Wildcat Canyon Road below the 1100 block of Hillview Road. The drainage facilities are designed to discharge stormwater originating from City right-of-way of Wildcat Canyon Road onto Tilden Regional Park. The EBRPD Board has already approved granting the three easements to maintain the improvements to the City.

The Wildcat Canyon Road Slide Repair Project and the associated easements support the City's Strategic Goals by enabling the City to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities, and be a global leader in addressing climate change, advancing environmental justice, and protecting the environment.

BACKGROUND

Wildcat Canyon Road, serves as an important ingress and egress route to the eastern part of the city, connecting to San Pablo Dam Road through Tilden Regional Park. In 2014 the City discovered the roadway was in danger of collapse due to erosion. The Wildcat Canyon Road Slide Repair Project (Specification No. 16-11001) was designed, and then constructed in March 2016. The City and EBRPD mutually agreed to allow the project to move forward without formal easements in place with the understanding that all necessary easements would be executed at a later date for the City to maintain the constructed improvements. The easements and their purpose are described as follows:

Easement #1 (Exhibits "A" and "B" as part of the Grant of Drainage, Slope and Maintenance Access Easements): A 151 feet of 30 in. diameter pipe was installed with rip rap at the downstream end to address energy dissipation. This easement allows the City to clean and maintain the pipe.

Easement #2 (Exhibits "C" and "D" as part of the Grant of Drainage, Slope and Maintenance Access Easements) : A 119 feet of 10 in. diameter pipe was installed with rip rap at the downstream end to address energy dissipation. This easement allows the City to clean and maintain the pipe.

Easement #3 (Exhibits "E" and "F" as part of the Grant of Drainage, Slope and Maintenance Access Easements): A retaining wall that supports the road was repaired by resetting timber lagging, as necessary, and rock slope protections was installed. This easement allows the City to maintain the wall and slope.

ENVIRONMENTAL SUSTAINABILITY

The proposed agreement will allow the City to maintain the slope along Wildcat Canyon Road and the associated storm drainage in the area to minimize soil erosion and maintain water quality in the Wildcat Creek Watershed.

RATIONALE FOR RECOMMENDATION

The City, EBRPD, and the general public will benefit from the City maintaining the installed slope repair and storm drainage. Maintaining the slope and storm drain improvements allows for the stormwater to discharge farther away from the road and down the hillside, which prevents erosion of the road embankment supporting Wildcat Canyon Road.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Nisha Patel, Manager of Engineering, Public Works, 981-6435

Joe Enke, Supervising Civil Engineer, Public Works, 981-6411

Srinivas Muktevi, Associate Civil Engineer, Public Works, 981-6402

Attachments:

1: Ordinance

Exhibit A: Grant of Drainage, Slope, and Maintenance Access Easements

2. EBRPD Resolution

ORDINANCE NO. XXXX-N.S.

AN AGREEMENT WITH EAST BAY REGIONAL PARK DISTRICT FOR DRAINAGE, SLOPE, AND MAINTENANCE ACCESS EASEMENTS AT TILDEN REGIONAL PARK

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

Section 1. That the City Manager and City Clerk are authorized and directed to make, execute and deliver for and on behalf of the City of Berkeley, as its corporate act and under its corporate name and seal, an easement agreement with the General Manager, as Grantor for the East Bay Regional Park District, granting the City an easement for maintenance of a drainage system, related infrastructure and the adjacent slope area on the property at "Tilden Regional Park" ("APN" 267-010-008), a copy of which easement agreement is attached hereto as Exhibit A.

Section 2. That the City Clerk is authorized and directed to deliver the executed easement agreement to the East Bay Regional Park District for recording.

Section 3. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Old City Hall, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library, and the title shall be published in a newspaper of general circulation.

Exhibits

A: Grant of Drainage, Slope, and Maintenance Access Easements

RECORDED AT THE REQUEST OF:

East Bay Regional Park District

WHEN RECORDED RETURN TO:

The East Bay Regional Park District
2950 Peralta Oaks Court
Oakland, CA 94605
Attn: Land Acquisition Department

APN 267-010-008, Contra Costa County

GRANT OF DRAINAGE, SLOPE AND MAINTENANCE ACCESS EASEMENTS

This Agreement is made as of this _____ day of _____, 2018, by and between the **East Bay Regional Park District**, a California special district ("Parks") and City of Berkeley, a municipal corporation ("Grantees").

RECITALS

- A. Parks owns certain real property located in Tilden Regional Park in the unincorporated area of Contra Costa County, State of California, designated as Assessor's Parcel Number ("APN" 267-010-008) hereinafter referred to as "Subject Real Property."
- B. Grantees own certain real property which includes drainage infrastructure and Wildcat Canyon Road, located in the City of Berkeley, County of Alameda, State of California, hereafter referred to as "Wildcat Canyon Road".
- C. The Subject Real Property located along Wildcat Canyon Road within Tilden Regional Park , experienced land instability and sloughing. Grantees installed an above-ground drainage system which includes an unobstructed slope easement within the Subject Real Property to collect runoff from the surrounding hillside and adjacent roadway.
- D. Grantees have maintained said drainage system, related infrastructure and the slope easement at their sole cost and desire to acquire from Parks certain easements in a portion of the Subject Real Property to continue said maintenance, which easements are described and depicted in Exhibits "A through "F" attached hereto and incorporated herein ("Easement Areas").
- E. Parks wishes to grant this Grant of Drainage, Slope and Maintenance Access Easements in exchange for City continuing said maintenance. The City's sole obligation is to maintain its installed drainage system and adjacent slope easement area. Maintenance of the Easement Areas for park and open space purposes is the sole responsibility of Parks. This Grant of Drainage, Slope and Maintenance Access Easements is granted pursuant to the provisions of California Public Resources Code Section 5540.6. Grantees shall not convey any interest in the Easement Areas to any third party.

AGREEMENT

1. Parks, for a good and valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, hereby grants to Grantees, their successors and assigns perpetual, non-exclusive easements, in, under, along, across, and over that portion of the Subject Real Property for purposes of accessing and maintaining the drainage system and related improvements and maintaining the adjacent slope located on the Subject Real Property. ("the Easements")
2. Parks reserves for itself, its successors and its assigns, the right to use the Easement Areas or to grant other easements or licenses so long as such uses do not unreasonably interfere with the rights herein granted.
3. Grantees shall maintain the Easement Areas together with any improvements constructed or installed thereon by Grantees or associated with Grantees' use of the Easement Areas. The operation and maintenance of such improvements and of the use of the Easement Areas shall be at Grantees' sole cost and expense. Said use of the Easement shall exclude the use of motorized vehicles.
4. Grantees shall not materially interfere with the use by and operation and activities of Parks on Parks property, and Grantees shall use such routes and follow such procedures on Parks' property as results in the least damage and inconvenience to Parks.
5. The Easements are subject to all liens, encumbrances, covenants, conditions, restrictions, reservations, contracts, leases and licenses, easements and rights of way pertaining to the Subject Real Property whether or not of record.
6. Grantees shall comply with all applicable laws, ordinances and regulations at Grantees' sole cost and expense. Grantees shall not use, deposit or permit the use or deposit of any hazardous material or toxic waste or other harmful substances on the Subject Real Property.
7. Grantees shall be responsible for any damage to Parks property resulting from any exercise of rights under the Easements. Grantees shall promptly restore and repair Parks property to its original condition, including but not limited to roads, utilities, fences, trails that may be altered, damaged or destroyed by Grantees' use of the Easement Areas.
8. The grant of the Easements is made on the express condition that Parks is to be free from all liability by reason of injury or death to persons or damage to property from whatever cause (except those arising out of the negligence of Parks), arising out of Grantees', their contractors, licensees, invitees and assignees' exercise of rights granted pursuant to the Easements or from the drainage system and related improvements constructed on the Subject Real Property. Grantees shall defend and indemnify Parks against any claims, costs, loss, damages or liabilities, including legal costs and attorneys' fees ("Claims") caused by, resulting from or arising out of the Easements granted under this Agreement and the uses thereunder, including without limitation any and all Claims arising out of the drainage system and related improvements, and the adjacent slope easement, or from soil erosion, subsidence or landslides on the Subject Real Property that result from the Grantees' exercise of their rights pursuant to this Easement Agreement.
9. Grantees shall pay any and all taxes, charges or fees levied against Grantees' interest in the Easement Areas. Grantees shall not permit liens of any kind to be placed against the Easement Areas or against any of Grantor's real property.

10. This instrument shall be binding on and shall inure to the benefit of the heirs, executors, administrators, successors and assigns of Parks and on the successors and assigns of Grantees.

11. To have and to hold, all and singular, the rights above described unto Grantees and the Grantees' successors and assigns forever.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this _____ day of _____, 2018.

Grantor:

**EAST BAY REGIONAL PARK DISTRICT,
a California special district**

By: 
Robert E. Doyle, General Manager

Agreed to and Accepted:

Grantee:

**CITY OF BERKELEY,
a municipal corporation**

By: _____
City Manager

Approved as to form:

By: 
Kristina Kelchner,
Assistant District Counsel

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

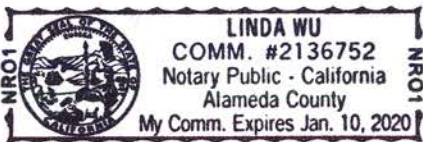
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Alameda)
On September 18, 2018 before me, Linda Wu, Notary Public
Date Here Insert Name and Title of the Officer
personally appeared Robert E. Doyle
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature [Handwritten Signature]
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Document Date:
Number of Pages: Signer(s) Other Than Named Above:

Capacity(ies) Claimed by Signer(s)

Signer's Name:
Corporate Officer - Title(s):
Partner - Limited General
Individual Attorney in Fact
Trustee Guardian or Conservator
Other:
Signer Is Representing:

Signer's Name:
Corporate Officer - Title(s):
Partner - Limited General
Individual Attorney in Fact
Trustee Guardian or Conservator
Other:
Signer Is Representing:

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of _____)

On _____ before me, _____,
Date Here Insert Name and Title of the Officer

personally appeared _____
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____

Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

Corporate Officer — Title(s): _____

Partner — Limited General

Individual Attorney in Fact

Trustee Guardian or Conservator

Other: _____

Signer Is Representing: _____

Signer's Name: _____

Corporate Officer — Title(s): _____

Partner — Limited General

Individual Attorney in Fact

Trustee Guardian or Conservator

Other: _____

Signer Is Representing: _____

EXHIBIT "A"

LEGAL DESCRIPTION

Easement For Storm Drain and Maintenance Easement #1

Lands of East Bay Regional Parks District

Contra Costa County, California

AN EASEMENT OVER REAL PROPERTY situated in the unincorporated territory of the County of Contra Costa, in the State of California, and being an irregular-shaped strip of land hereby designated as a non-exclusive **Storm Drain and Maintenance Easement #1** located over, under, across and entirely within that certain 355± acre parcel of land being a portion of the Rancho El Sobrante, identified as Tilden Regional Park in the Lands of the East Bay Regional Parks District (EBRPD) and having the C.C.C. Assessor's Parcel Number 267-010-008, said Storm Drain & Maintenance Easement #1 being more particularly described as follows:

Commencing at the City of Berkeley street monument #B2096, being a standard brass disk in well found at the centerline of Wildcat Canyon Road (a 60' ROW in the County of Alameda), said centerline monument being westerly of Lot 3, Block 2 as said monument, street and Lot are shown on Sheet Five (5) of the Park Hills Subdivision map, filed for Record February 21, 1939 in Volume 23 of Maps, at Page 688, Records of Contra Costa County, and from which point another similar City of Berkeley street monument #B2097, located in the centerline of said Wildcat Canyon Road and being found northerly of Lot 4, Block 2 of said Park Hills Subdivision bears North 46°42'41" East, 156.60 feet; thence leaving said Monument #B2096 on a line radial to a circular curve, North 43°17'19" West, 30.00 feet to a point on the northerly Right-of-Way line of said Wildcat Canyon Road, said Right-of-Way line being the County line for Contra Costa and Alameda Counties as well as the southerly line of the said Lands of EBRPD, said point also being a point on a circular curve as shown on said Map of Park Hills; thence in a southwesterly direction, 21.38 feet along the Arc of said circular curve to the right, having a Radius of 80.00 feet, a Central Angle of 15°18'33" and a Long Chord which bears, South 54°21'58" West, 21.31 feet to the **Point of Beginning** for the Storm Drain and Maintenance Easement #1 described herein; thence, continuing along said circular curve to the right following along the said Right-of-Way line of Wildcat Canyon Road, 10.01 feet along the Arc of said curve, having the radius of 80.00 feet and a Central Angle of 07°10'06" and Long Chord which bears, South 65°36'17" West, 10.00 feet; thence departing said County Line and Row-of-Way Line following along the perimeter of said Easement #1 the following seven (7) courses and distances:

EXHIBIT "A" - LEGAL DESCRIPTION

Storm Drain and Maintenance Easement #1 – Tilden Park, Lands of East Bay Regional Parks District, Contra Costa County, CA

August 21, 2018

- 1.) North 23° 10' 11" West, 111.44 feet, thence;
- 2.) South 66° 49' 49" West, 6.44 feet, thence;
- 3.) North 23° 10' 11" West, 20.83 feet, thence;
- 4.) North 66° 49' 49" East, 25.00 feet, thence;
- 5.) South 23° 10' 11" East, 20.83 feet, thence;
- 6.) South 66° 49' 49" West, 8.56 feet, thence;
- 7.) South 23° 10' 11" East, 111.22 feet to the **Point of Beginning** on the Right-of-way line of said Wildcat Canyon Road, and containing 1635 Square Feet, more or less.

END OF DESCRIPTION

Together with **Exhibit B** (Plat) identified as **Storm Drain and Maintenance Easement #1**, attached hereto and made a part hereof.



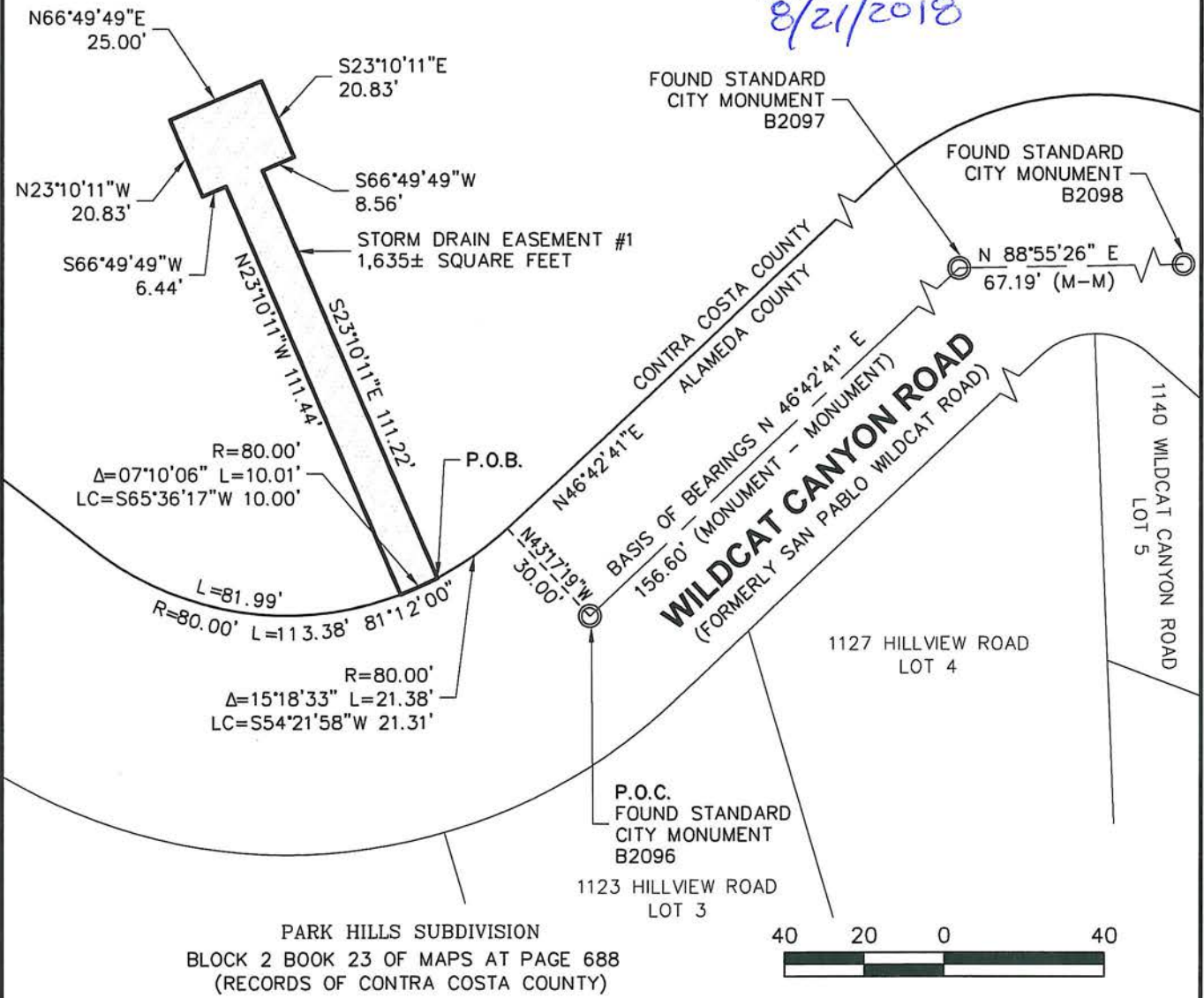
Kevin M. McGuire, CA PLS #6437

Date

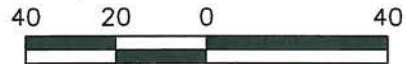
EAST BAY REGIONAL PARK DISTRICT
 TILDEN REGIONAL PARK
 APN: 267-010-008
 355± ACRES



SCALE: 1" = 40'



PARK HILLS SUBDIVISION
 BLOCK 2 BOOK 23 OF MAPS AT PAGE 688
 (RECORDS OF CONTRA COSTA COUNTY)



QUIET RIVER
 Land Services Inc.
 6747 Sierra Court, Suite K
 Dublin, CA 94568
 (925) 734-6788 Phone

EXHIBIT B: STORM DRAIN EASEMENT #1			
EAST BAY REGIONAL PARK DISTRICT WILDCAT CANYON ROAD			
ORINDA	CONTRA COSTA COUNTY		CALIFORNIA
HENG1607	DRN. BY: MAS	CHK. BY: KMM	DATE: 08/21/18

EXHIBIT "C"

LEGAL DESCRIPTION

Easement For Storm Drain and Maintenance Easement #2

Lands of East Bay Regional Parks District

Contra Costa County, California

AN EASEMENT OVER REAL PROPERTY situated in the unincorporated territory of the County of Contra Costa, in the State of California, and being an irregular-shaped strip of land hereby designated as a non-exclusive **Storm Drain and Maintenance Easement #2** located over, under, across and entirely within that certain 355± acre parcel of land being a portion of the Rancho El Sobrante, identified as Tilden Regional Park in the Lands of the East Bay Regional Parks District (EBRPD) and having the C.C.C. Assessor's Parcel Number 267-010-008, said Storm Drain & Maintenance Easement #2 being more particularly described as follows:

Commencing at the City of Berkeley street monument #B2096, being a standard brass disk in well found at the centerline of Wildcat Canyon Road (a 60' ROW in the County of Alameda), said centerline monument being westerly of Lot 3, Block 2 as said monument, street and Lot are shown on Sheet Five (5) of the Park Hills Subdivision map, filed for Record February 21, 1939 in Volume 23 of Maps, at Page 688, Records of Contra Costa County, and from which point another similar City of Berkeley street monument #B2097, located in the centerline of said Wildcat Canyon Road and being found northerly of Lot 4, Block 2 of said Park Hills Subdivision bears North 46°42'41" East, 156.60 feet; thence leaving said Monument #B2096 on a mathematical tie, North 43°17'19" West, 30.00 feet to a point on the northerly Right-of-Way line of said Wildcat Canyon Road, said Right of Way line being the County line for Contra Costa and Alameda Counties, as well as the southerly line of the said Lands of EBRPD; thence in a northeasterly direction along said Right-of-way and County Line, North 46°42'41" East, 95.70 feet to the **Point of Beginning** for the Storm Drain and Maintenance Easement #2 described herein; thence continuing along said Right-of-Way Line, North 46°42'41" East, 10.24 feet; thence departing said Line and following along the perimeter of said Easement #2 in a counterclockwise direction the following seven (7) courses and distances:

- 1.) North 55° 41' 13" West, 63.07 feet, thence;
- 2.) North 34° 18' 47" East, 4.35 feet, thence;
- 3.) North 55° 41' 13" West, 16.70 feet, thence;
- 4.) South 34° 18' 47" West, 16.70 feet, thence;

EXHIBIT "C" - LEGAL DESCRIPTION

Storm Drain and Maintenance Easement #2 – Tilden Park, Lands of East Bay Regional Parks District, Contra Costa County, CA

August 21, 2018

- 5.) South 55° 41' 13" East, 16.70 feet, thence;
- 6.) North 34° 18' 47" East, 2.35 feet, thence;
- 7.) South 55° 41' 13" East, 60.88 feet to the **Point of Beginning** for **Storm Drain and Maintenance Easement #2** on the Right-of-way line of said Wildcat Canyon Road, and containing 899 Square Feet, more or less.

END OF DESCRIPTION

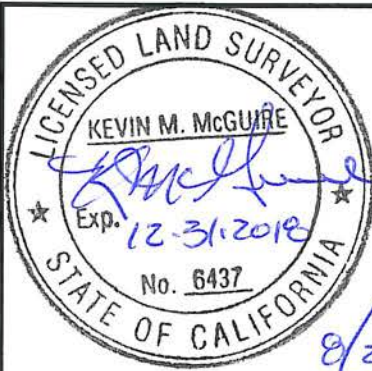
Together with **Exhibit D** (Plat) identified as **Storm Drain and Maintenance Easement #2** attached hereto and made a part hereof.



Kevin M. McGuire, CA PLS #6437

8/21/2018

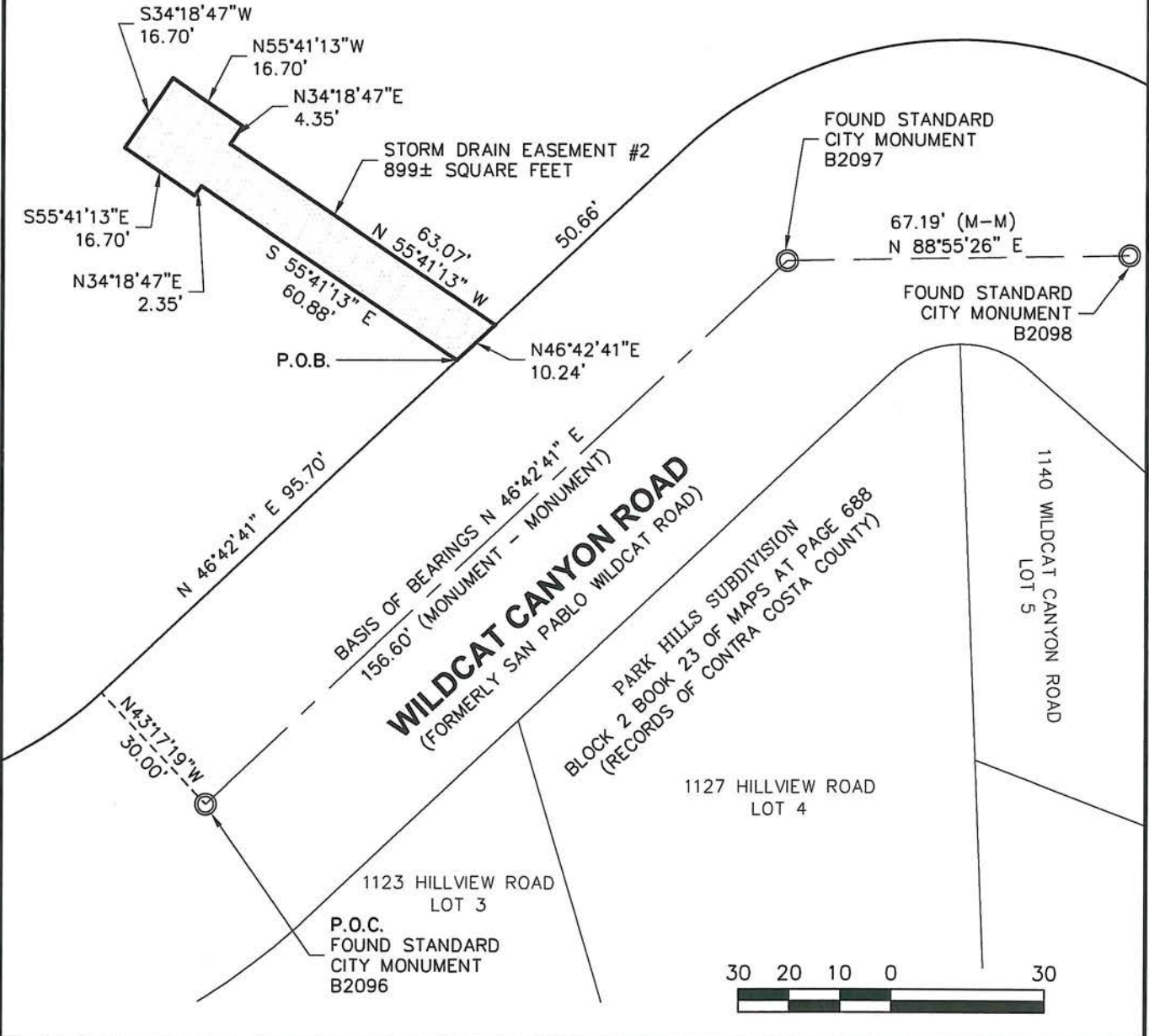
Date



EAST BAY REGIONAL PARK DISTRICT
 TILDEN REGIONAL PARK
 APN: 267-010-008
 355± ACRES



SCALE: 1" = 30'



QUIET RIVER
 Land Services Inc.
 6747 Sierra Court, Suite K
 Dublin, CA 94568
 (925) 734-6788 Phone

EXHIBIT D: STORM DRAIN EASEMENT #2			
EAST BAY REGIONAL PARK DISTRICT WILDCAT CANYON ROAD ORINDA CONTRA COSTA COUNTY CALIFORNIA			
HENG1607	DRN. BY: MAS	CHK. BY: KMM	DATE: 08/21/18

EXHIBIT "E"

LEGAL DESCRIPTION

Slope Easement

Lands of East Bay Regional Parks District

Contra Costa County, California

AN EASEMENT OVER REAL PROPERTY situated in the unincorporated territory of the County of Contra Costa, in the State of California, and being an irregular-shaped strip of land hereby designated as a non-exclusive **Slope Easement** located over, under, across and entirely within that certain 355± acre parcel of land being a portion of the Rancho El Sobrante, identified as Tilden Regional Park in the Lands of the East Bay Regional Parks District (EBRPD) and having the C.C.C. Assessor's Parcel Number 267-010-008, said Slope Easement being more particularly described as follows:

Commencing at the City of Berkeley street monument #B2096, being a standard brass disk in well found at the centerline of Wildcat Canyon Road (a 60' ROW in the County of Alameda), said centerline monument being westerly of Lot 3, Block 2 as said monument, street and Lot are shown on Sheet Five (5) of the Park Hills Subdivision map, filed for Record February 21, 1939 in Volume 23 of Maps, at Page 688, Records of Contra Costa County, and from which point another similar City of Berkeley street monument #B2097, located in the centerline of said Wildcat Canyon Road and being found northerly of Lot 4, Block 2 of said Park Hills Subdivision bears North 46°42'41" East, 156.60 feet; thence leaving said Monument #B2096 on a mathematical tie, North 43°17'19" West, 30.00 feet to a point on the northerly Right-of-Way line of said Wildcat Canyon Road, said Right-of-Way line being the County Line delineating Contra Costa and Alameda Counties, as well as the southerly line of the said Lands of EBRPD; thence in a northeasterly direction along said Right-of-Way and County Line, North 46°42'41" East, 34.65 feet to the **Point of Beginning** for the Slope Easement described herein; thence continuing along said Row-of-Way Line, North 46°42'41" East, 80.11 feet; thence departing said Line and following along the perimeter of said Slope Easement in a counterclockwise direction the following four (4) courses and distances:

- 1.) North 39° 25' 58" West, 14.34 feet, thence;
- 2.) South 42° 43' 12" West, 57.27 feet, thence;
- 3.) South 63° 02' 50" West, 17.39 feet, thence;

EXHIBIT "E" - LEGAL DESCRIPTION

Slope Easement – Tilden Park, Lands of East Bay Regional Parks District, Contra Costa County, CA

August 21, 2018

4.) South 17° 48' 19" East, 16.85 feet to the **Point of Beginning** for **Slope Easement** on the Right-of-way line of said Wildcat Canyon Road, and containing 965 Square Feet, more or less.

END OF DESCRIPTION

Together with **Exhibit F** (Plat) identified as **Slope Easement** attached hereto and made a part hereof.



A handwritten signature in blue ink, appearing to read "K. McGuire", written over a horizontal line.

Kevin M. McGuire, CA PLS #6437

8/21/2018

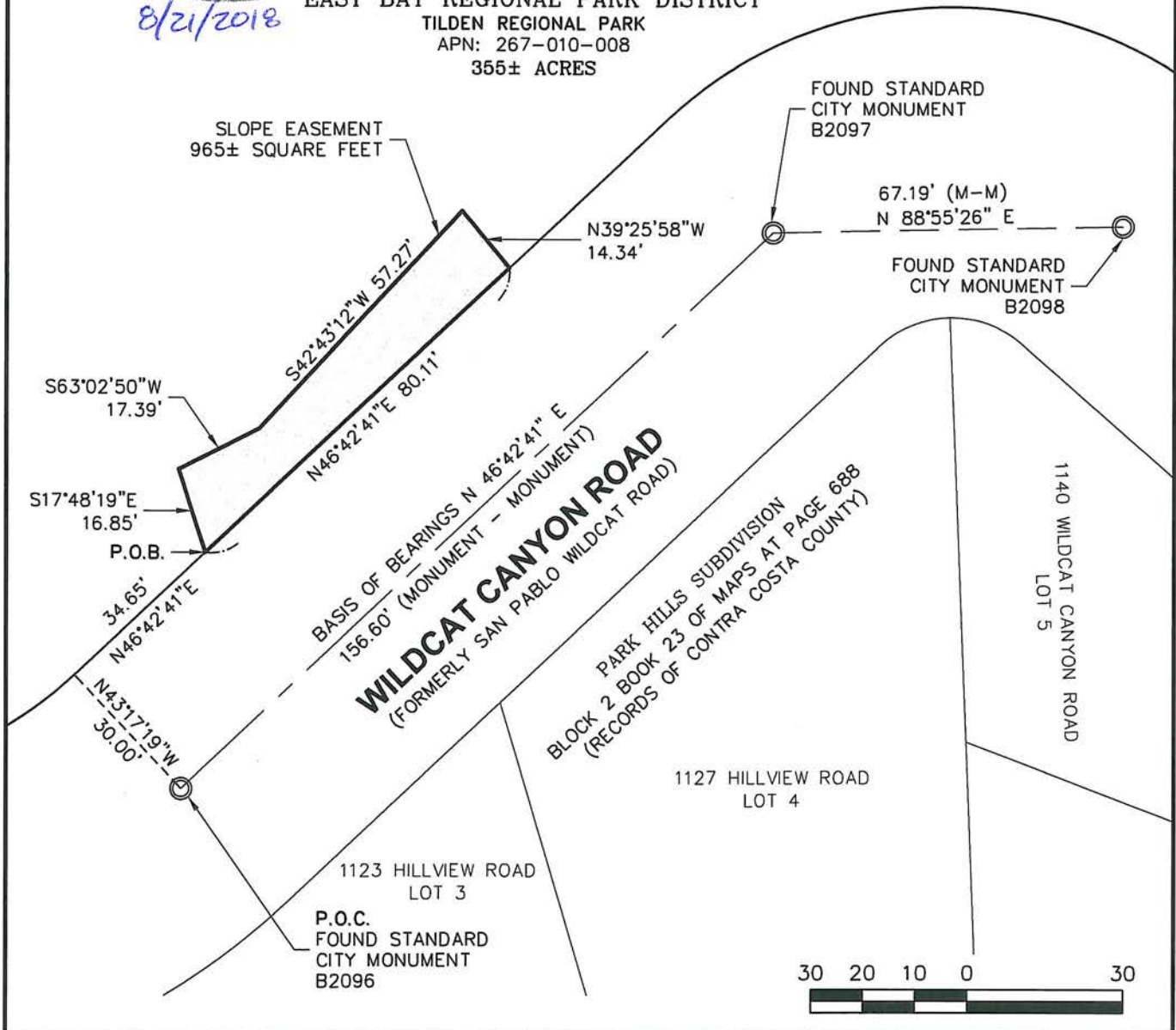
Date



SCALE: 1" = 30'

8/21/2018

EAST BAY REGIONAL PARK DISTRICT
TILDEN REGIONAL PARK
APN: 267-010-008
355± ACRES



QUIET RIVER
Land Services Inc.
6747 Sierra Court, Suite K
Dublin, CA 94568
(925) 734-6788 Phone

EXHIBIT F: SLOPE EASEMENT			
EAST BAY REGIONAL PARK DISTRICT WILDCAT CANYON ROAD CONTRA COSTA COUNTY CALIFORNIA			
ORINDA	HENG1607	DRN. BY: MAS	CHK. BY: KMM
		DATE: 08/21/18	

EAST BAY REGIONAL PARK DISTRICT

RESOLUTION NO.: 2018 – 09 - 215

September 4, 2018

AUTHORIZATION TO GRANT STORM DRAIN AND SLOPE
PROTECTION EASEMENTS TO THE CITY OF BERKELEY:
TILDEN REGIONAL PARK

WHEREAS, the East Bay Regional Park District (Park District) owns certain real property located in the unincorporated area of Contra Costa County, State of California, designated as Assessor's Parcel Number 267-010-008 and located within Tilden Regional Park (Property); and

WHEREAS, the City of Berkeley (City) owns and maintains Wildcat Canyon Road located adjacent to the Property; and

WHEREAS, the Property experienced land instability and sloughing adjacent to Wildcat Canyon Road, and the Park District allowed the City, under emergency conditions, to install two above-ground drainage systems and slope stabilization measures to collect storm runoff from the surrounding hillside and adjacent roadway; and

WHEREAS, the City has maintained said drainage systems at its sole cost, and desires to acquire from the Park District certain easements within a portion of the Property to continue said maintenance, which easements are depicted on the attached map; and

WHEREAS, the Park District wishes to grant to the City storm drain and slope protection easements (Easements) in exchange for City continuing said maintenance of said infrastructure; and

WHEREAS, the Easements are granted pursuant to the provisions of California Public Resources Code Section 5540.6; and

WHEREAS, there will be no additional operational impacts or expenses as a result of the City's project;

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the East Bay Regional Park District hereby authorizes the General Manager to grant a 1635.14-square foot and an 898.72-square foot permanent storm drain easement, and a 964.92-square foot permanent slope protection easement to the City of Berkeley; and

BE IT FURTHER RESOLVED, that the General Manager is hereby authorized and directed, on behalf of the District and in its name, to execute and deliver such documents and to do such acts as may be deemed necessary or appropriate to accomplish the intentions of this resolution.

Moved by Director Corbett, seconded by Director Lane, and adopted this 4th day of September 2018 by the following vote:

FOR: Colin Coffey, Ellen Corbett, Whitney Dotson, Beverly Lane, Dee Rosario, Dennis Waespi, Ayn Wieskamp.

AGAINST: None.

ABSTAIN: None.

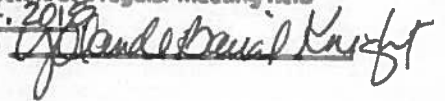
ABSENT: None.



Dennis Waespi, Board President

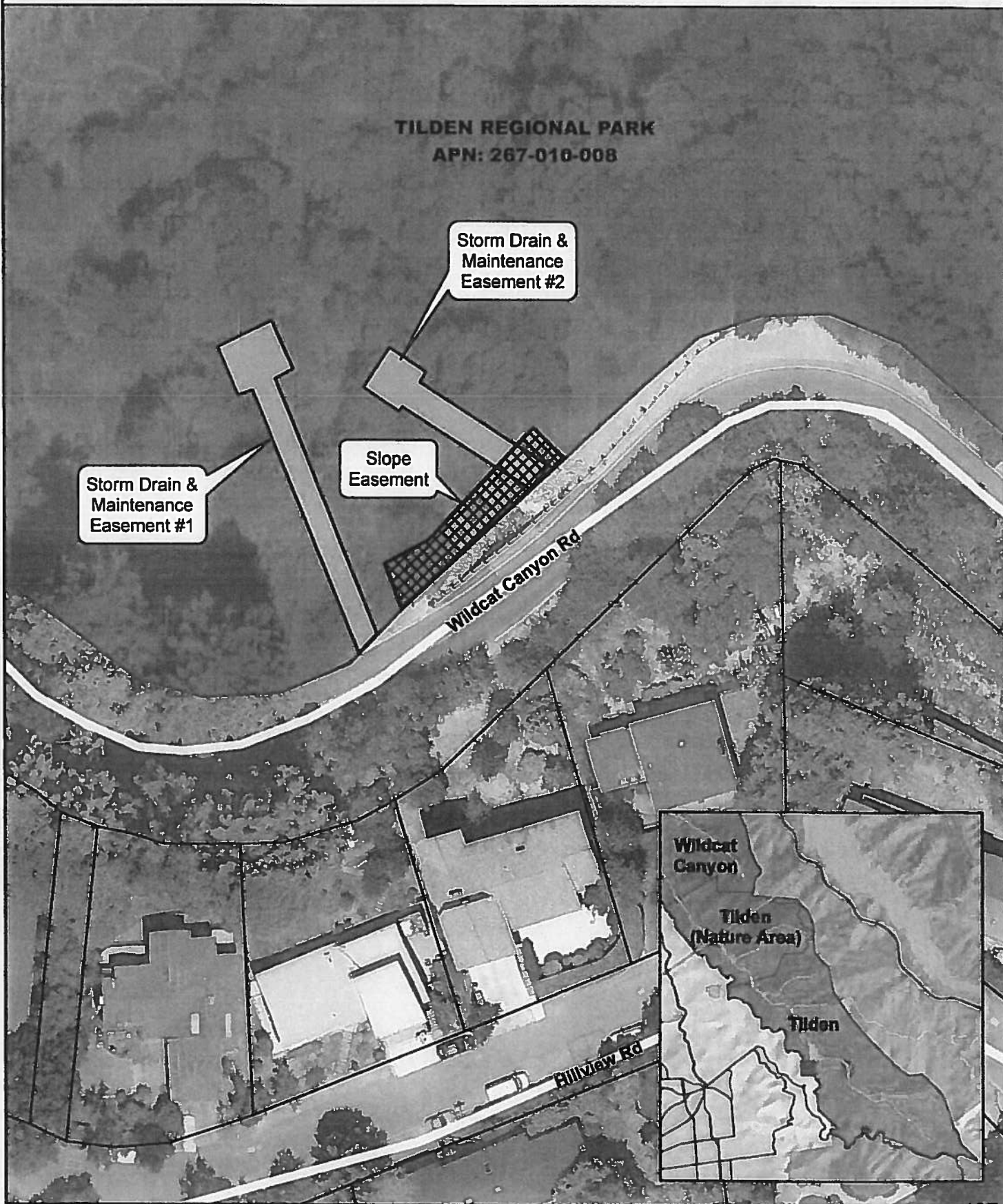
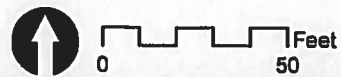
CERTIFICATION

I, Yolanda Barief Knight, Clerk of the Board of Directors of the East Bay Regional Park District, do hereby certify that the above and foregoing is a full, true and correct copy of Resolution No. 2018-09-215 adopted by the Board of Directors at a regular meeting held on September 4, 2018





CITY OF BERKELEY EASEMENTS
Tilden Regional Park
Contra Costa County, CA





Office of the City Manager

CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Phillip L. Harrington, Director, Department of Public Works
 Subject: Green Infrastructure Plan Adoption

RECOMMENDATION

Adopt a Resolution adopting the City of Berkeley Green Infrastructure Plan, July 2019, submit the Plan to the SF Bay Regional Water Quality Control Board, and authorize the City Manager to amend the Green Infrastructure Plan as needed to adjust for changes in technologies, or changes in City priorities.

SUMMARY

The City of Berkeley Green Infrastructure Plan, July 2019 is a requirement under the Stormwater Municipal Regional National Pollutant Discharge Elimination System Permit 2 (MRP2)¹. The Green Infrastructure Plan was developed in coordination with the SF Bay Regional Water Quality Control Board (Water Board) to meet regulatory requirements and provide guidance for prioritizing Green Infrastructure projects in the City. Applying Geographic Information System (GIS) based analysis techniques, the Green Infrastructure Plan identified 11 priority sites for Green Infrastructure facilities for the City. In addition, the Green Infrastructure Plan predicts the City will need to treat runoff from an additional 17 acres of the City to meet regionwide PCB (polychlorinated biphenyl) and mercury reduction goals by 2030, and 19 additional acres of the City to meet regionwide PCB and mercury reduction goals by 2040. The information on the 11 priority sites and the additional areas to be treated by 2030 and 2040 is used on a regionwide basis to allow MRP2 permittees and the Water Board to assess how well the stormwater agencies are reducing pollution to the San Francisco Bay. MRP2 requires the Green Infrastructure Plan be submitted to Water Board by September 30, 2019.

FISCAL IMPACTS OF RECOMMENDATION

The cost for constructing the eleven Green Infrastructure projects identified in the Green Infrastructure Plan is estimated to be \$1.7 million (2018 dollars). Ongoing maintenance of these 11 facilities will cost approximately \$100,000 per year (2018 dollars).

¹ https://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/stormwater/Municipal/R2-2015-0049.pdf

The City's goal is to treat an additional 17 acres between 2020 and 2030. The estimated cost for installing GI to treat 17 acres is \$8.9 million (2018 dollars) spread over the ten year period from 2020 to 2030. The corresponding ongoing annual maintenance cost would increase by approximately \$550,000 per year (2018 dollars).

The City's goal from 2030 to 2040 in the Green Infrastructure Plan is to treat an additional 19 acres. The estimated cost for installing Green Infrastructure to treat 19 acres is \$10.0 million (2018 dollars) spread over ten year period from 2030 to 2040. The corresponding ongoing annual maintenance cost would increase by approximately \$620,000 per year (2018 dollars).

A funding option that is available to the City includes the Clean Stormwater Fee funds. These funds can be used as matching or local fund contributions to obtain grant funding. However, to implement all the goals of the Green Infrastructure Plan additional funding sources will need to be identified.

CURRENT SITUATION AND ITS EFFECTS

The Green Infrastructure Plan (see Proposed Resolution Exhibit A) was prepared according to the framework adopted by Resolution 68,041—N.S. (see Attachment 2) on June 13, 2017. The Green Infrastructure Plan is a planning document required under MRP2, to guide selection and development of Green Infrastructure projects beginning in 2020, and assure reductions of polychlorinated biphenyls (PCB), mercury and other pollutants in urban runoff. Adopting the Green Infrastructure Plan supports the City's Strategic Plan Priority Goal of being a global leader in addressing climate change, advancing environmental justice, and protecting the environment.

Staff made a Green Infrastructure Plan presentation to the Public Works Commission (PWC) on February 7, 2019. The PWC submitted an off agenda memo dated April 10, 2019 summarizing its recommendations following the presentation from staff. The PWC's recommendations and staff responses are summarized as follows:

1. PWC recommended staff develop metrics that educate readers about the economic benefits of the plan in reducing flooding and increasing water supply by infiltrating runoff.

Staff response: The purpose of the Green Infrastructure Plan is to improve urban runoff quality and includes outreach and education for the general public and developers on the requirements for implementing GI in projects, and the purpose is not to reduce flooding and increase water supply.

2. PWC recommended staff meet with Regional Board staff to be sure that the plan will be acceptable.

Staff response: The Green Infrastructure Plan was developed in consultation with Water Board staff to understand their expectations, and to meet the requirements set forth in MRP2.

3. PWC recommended City work with Caltrans to develop a comprehensive Green Infrastructure approach for San Pablo Avenue, in a manner similar to the approach for the Adeline Corridor.

Staff response: The Green Infrastructure Plan requires urban runoff water quality and Green Infrastructure be incorporated into the City's planning processes.

PWC requested the Green Infrastructure Plan model be applied to additional options such as the center median of Sacramento and other historic streetcar lines. The assessment of the Sacramento median showed that it does not rank as high in priority as other sites at this time. Other historic streetcar lines can be reassessed in the future and compared as project development changes.

Following the presentation to the PWC, the Green Infrastructure Plan was presented to the public on February 27, 2019; to the Council's Facilities, Infrastructure, Transportation, Environment, and Sustainability (FITES) Committee on May 2, 2019; and to the full Council at the Work Session on June 18, 2019.

BACKGROUND

Implementing Green Infrastructure or Low Impact Development (LID) in Berkeley has been happening in various forms for many years. Tracking Green Infrastructure improvements began under Municipal Regional Stormwater National Pollutant Discharge Elimination System Permit 1 (MRP1, October 2009 to November 2015) and has continued into the current MRP2 with over 50 such installations completed to date. These installations include permeable pavement applications (Allston Way), bio-swale retrofits into existing conditions (Presentation Park at California Street/Allston Way), complete street applications of bio-swales (Hearst Avenue/Oxford Street), flow-through planters (BART Plaza), and green roofs (Dona Spring Animal Shelter). These past Green Infrastructure projects have been incorporated into the Green Infrastructure Plan.

The Green Infrastructure Plan performs several functions including prioritizing areas for Green Infrastructure projects, tracking Green Infrastructure projects, tracking compliance with regionwide reductions in pollutants including PCB and mercury, identifying other City planning documents to incorporate GI considerations, and exploring funding options for GI projects.

Prioritizing and Identifying Green Infrastructure Projects. A major tool in reducing pollutant loading in urban runoff is addressing impacts created by impervious surfaces. The Green Infrastructure Plan uses an UrbanSim based model to forecast future potential development areas and the corresponding impervious area where Green Infrastructure will be implemented to treat urban runoff. These predictions are combined with the City's planned projects and projections to develop target amounts of impervious surface treatment for the milestone years of 2020, 2030, and 2040. Two GIS based tools are used to prioritize projects for the Green Infrastructure Plan. The first tool (Multi-Benefit Prioritization Tool) ranks based on characteristics that include ground slope, soil

permeability, potential for pollutant reduction and augmenting groundwater, flood control benefit, potential to restore habitat, trash capture, and public involvement. The second tool (Micro-Watershed Tool) uses specific drainage area or Micro-Watershed to refine how urban runoff is collected and delineates specific drainage areas for placing Green Infrastructure facilities. These two tools were applied and the priority sites that were identified include:

- Page Street between Fourth Street and the RR Tracks (Gilman Watershed)
- Jones Street between Fourth Street and RR Tracks (Gilman Watershed)
- Channing Way at the RR Tracks (Potter Watershed)
- Heinz Avenue near RR Tracks (Potter Watershed)
- Dwight Way between Fourth Street and the RR Tracks (Aquatic Park Watershed)
- Grayson Street near the RR Tracks (Aquatic Park Watershed)
- Tenth Street at Codornices Creek (Codornices Watershed)
- Ninth Street at Codornices Creek (Codornices Watershed)
- Piedmont Avenue Median between Durant Avenue and Channing Way (Potter Watershed)
- Piedmont Avenue Traffic Circle (Potter Watershed)
- San Pablo Park at Ward Street (Potter Watershed)

Tracking and Regionwide Compliance. These values are shared regionally to determine how well targeted pollutants such as mercury and PCBs are reduced through treating urban runoff by Green Infrastructure facilities. The Alameda Countywide Clean Water Program (ACCWP) and Contra Costa Countywide Clean Water Program combined efforts to develop a tracking and load reduction accounting tool. This ArcGIS Online web application (AGOL Tool) is an online GIS application to track GI projects and will be open for public viewing when fully implemented.

Planning Documents. The Green Infrastructure Plan provides the most current information on methods and locations for optimal pollutant load reductions in urban runoff. This information must be incorporated into the City's planning documents. This will require inter-departmental cooperation and communications. The planning documents identified include:

- City of Berkeley General Plan
- Downtown Berkeley Design Guidelines
- Downtown Streets and Open Space Improvement Plan

- Downtown Area Plan
- Berkeley Strategic Transportation Plan (BeST Plan)
- Watershed Management Plan
- Adeline Corridor Plan (in progress)
- Pedestrian Master Plan (update in progress)
- Southside Complete Streets (in progress)

ENVIRONMENTAL SUSTAINABILITY

The Green Infrastructure Plan is designed to work in conjunction with existing City planning documents and programs with the goal of coordinating and ensuring Green Infrastructure opportunities are identified and implemented.

RATIONALE FOR RECOMMENDATION

The City is required to adopt the Green Infrastructure Plan and submit the plan to the Water Board by September 30, 2019 to satisfy regulatory requirements in MRP2. The City of Berkeley Green Infrastructure Plan July 2019 has been developed in consultation with Water Board staff; was presented to the Public, PWC, Council's FITES Committee, and the full Council; and comments have been addressed.

ALTERNATIVE ACTIONS CONSIDERED

There are no current alternatives to adopting and submitting the Green Infrastructure Plan to the Water Board. The Green Infrastructure Plan is a requirement of MRP2.

CONTACT PERSON

Joe Enke, Supervising Civil Engineer, Department of Public Works, 981-6411
Danny Akagi, Associate Civil Engineer, Department of Public Works, 981-6394

Attachments:

1: Resolution

Exhibit A: City of Berkeley Green Infrastructure Plan, July 2019

2: Resolution 68,401—N.S.

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

GREEN INFRASTRUCTURE PLAN ADOPTION

WHEREAS, the San Francisco Bay Regional Water Quality Control Board (Water Board) adopted the second Municipal Regional Stormwater National Pollutant Discharge Elimination System Permit (MRP2) on November 19, 2015 as Order No. R2-2015-0049 to the City of Berkeley; and

WHEREAS, MRP2 Provision C.3.j requires the City to adopt a Green Infrastructure Plan framework for the Green Infrastructure Plan by June 30, 2017; and

WHEREAS, the City adopted the framework for the Green Infrastructure Plan by passing Resolution 68,401—N.S. on June 13, 2017; and

WHEREAS, MRP2 Provision C.3.j further requires the City adopt and submit the Green Infrastructure Plan (see Exhibit A) to the Water Board by September 30, 2019; and

WHEREAS, the Green Infrastructure Plan was developed in consultation with Water Board staff; and

WHEREAS, the draft Green Infrastructure Plan has been presented to the Public Works Commission, to the Public, to the City's Facilities, Infrastructure, Transportation, Environment, and Sustainability Committee, and to the full Council; and

WHEREAS, the Green Infrastructure Plan presents a plan for reducing urban runoff pollutant loads to the Bay in particular PCBs and mercury; and

WHEREAS, adopting the Green Infrastructure Plan supports the City's Strategic Plan Priority Goal of being a global leader in addressing climate change, advancing environmental justice, and protecting the environment.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City adopts the City of Berkeley Green Infrastructure Plan, July 2019 (Exhibit A) for submittal to the SF Bay Regional Water Quality Control Board by September 30, 2019.

BE IT FURTHER RESOLVED that the City Manager is authorized to amend the Green Infrastructure Plan as needed to adjust for changes in technologies, or changes in City priorities.

Exhibits

A: City of Berkeley Green Infrastructure Plan July 2019



Green Infrastructure Plan City of Berkeley

July 2019

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- Appendix B. Early Implementation Projects Table
- Appendix C. General Guidelines for GI Projects
- Appendix D. MWH Evaluation of Stormwater Program Funding Options
- Appendix E. City of Berkeley 2018 Storm Drainage Fee Report and Resolution No. 68,483-N.S.

List of Acronyms

Acronym	Definition
ACCWP	Alameda Countywide Clean Water Program
AGOL	ArcGIS Online
BAHM	Bay Area Hydrology Model
BASMAA	Bay Area Stormwater Management Agencies Association
DMA	Drainage management area
GI	Green infrastructure
LID	Low impact development
MRP	Municipal Regional Stormwater Permit
HM	Hydromodification management
RWQCB	Regional Water Quality Control Board, San Francisco Bay
PCBs	Polychlorinated biphenyls
TMDL	Total maximum daily load

1. Introduction

1.1 Statement of Purpose

The purpose of this Green Infrastructure Plan (GI Plan) is to guide the identification, implementation, tracking, and reporting of green infrastructure projects within the City of Berkeley in accordance with the Municipal Regional Stormwater Permit (MRP), Order No. R2-2015-0049, adopted by the San Francisco Bay Regional Water Quality Control Board on November 15, 2015. "Green infrastructure" refers to a sustainable system that slows runoff by dispersing it to vegetated areas, harvests and uses runoff, promotes infiltration and evapotranspiration, and/or uses bioretention and other low impact development practices to improve the water quality of stormwater runoff.

1.2 Physical Setting¹

The City of Berkeley, approximately 10.5 sq miles, is located in northern Alameda County on the eastern shoreline of the San Francisco Bay and extends east to the ridgelines of the East Bay Hills. In general, the physiography of the Berkeley watersheds reflects their general position or alignment in relation to the primary geologic structures in the East Bay. The watersheds in Berkeley typically drain to the west out of the steeper headwaters (Berkeley Hills, with a maximum elevation of approximately 1,770' at Chaparral Peak), across a transitional alluvial fan zone, and then across the more gently sloping Bay plain before discharging into the San Francisco Bay (approximately at sea-level). One exception is the Wildcat watershed which runs along the eastern side of the ridgelines of the Berkeley Hills and drains to Wildcat Creek. There are 10 watersheds wholly or partially within the City of Berkeley (not including the Marina). Moving from north to south, these are: Wildcat, Cerrito, Marin, Codornices, Gilman, Schoolhouse, Strawberry, Aquatic Park, Potter, and Temescal (Figure 1). Several watersheds extend past Berkeley's municipal boundaries into the Cities of Emeryville and Oakland to the south, and the Cities of Albany and El Cerrito to the north. The City of Berkeley is predominately urban; however drainage from approximately 2 sq. mi. of non-urban area outside the City boundary flows into the City from Strawberry Canyon and Claremont Canyon east of the City. Detailed characteristics of Berkeley's watersheds are provided in Appendix A.

¹ Excerpt from City of Berkeley, 2011. *Watershed Management Plan, Public Works Engineering, Version 1.0*, October.

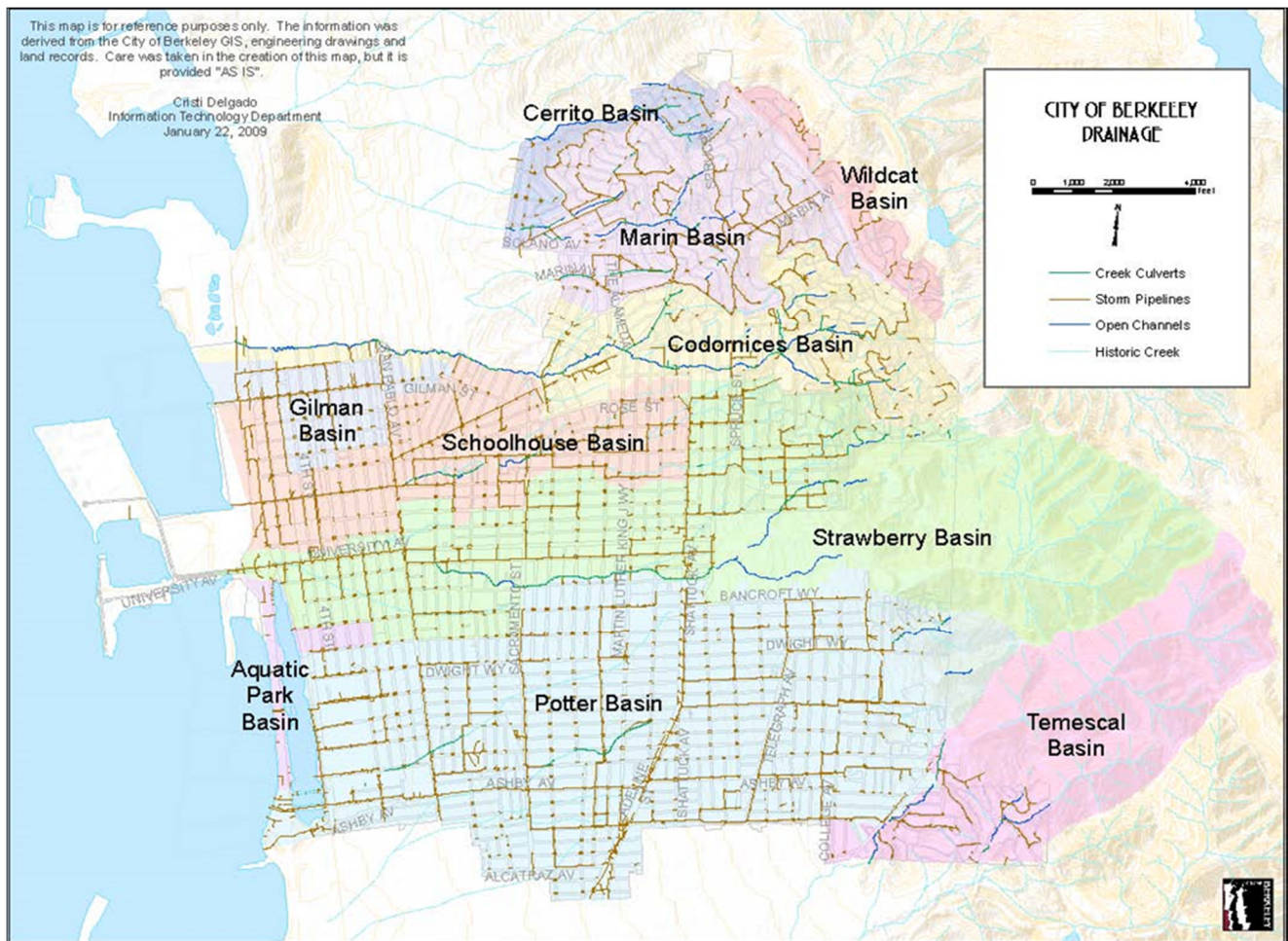


Figure 1 – Map of Watersheds in the City of Berkeley, California

1.3 Existing Green Infrastructure in Berkeley

Since the early 2000s, green infrastructure facilities have been installed in Berkeley at a rapid pace. As of 2019, over 50 public and private green infrastructure facilities have been installed in Berkeley. These facilities have been installed as parts of City “Green Streets” initiatives and as a result of Low-Impact Development (LID) requirements for private development projects. Additionally, some private landowners have voluntarily installed green infrastructure facilities on their properties. Figure 2 shows the locations of existing Green Infrastructure/Low-Impact Development (GI/LID) facilities in Berkeley. Figures 3 through 8 provide examples of existing GI/LID facilities. In 2012, the City adopted its Watershed Management Plan (WMP, Appendix A). Chapter 3 of the WMP provides detailed explanations and compares the benefits of different types of GI/LID facilities.

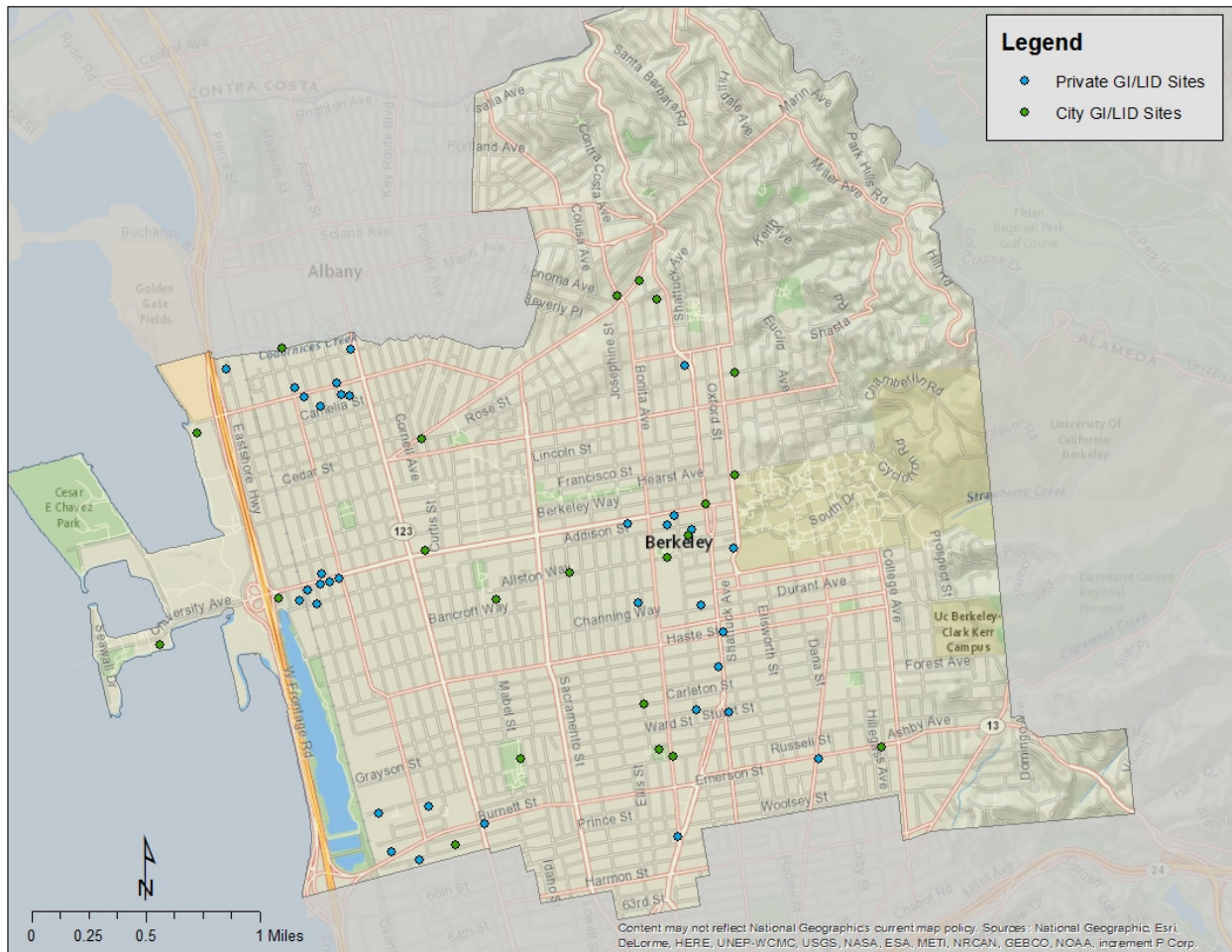


Figure 2 – Existing Green Infrastructure/Low-Impact Development (GI/LID) Sites as of 2019 in the City of Berkeley, California



Figure 3 – The entire block of Allston Way between Milvia Street and Martin Luther King Jr. Way is paved with permeable pavers.



Figure 4 – Permeable pavers combined with underground flow detention at Milvia and Hopkins Streets.



Figure 5 – A large concrete traffic island/median was reconstructed with a bioretention facility at Rose and Hopkins Streets.



Figure 6 – A bioretention facility was installed along with pedestrian and cyclist safety improvements as part of the Hearst Complete Streets Project.



Figure 7 – Connected bioretention features in a traffic circle and corner bulb-out at Spruce and Vine Streets.



Figure 8 – The green roof at the City of Berkeley's Dona Spring Animal Shelter.

1.4 MRP Requirements

This Green Infrastructure Plan has been developed to comply with Green Infrastructure Plan requirements in Provision C.3.j of the MRP, which states in part:

The Plan is intended to serve as an implementation guide and reporting tool during this and subsequent Permit terms to provide reasonable assurance that urban runoff TMDL wasteload allocations (e.g., for the San Francisco Bay mercury and polychlorinated biphenyls [PCBs] Total Maximum Daily Loads [TMDLs]) will be met, and to set goals for reducing, over the long term, the adverse water quality impacts of urbanization and urban runoff on receiving waters. For this Permit term, the Plan is being required, in part, as an alternative to expanding the definition of Regulated Projects prescribed in Provision C.3.b to include all new and redevelopment projects that create or replace 5,000 square feet or more of impervious surface areas and road projects that just replace existing impervious surface area. It also provides a mechanism to establish and implement alternative or in-lieu compliance options for Regulated Projects and to account for and justify Special Projects in accordance with Provision C.3.e.

Over the long term, the Plan is intended to describe how the Permittees will shift their impervious surfaces and storm drain infrastructure from gray, or traditional storm drain infrastructure where runoff flows directly into the storm drain and then the receiving water, to green—that is, to a more-resilient, sustainable system that slows runoff by dispersing it to vegetated areas, harvests and uses runoff, promotes infiltration and evapotranspiration, and uses bioretention and other green infrastructure practices to clean stormwater runoff.

The Plan shall also identify means and methods to prioritize particular areas and projects within each Permittee's jurisdiction, at appropriate geographic and time scales, for implementation of green infrastructure projects. Further, it shall include means and methods to track the area within each Permittee's jurisdiction that is treated by green infrastructure controls and the amount of directly connected impervious area. As appropriate, it shall incorporate plans required elsewhere within this Permit, and specifically plans required for the monitoring of and to ensure appropriate reductions in trash, PCBs, mercury, and other pollutants.

Table 1-1 below links each section of this plan to the applicable MRP provision.

Table 1-1: Green Infrastructure Plan Sections and Applicable MRP Provisions

Section of Green Infrastructure Plan	Applicable MRP Provision
1. Introduction	C.3.j
2. Impervious Surface Retrofit Targets	C.3.j.i.(2)(c)
3. Prioritizing and Mapping Planned and Potential Projects	C.3.j.i.(2)(a),(b),(j)
3.1 Approach for Prioritizing and Mapping Projects	C.3.j.i.(2)(a)
3.2 High Priority Projects	C.3.j.i.(2)(b)
3.3 Early Implementation Projects	C.3.j.i.(2)(j)
4. Tracking and Mapping Completed Projects	C.3.j.i.(2)(d) & C.3.d.iv.(1)
5. Summary of General Guidelines for GI Projects	C.3.j.i.(2)(e), C.3.j.i.(2)(f), C.3.j.i.(2)(g)
6. Integration of GI Requirements in Other City Planning Documents	C.3.j.i.(2)(h) & (i)
7. Evaluation of Funding Options	C.3.j.i.(2)(k)

2. Impervious Surface Retrofit Targets

The City of Berkeley has identified targets for the amount of impervious surface, from public and private projects within its jurisdiction (including redevelopment projects regulated under Provision C.3.b of the MRP), to be retrofitted by 2020, 2030, and 2040. The targets are presented in Table 2-1. The time schedules shown in this table are consistent with the timeframes for assessing load reductions for mercury and PCBs specified in Provisions C.11 and C.12 of the MRP. The City is currently participating in a regional effort to perform a Reasonable Assurance Analysis that demonstrates how green infrastructure will be implemented to achieve PCB and mercury load reductions.

Target amounts of impervious surface to be retrofitted by Private Development are based on the UrbanSim Model used by the San Francisco Bay Area Metropolitan Transportation Commission. Target amounts of impervious surface to be retrofitted by Public Development, City Green Streets, and Regional GI Projects are based on local knowledge of planned future development, anticipated availability of funding, High Priority Projects discussed in Section 3.2, and Early Implementation Projects discussed in Section 3.3. Due to uncertainties related to the funding of public green infrastructure projects and the reliability of projections for private development projects, The City of Berkeley will track the progress toward achieving the targets presented in Table 2-1, identify any challenges that arise in achieving these targets, and propose solutions, in coordination with other MRP Permittees.

Table 2-1
Impervious Surface Retrofit Targets through 2040
City of Berkeley 2019 Green Infrastructure Plan

Future Year	Project Category	Total Area Treated by GI (acres)	Estimated Impervious Surface Retrofitted (acres)
2020	Private Development*	21	21
	Public Development	9	9
	City Green Streets and Regional GI Projects	15	11
	Total Targets:	45	41
2030	Private Development*	38	38
	Public Development	16	16
	City Green Streets and Regional GI Projects	25	19
	Total Targets:	79	73
2040	Private Development*	59	59
	Public Development	25	25
	City Green Streets and Regional GI Projects	35	26
	Total Targets:	119	110

*: Based on UrbanSim development projections provided by the San Francisco Bay Area Metropolitan Transportation Commission

3. Prioritizing and Mapping Planned and Potential Projects

Section 3 describes the use of a mechanism for prioritizing and mapping green infrastructure projects as required in Provision C.3.j.i.(2)(a), provides descriptions of planned and potential green infrastructure projects and other outputs of the mechanism per Provision C.3.j.i.(2)(b), and discusses early implementation projects.

3.1 Approach for Prioritizing and Mapping Projects (GI Mechanism)

This section describes the Green Infrastructure Mechanism ("GI Mechanism") used to prioritize and map areas for planned and potential green infrastructure projects in the City of Berkeley. The mechanism consists of the Alameda Countywide Multi-Benefit Metrics Prioritization Protocol ("Multi-Benefit Prioritization Tool"), the City of Berkeley Land-Use-Based Micro-Watershed Pollutant Load Estimation Tool ("Micro-Watershed Tool"), and the Alameda County/Contra Costa Project Tracking and Load Reduction Accounting Tool ArcGIS Online web application ("AGOL tool").

As described below, the mechanism includes criteria for prioritization, such as specific logistical constraints, water quality drivers (load reductions of mercury and PCBs consistent with TMDLs), and opportunities to treat runoff from private parcels in street right-of-way (ROW). It also produces outputs, including maps and project lists, which can be incorporated into the City of Berkeley's long-term planning and capital improvement processes.

Multi-Benefit Prioritization Tool

The Multi-Benefit Prioritization Tool is a stepwise GIS analysis documented in the Alameda Countywide Stormwater Resource Plan Screening and Prioritization using Multi-Benefit Metrics Technical Memorandum² and summarized below.

Step 1. Identify planned projects – Planned future green infrastructure projects within Alameda County were identified and entered into a GIS layer, based on project information provided by local agencies within the county.

Step 2. Identify opportunity sites – Additional potential project locations were identified and catalogued by the Alameda Countywide Clean Water Program consultant Geosyntec using a GIS-based opportunity analysis. The project opportunity analysis followed the steps listed below:

- a. Identify publicly-owned parcels.
- b. Screen identified public parcels to include only those that are at least 0.1 acre in size and with an average slope of less than 10 percent. Parcels that met these criteria were screened for physical feasibility.

² Geosyntec. 2017. *Alameda Countywide Stormwater Resource Plan Screening and Prioritization using Multi-Benefit Metrics Technical Memorandum*. December 13.

- c. Identify non-interstate highway public right-of-way (ROW) within urban areas. Roadways considered included state and county highways and connecting roads and local, neighborhood, and rural roads.
- d. Identify land uses or adjacent land uses of the sites resulting from steps b and c.
- e. Screen sites identified in steps b and c to remove sites with the following physical constraints:
 - i. Regional facilities were not considered for sites that were greater than 500 feet from a storm drain due to limited feasibility in treating runoff from a larger drainage area;
 - ii. Parcel-based facilities were not considered for sites that were more than 50% undeveloped due to the limited potential for pollutant reduction of concern load reduction;
 - iii. Sites with more than 50% of their drainage area outside of the urbanized area, as these sites would not provide opportunity for significant pollutant of concern load reduction;
 - iv. Sites with more than 50% overlying landslide hazard zones to avoid the potential for increasing landslide risk.

Step 3. Classify planned projects and opportunity sites in preparation for metrics-based

evaluation – A GIS analysis was performed to classify the planned projects identified in step 1 and the opportunity sites identified in step 2 according to four parameters listed below:

- a. Green infrastructure project type – Each project received one of the following classifications: parcel-based, regional, or ROW/green street project.
- b. Infiltration feasibility - Each project location received one of the following classifications for infiltration: infeasible, partially feasible, or feasible.
- c. Facility type – Each project received one of the following classifications: green infrastructure³, non-green infrastructure treatment control facility, water supply augmentation, flood control facility, hydromodification control, public use area or public education area, programmatic stormwater management opportunity.
- d. Drainage area information – A drainage area was identified for each project.

Step 4. Score projects using an automated metrics-based evaluation – A quantitative metrics-based multiple benefit evaluation was performed using an automated process. Projects or opportunity sites received a score of 0, 1, or 2 for each of the metrics listed below. The automated scores were used to preliminarily rank the projects by watershed, jurisdiction, project type, and/or project stakeholder(s). Geosyntec provided a jurisdiction-specific list of planned projects and opportunity sites located in the City of Berkeley including an automated score for each project.

³ All opportunity sites identified in step 2 were classified as GI projects. Based on information provided by local agencies in step 1, other classifications were assigned, where appropriate, to planned projects. Projects that were not classified as GI have co-benefits that may include GI.

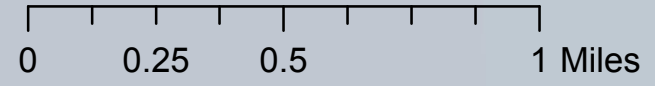
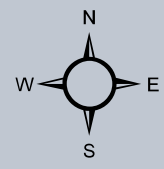
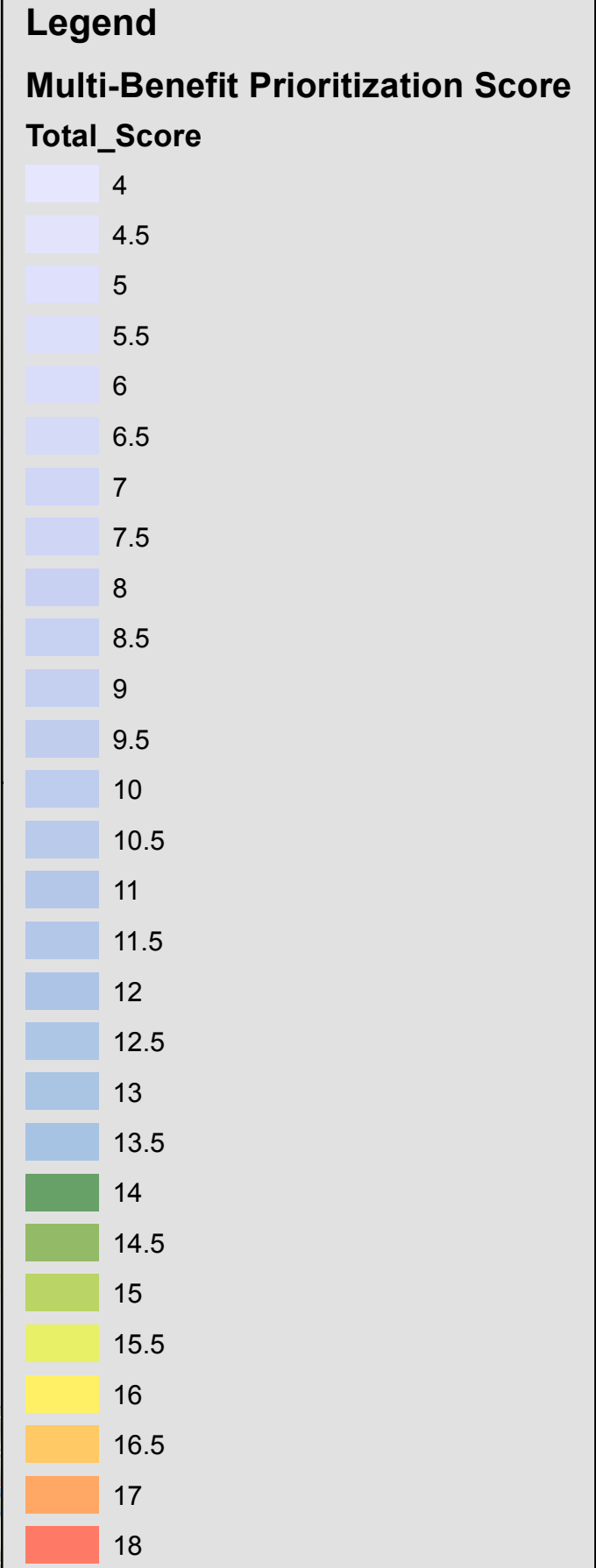
Spatial data for the projects included in the list were provided in both GIS shape file and Google Earth KMZ file formats.

- a. Parcel area (for regional and parcel-based projects only)
- b. Location slope
- c. Infiltration feasibility
- d. PCBs/mercury yield classification in project drainage area
- e. Regional facility
- f. Removes pollutant loads from stormwater
- g. Augments water supply
- h. Provides flood control benefits
- i. Re-establishes natural water drainage systems
- j. Develops, restores, or enhances habitat and open space
- k. Provides enhanced or created recreational and public use areas with potential opportunities for community involvement and education
- l. Trash capture co-benefit

The results of the multiple benefit evaluation were compiled into a countywide Master List of Prioritized Planned and Potential Projects which is included in the Alameda Countywide Clean Water Program's Storm Water Resource Plan⁴. The City of Berkeley maintains a GIS database of the results of the multiple benefit evaluation within the City's boundaries. This database includes a GIS layer depicting the prioritization score for each section of right-of-way and applicable publicly owned parcel that can be displayed along with other City GIS layers to inform current and future planning decisions. A citywide evaluation performed using the Multi-Benefit Prioritization Tool is depicted in Figure 9.

⁴ Alameda Countywide Clean Water Program. 2019. *Storm Water Resource Plan*. January.

Figure 9.
Multi-Benefit Prioritization Tool Results
City of Berkeley
2019 Green Infrastructure Plan



Micro-Watershed Tool

The City of Berkeley developed the Land-Use-Based Micro-Watershed Pollutant Load Estimation Tool ("Micro-Watershed Tool") as a complimentary tool to the Multi-Benefit Prioritization Tool. The purpose of the Micro-Watershed Tool is to evaluate small drainage areas in Berkeley for pollutant load reduction potential based on the historical land-use classifications contained within them. The MRP requires permittees to plan and implement green infrastructure projects to achieve load reductions of PCBs and mercury. The Micro-Watershed Tool is designed to assist with siting green infrastructure installations in locations that maximize PCBs and mercury load reductions. The Micro-Watershed Tool is based on the Bay Area Stormwater Management Agencies Association's Interim Accounting Methodology for TMDL Loads Reduced (Interim Accounting Methodology)⁵, which states:

A land-use-based yield is an estimate of the mass of a contaminant contributed by an area of a particular land use per unit time. Essentially, different types of land uses yield different amounts of pollutants because land use types differ in their degree of contamination resulting from differing intensities of historic or ongoing use of pollutants. The land use categories used to land use-based yields were identified from studies conducted to identify potential Pollutant of Concern (POC) sources and source areas.

A number of preliminary GIS data layers were developed using existing and historical information on land use and facility types that were located in the Bay Area during the early to mid-20th century. GIS data layers developed included a revised "Old Industrial" land use layer that attempted to depict industrial areas that were present in the year 1968 and an "Old Urban" land use layer that depicts urbanized areas developed by 1974, other than Old Industrial areas. The year 1974 was used as this was the closest year to 1968 for which data were available. The other categories include "New Urban", which depicts areas urbanized after 1974; "Open Space", which represents undeveloped land; and "Other", which consists of airport and military areas. "Source Property" areas are located in historically industrial or other areas where PCBs were used, released, and/or disposed of and/or where sediment concentrations are significantly elevated above urban background levels.

Assumed average PCBs and Mercury yields (in milligrams per acre per year) were developed for each of the six Historical Land Use categories listed above.

For the Micro-Watershed Tool, the City of Berkeley's drainage maps were digitized using GIS software. The result is a GIS Shapefile with roughly 1,000 polygons representing drainage areas as small as that contributing to a single catch basin/inlet. The drainage areas layer was overlain with the Historical Land Use Layers described in the Interim Accounting Methodology and calculations were run to determine the amount of each category of historical land use contained within each drainage area. A second round of calculations were then run to determine the assumed land-use-based PCBs yield for each drainage area based on the

⁵ BASMAA. 2017. *Interim Accounting Methodology for TMDL Loads Reduced*. Prepared by Geosyntec Consultants and EOA, Inc. March 23.

formulas provided in the Interim Accounting Methodology. Finally, the assumed land-use-based PCBs yields were multiplied by the Efficiency Factor for green infrastructure treatment (0.7), then divided by the total area of each drainage area to produce a PCB reduction potential per acre treated value for each Micro-Watershed in the City. The City maintains the Micro-Watershed Tool in the form of a GIS database which includes a GIS layer depicting the PCBs reduction potential for each Micro-Watershed in Berkeley that can be displayed along with the other City GIS layers to inform current and future planning decisions. Figure 10 depicts the land-use-based PCBs reduction potential for each Micro-Watershed in Berkeley.

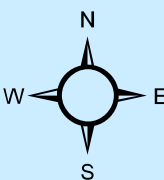
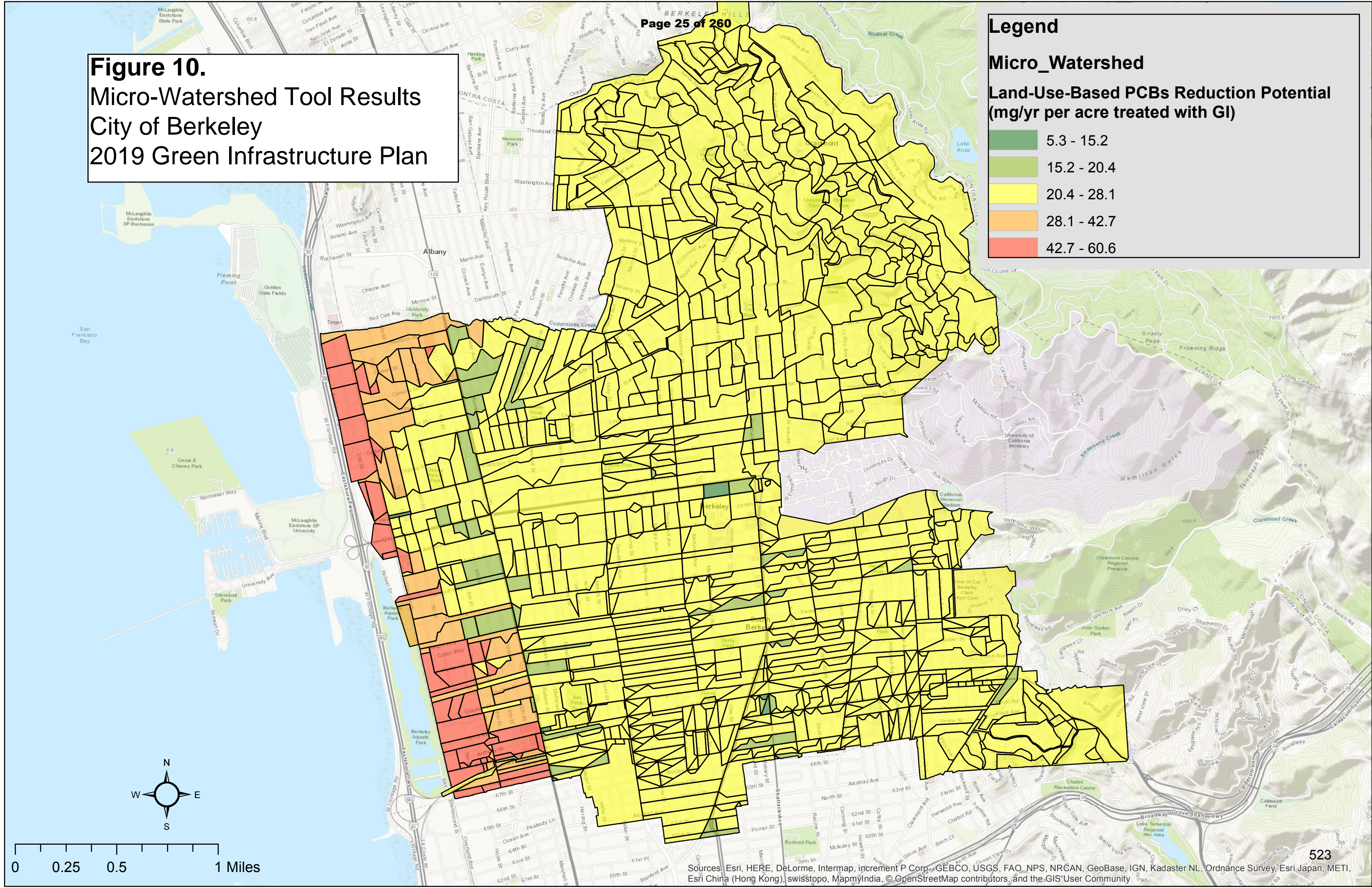
Figure 10.
Micro-Watershed Tool Results
City of Berkeley
2019 Green Infrastructure Plan

Legend

Micro_Watershed

Land-Use-Based PCBs Reduction Potential (mg/yr per acre treated with GI)

5.3 - 15.2
15.2 - 20.4
20.4 - 28.1
28.1 - 42.7
42.7 - 60.6



0 0.25 0.5 1 Miles

3.2 High Priority Projects

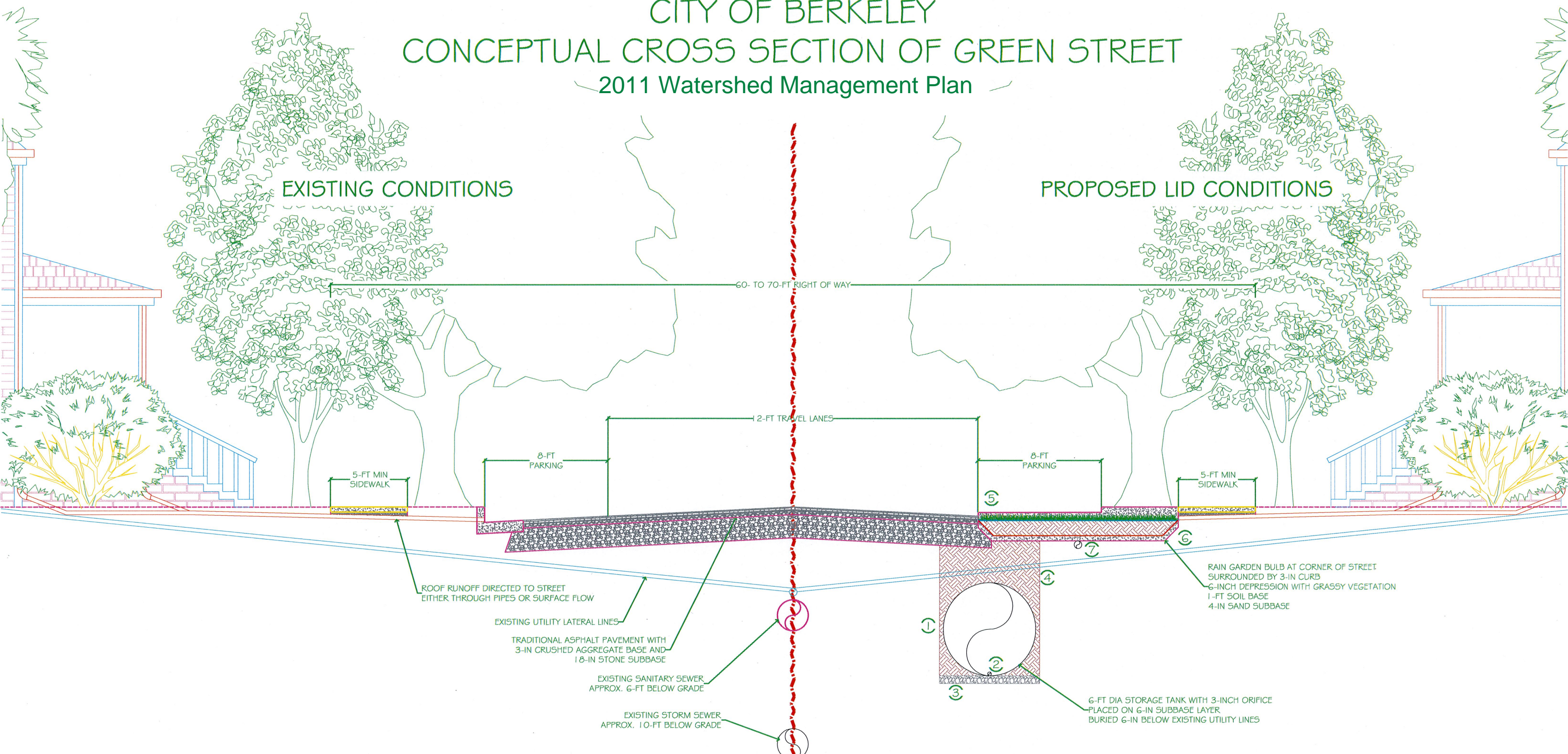
Using the tools of the GI Mechanism described above, the City of Berkeley has identified the high priority potential green infrastructure projects described in this section that may be used to help meet the impervious surface retrofit targets presented in Section 2. This is only a current list of projects. It is envisioned that as future capital projects and City plans are developed, the tools of the GI Mechanism will be used to identify additional high priority green infrastructure projects that can be constructed as parts of broader City efforts.

Watershed Management Plan Projects

As part of the Watershed Management Plan (WMP), hydraulic models were developed for the Potter and Codornices Watersheds in Berkeley. The results of modelling in the Potter Watershed suggested that installation of surface-level bioretention combined with underground storage facilities (that would divert peak flows, then slowly meter flows back to the storm drain) in the upper watershed would result in incremental flood reductions throughout the watershed. The WMP identifies twenty five locations for GI/storage units in the upper Potter Watershed. As part of the current green infrastructure planning effort, the City reexamined these locations using the GI Mechanism to determine which locations are most likely to provide multiple benefits in addition to flood control. Figure 11 shows a conceptual cross section of a green infrastructure/storage unit as proposed in the WMP. Figure 12 shows the WMP-proposed GI/storage unit locations overlain with the Multi-Benefit Prioritization Tool GIS layer. Table 3-1 shows the Multi-Benefit Prioritization Scores for each location.

Figure 11

CITY OF BERKELEY
 CONCEPTUAL CROSS SECTION OF GREEN STREET
 2011 Watershed Management Plan



PROPOSED STORAGE DETAILS:

- ① 6-FT DIA UNDERGROUND CIRCULAR STORAGE TANK (300-FT LONG)
- ② 3-IN DIA CIRCULAR ORIFICE WITH FLAP GATE (CONNECTS TO STORM SEWER DOWNSTREAM)
- ③ 6-IN ROCK SUBBASE AS FOUNDATION FOR STORAGE PIPE
- ④ LIMIT OF EXCAVATION 1.5-FT FROM EDGE OF GUTTER
- ⑤ RAIN GARDEN BULB EXTENDS 8-FT INTO STREET AT BLOCK CORNER
- ⑥ 1-FT LAYER OF SANDY LOAM FILL AND 4-IN LAYER OF CLEAN SAND
- ⑦ 4-IN PERFORATED PIPE DRAINS TO CROWN OF STORAGE TANK

Table 3-1
Watershed Management Plan Proposed GI Sites - Potter Watershed
Multi-Benefit Prioritization Scores
2019 City of Berkeley Green Infrastructure Plan

Project Description	Multi-Benefit Prioritization Score*
2 GI/Storage Units - Piedmont (Forest to Derby)	15
2 GI/Storage Units - College (Parker to Derby)	15
2 GI/Storage Units - Ashby (Benvenue)	15
2 GI/Storage Units - Bowditch (Channing to Haste)	15
2 GI/Storage Units - Shattuck (Bancroft to Kittredge)	15
2 GI/Storage Units - Ellsworth (Channing)	15
2 GI/Storage Units - Shattuck (Channing)	15
2 GI/Storage Units - Adeline (Ashby)	15
2 GI/Storage Units - Adeline (Oregon)	15
2 GI/Storage Units - Shattuck (Blake)	15
2 GI/Storage Units - Ellsworth (Dwight)	15
2 GI/Storage Units - Ashby (Telegraph)	15
1 GI/Storage Unit - Woolsey (Tremont)	15
2 GI/Storage Units - Piedmont (Durant to Channing)	14.5
2 GI/Storage Units - College (Channing to Dwight)	13.5
2 GI/Storage Units - Derby (Telegraph to Regent)	13.5
2 GI/Storage Units - Webster (College)	13.5
2 GI/Storage Units - Wheeler (Prince to Woolsey)	13.5
3 GI/Storage Units - Derby (Warring)	13.5
2 GI/Storage Units - Telegraph (Stuart)	13.5
2 GI/Storage Units - Woolsey (Eton)	12.5
2 GI/Storage Units - Bancroft (Bowditch)	12.5
2 GI/Storage Units - Dwight (Prospect)	12.5
2 GI/Storage Units - Stuart (College to Cherry)	12.5
2 GI/Storage Units - Woolsey (Dana)	12

*: Maximum Multi-Benefit Prioritization Score for Berkeley = 15.

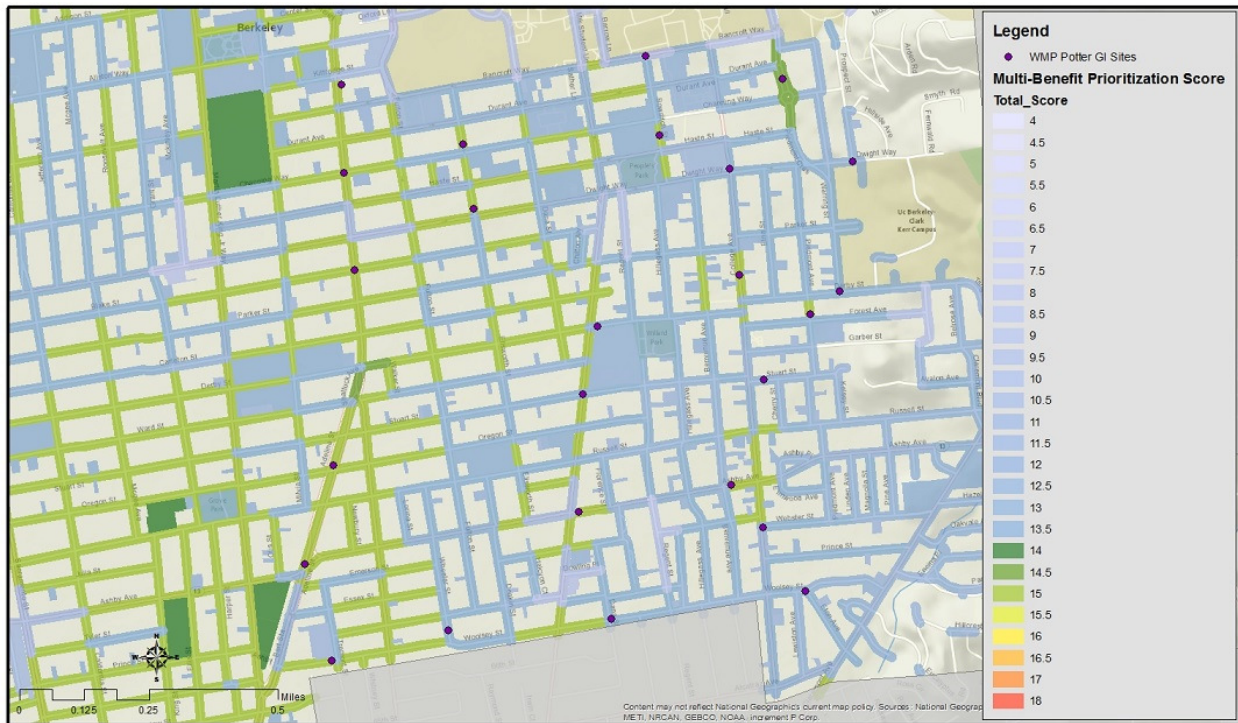


Figure 12 – WMP-Proposed GI/Storage Unit Locations in the Upper Potter Watershed Plotted Against Multi-Benefit Prioritization Scores

Woolsey Street Bioretention and Underground Flow Detention Facility

City staff has selected Woolsey Street at Tremont Street as the first WMP-proposed GI/storage unit to be constructed in the Potter Watershed. This location was selected for the following reasons:

- Synergy with the City’s Paving Program;
- High level of constructability relative to other proposed locations;
- Relatively few space constraints;
- Multi-Benefit Prioritization Score of 15 (maximum);
- High visibility location adjacent to the Ed Roberts Campus and the Ashby Bart Station.

The Woolsey Street project is fully designed and the City is currently in the process of retaining a contractor for construction.

Piedmont Avenue Traffic Circle and Medians

The City of Berkeley and the University of California, Berkeley (UC Berkeley) have identified the large traffic circle and medians on Piedmont Avenue between Durant Avenue and Haste Street (Figure 13) as a potential site for a joint green infrastructure project. This is the location of a WMP-proposed GI/storage unit with a high Multi-Benefit Prioritization Score of 14.5. As Piedmont

Avenue is one of the main roads leading into the UC Berkeley campus, this is a very high visibility location to students and visitors alike. The large size of the traffic circle, ability to team with UC Berkeley, existing storm drain infrastructure, and location in the upper Potter Watershed make this an attractive project.



Figure 13 – The large grassy traffic circle at Piedmont Avenue and Channing Way could be retrofitted into a bioretention feature to treat runoff from the street.

Codornices Watershed Projects

The WMP identifies a number of potential sites for green infrastructure installations in the Codornices Watershed. Two proposed locations that received relatively high scores from the Multi-Benefit Prioritization Tool and have relatively high PCBs Reduction potential are Ninth Street at Codornices Creek and Tenth Street at Codornices Creek (Figures 14 and 15).

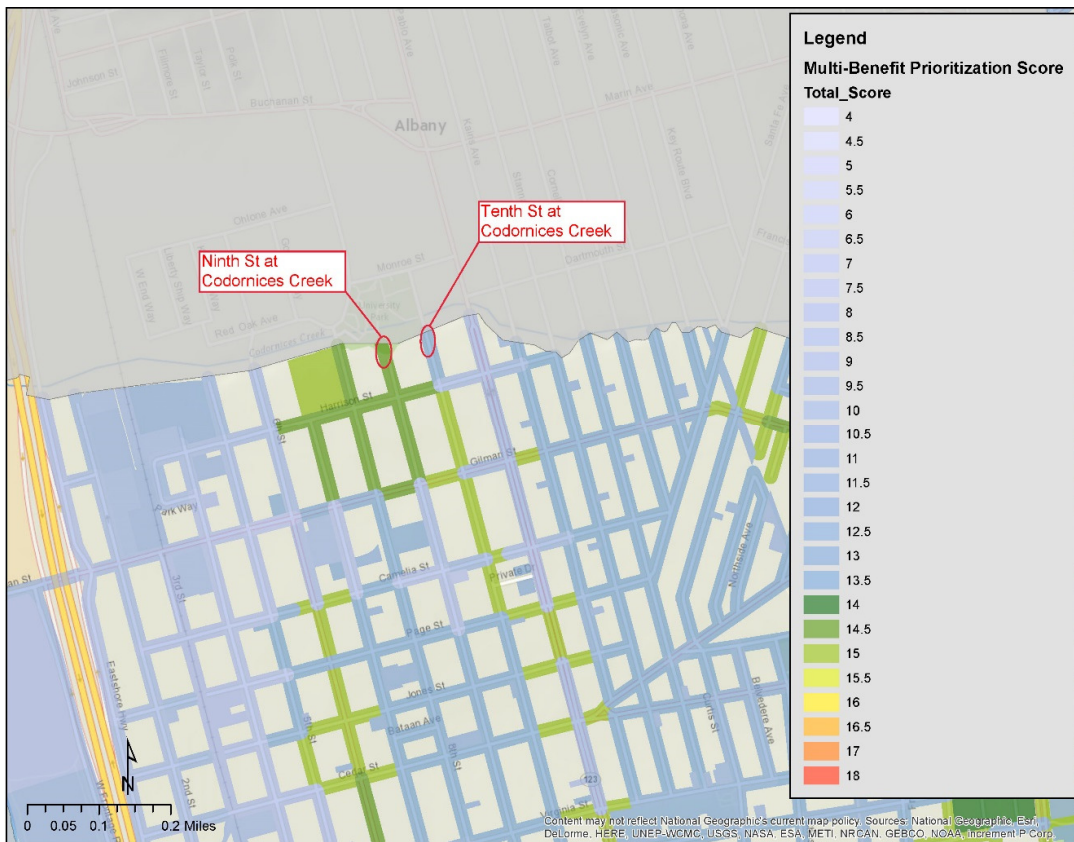


Figure 14 – Lower Codornices Watershed Potential GI Sites, Multi-Benefit Prioritization Scores

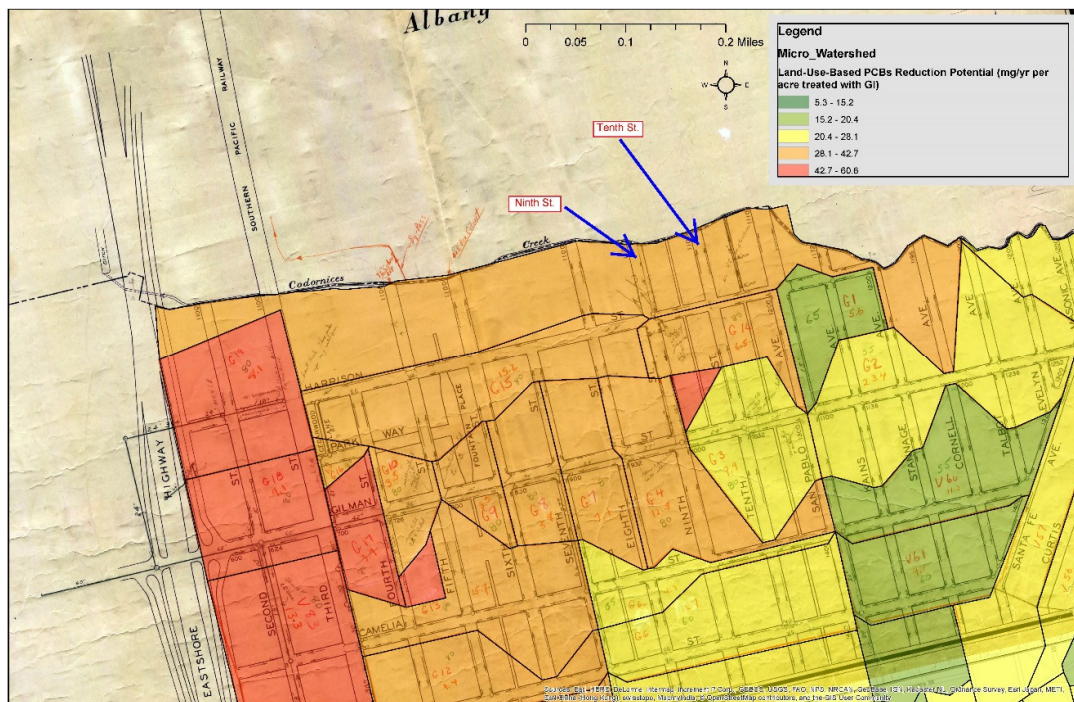


Figure 15 – Lower Codornices Watershed Potential GI Sites, PCBs Reduction Potential

As shown in Figure 16, a large raised concrete surface currently occupies the dead-end of Ninth Street at Codornices Creek. A portion of this concrete island could be converted into a bioretention unit to treat runoff from the street before it enters the creek. This retrofit could be completed concurrent with other improvements to the right-of-way and stabilization and restoration of the creek. In order for the City to complete this project, cooperation from upstream and downstream land owners on both sides of the creek would be necessary.



Figure 16 – A portion of the raised concrete surface on Ninth Street at Codornices Creek could be converted into a bioretention feature.

As shown in Figure 17, the parking lanes on both sides of Tenth Street at Codornices Creek are potential locations for bioretention features to treat runoff from the street prior to entering the creek. A similar project was previously completed on Sixth Street at Codornices Creek (Figure 18).



Figure 17 – Bioretention features could be installed in the parking lanes on Tenth Street at Codornices Creek.



Figure 18 – Existing bioretention features on Sixth Street that treat runoff from the street prior to running into the creek show how similar treatment at Tenth Street could be implemented.

Parks Projects

As the City of Berkeley is relatively built out, space constraints often limit opportunities for green infrastructure in the public right-of-way. Alternative opportunities may exist to install green infrastructure on City property such as parks. In some cases, green infrastructure can be installed along the perimeter of a park to treat runoff from the adjacent roadway. A bioswale in Presentation Park at the intersection of Allston Way and California Street (Figure 19) is an existing example of this type of project in Berkeley. City staff have identified San Pablo Park in southwest Berkeley as a potential site for a bioswale. As shown in Figure 20, the park itself has a relatively high Multi-Benefit Prioritization Score of 14. Many of the residential streets in the vicinity of the park have even higher Multi-Benefit Prioritization Scores (up to 15). Potential sites for a bioswale on the north end of the park (along Ward Street) or the east side of the park (along Park Street) could be used to treat runoff from the surrounding neighborhood.



Figure 19 – An existing bioswale at Presentation Park detains, treats, and infiltrates runoff from Allston Way.

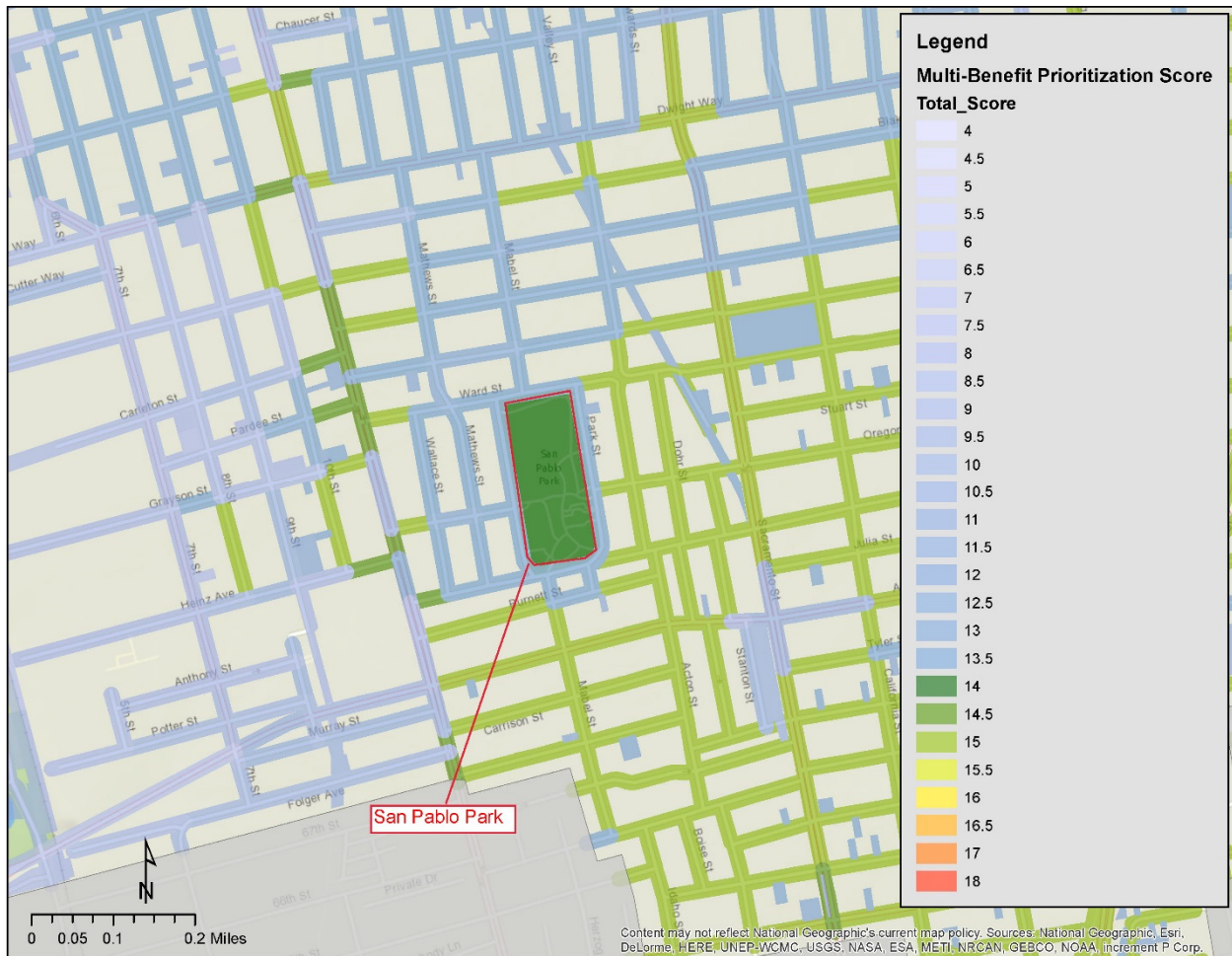


Figure 20 – Results from the Multi-Benefit Prioritization Tool for San Pablo Park and Surrounding Areas

West Berkeley Projects

As illustrated in Figure 10, the greatest opportunities in Berkeley to reduce PCBs (and Mercury) from stormwater runoff exist in Micro-Watersheds to the west of San Pablo Avenue. Utilizing outputs from the GI Mechanism, City staff conducted field and remote reconnaissance to determine where green infrastructure installations might be feasible in west Berkeley. Considering factors such as slope, space constraints, and existing storm drain infrastructure, seven west Berkeley Micro-Watersheds (or combinations of adjacent Micro-Watersheds) were identified for potential green infrastructure projects (Figure 21). Potential projects in the northernmost highlighted Micro-Watershed (adjacent to Codornices Creek) are discussed earlier in this section. Potential projects from the remaining highlighted Micro-Watersheds are discussed below.

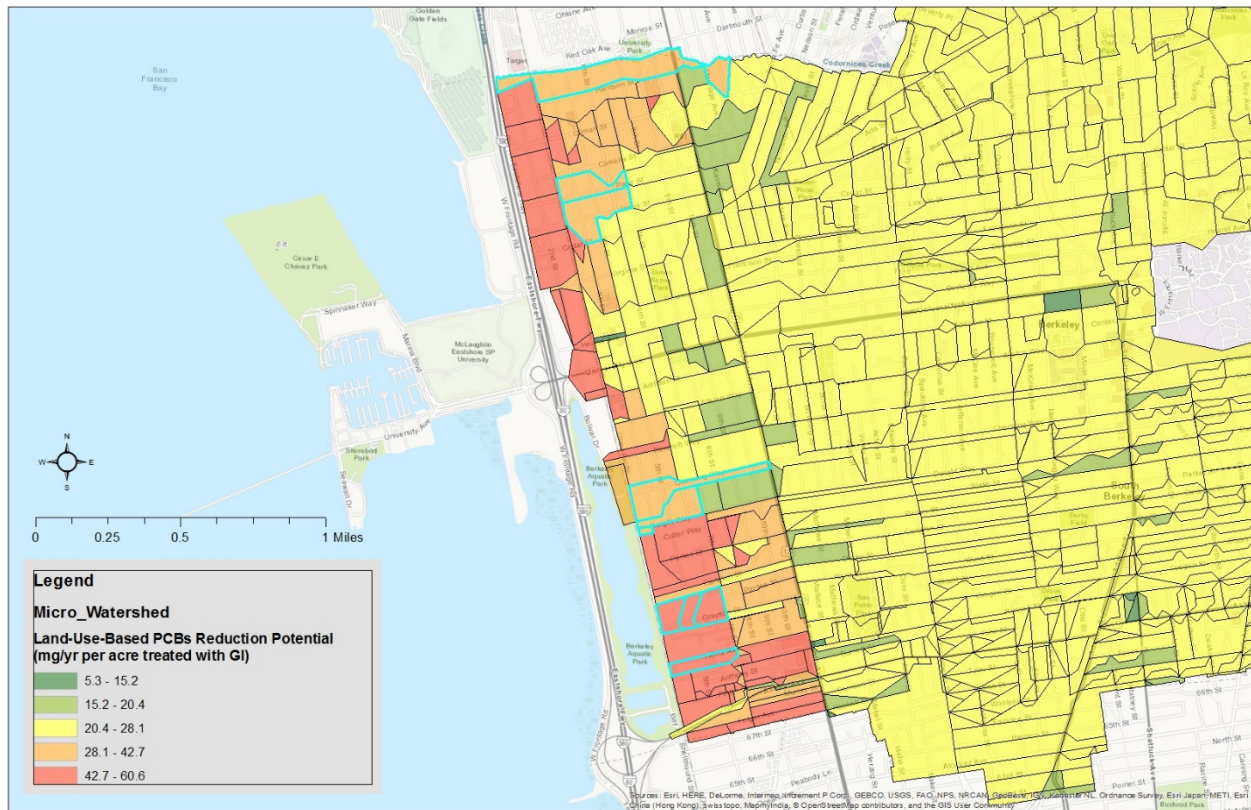


Figure 21 – Micro-Watersheds in West Berkeley with Identified Potential Green Infrastructure Opportunities (Outlined in Cyan)

Several east-west running streets in west Berkeley dead-end at the Union Pacific Railroad (UPRR) Right-of-Way (Third Street). At the locations discussed below, existing storm drain inlets are present near the UPRR dead-end, which could be retrofitted into surface-level bioretention features. These locations present a unique opportunity to treat runoff from Old Industrial parcels in west Berkeley. As the streets are closed to through traffic, space limitations for surface-level green infrastructure are minimized. As groundwater may be relatively shallow at these locations and groundwater contamination plumes may be present, additional feasibility studies will be required to properly assess subsurface conditions. Potential bioretention features at these locations may need to be lined to prevent interaction with groundwater.

Page Street at Railroad Right-of-Way

As illustrated on Figures 22 and 23, the dead end of Page Street at the UPRR Right-of-Way is a promising potential location for a bioretention feature. A 9.6-acre Micro-Watershed (including 3.9 acres of Old Industrial and 4.3 acres of Old Urban Historical Land Uses) drains to this location. Existing storm drain inlets on the north and south sides of Page Street should allow for a relatively straightforward retrofit. This Micro-Watershed has an average Land-Use-Based PCBs Reduction Potential of 34.3 milligrams per year per acre treated (mg/yr/ac) and is located in the Gilman Watershed.

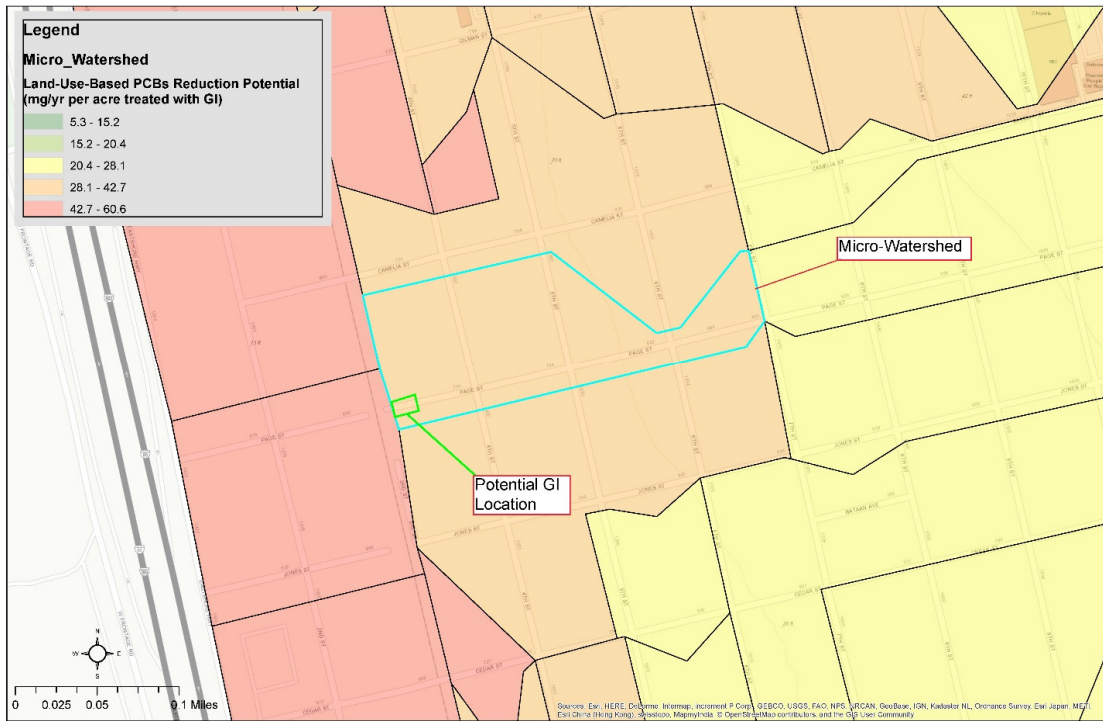


Figure 22 – Potential Location for a Bioretention Feature on Page Street at the UPRR ROW and Tributary Micro-Watershed



Figure 23 – Potential Location for a Bioretention Feature on Page Street at the UPRR ROW

Jones Street at Railroad Right-of-Way

Similar to Page Street, the dead end of Jones Street at the UPRR Right-of-Way is another potential location for one or more bioretention features (Figures 24 and 25). A 15.4-acre Micro-Watershed (including 5.2 acres of Old Industrial and 7.9 acres of Old Urban Historical Land Uses) drains to this location. An existing storm drain inlet on the south side of Jones Street at the UPRR Right-of-Way could be converted into a green infrastructure facility. Under current conditions, stormwater ponds at the southwest corner of Jones Street at Fourth Street. Installation of one or more bioretention features along the south side of Jones Street between Fourth Street and the UPRR Right-of-Way could be combined with drainage improvements to alleviate localized flooding. This Micro-Watershed has an average Land-Use-Based PCBs Reduction Potential of 31.8 mg/yr/ac and is located in the Gilman Watershed.

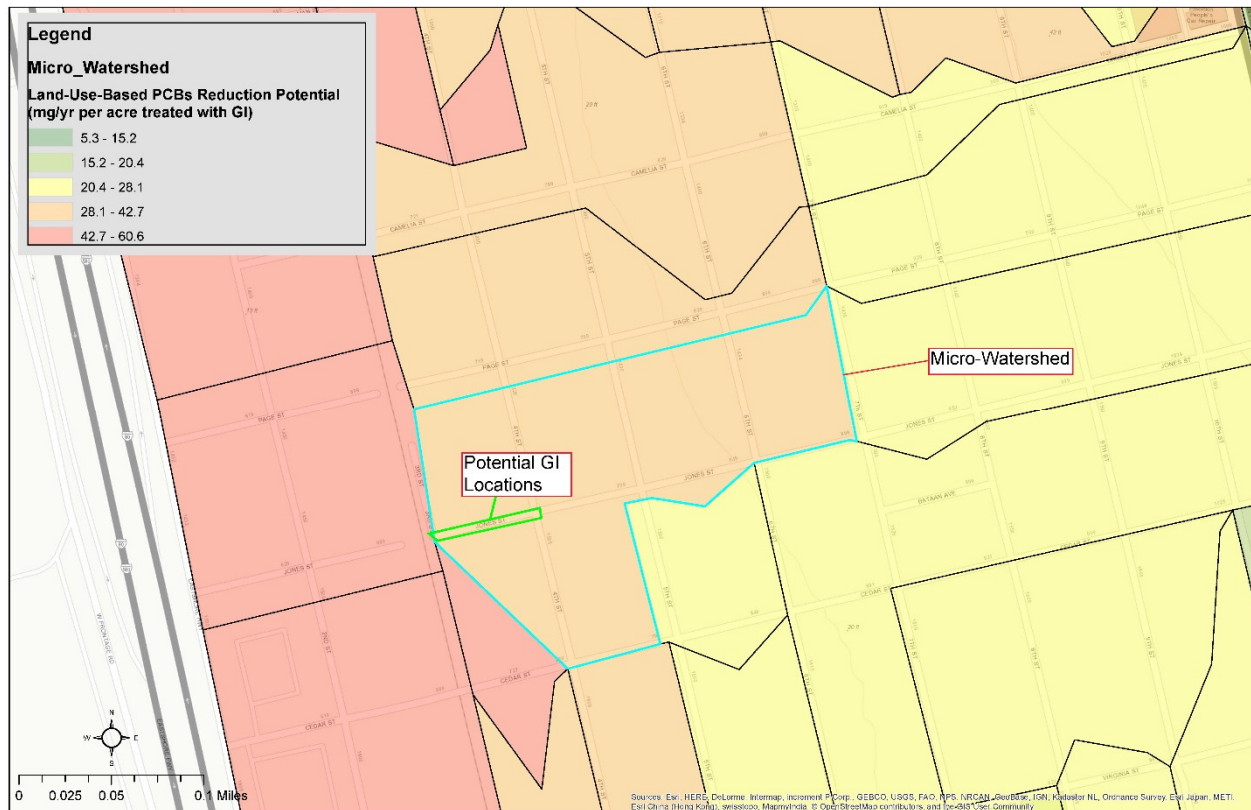


Figure 24 – Potential Location for a Bioretention Feature on Jones Street at the UPRR ROW and Tributary Micro-Watershed



Figure 25 – Potential Location for a Bioretention Feature on Jones Street at the UPRR ROW

Channing Way at Railroad Right-of-Way

As illustrated on Figures 26 and 27, the dead end of Channing Way at the UPRR Right-of-Way is a potential location for a bioretention feature. A 15.8-acre Micro-Watershed (including 5.1 acres of Old Industrial and 9.6 acres of Old Urban Historical Land Uses) drains to this location. Existing storm drain inlets on the north and south sides of Channing Way should allow for a relatively straightforward retrofit. This Micro-Watershed has an average Land-Use-Based PCBs Reduction Potential of 32.7 mg/yr/ac and is located in the Potter Watershed.

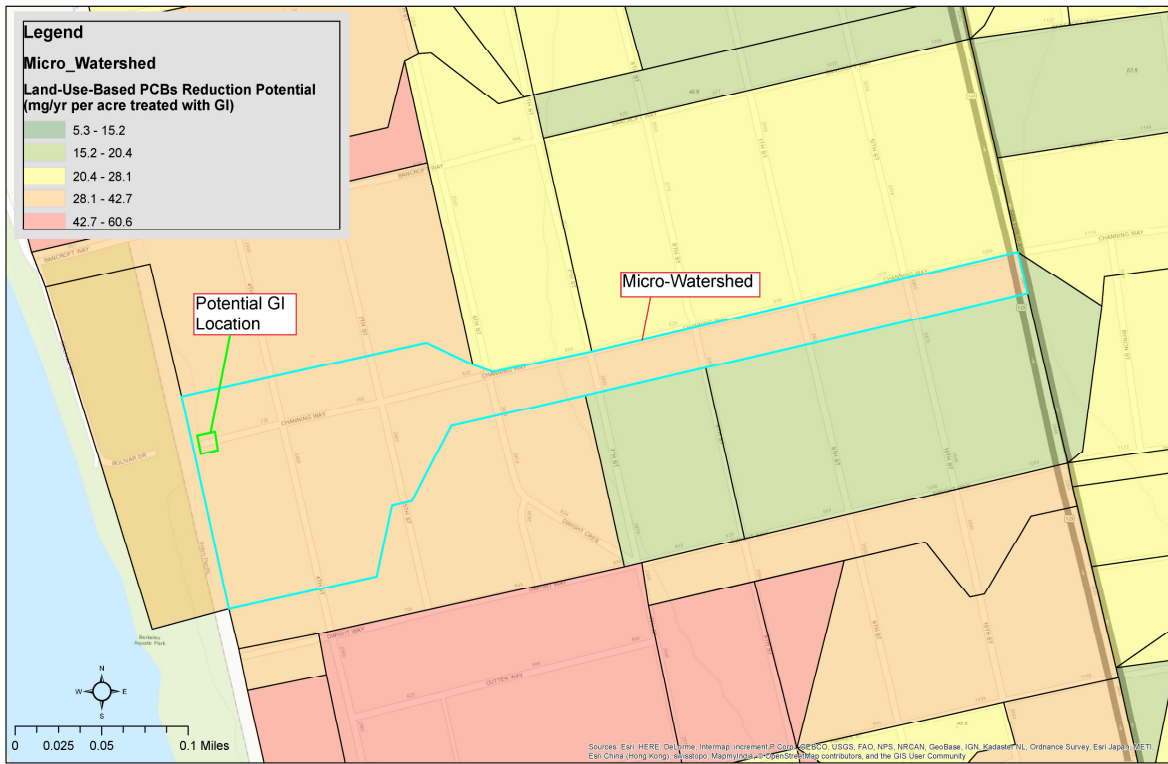


Figure 26 – Potential Location for a Bioretention Feature on Channing Way at the UPRR ROW and Tributary Micro-Watershed



Figure 27 – Potential Location for a Bioretention Feature on Channing Way at the UPRR ROW

Heinz Avenue at Railroad Right-of-Way

As illustrated on Figures 28 and 29, the dead end of Heinz Avenue at the UPRR Right-of-Way is a potential location for a bioretention feature. A 6.5-acre Micro-Watershed drains to this location. An existing storm drain inlet on the west end of the Heinz Avenue turn-around could be converted into a bioretention feature. This Micro-Watershed has an average Land-Use-Based PCBs Reduction Potential of 48.4 mg/yr/ac and is located in the Potter Watershed.

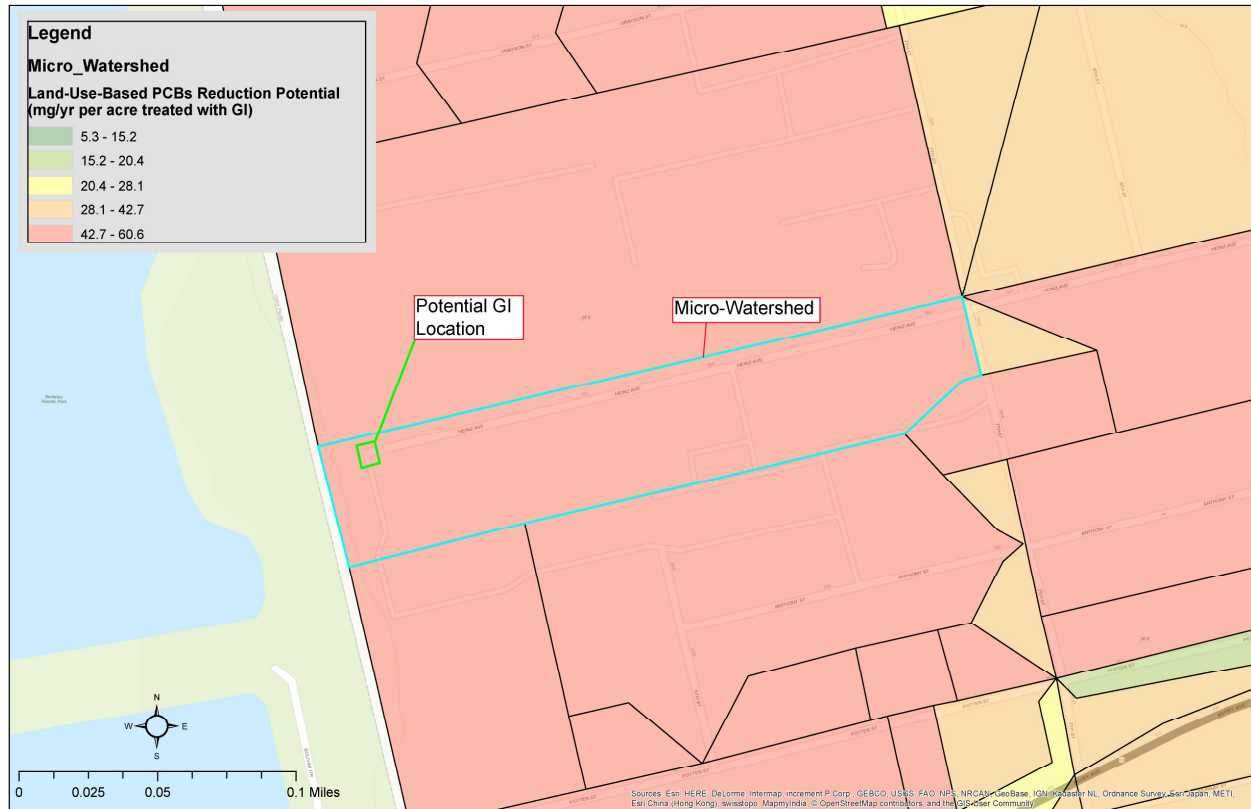


Figure 28 – Potential Location for a Bioretention Feature on Heinz Avenue at the UPRR ROW and Tributary Micro-Watershed



Figure 29 – Potential Location for a Bioretention Feature on Heinz Avenue at the UPRR ROW

Additional opportunity sites for green infrastructure facilities have been identified on Dwight Way and Grayson Street in west Berkeley. For each of these locations, construction of a bioretention feature at the UPRR Right-of-Way dead-end may not be feasible due to access constraints. However, extension and retrofit of existing sidewalk planter strips into bioretention features may be an effective way to manage and treat stormwater runoff. Potential locations for bioretention features have been identified on Grayson Street between Seventh Street and the UPRR Right-of-Way (Figure 30) and on Dwight Way between Fourth Street and the UPRR Right-of-Way (Figure 31). Table 3-2 provides a comparison of the high priority potential green infrastructure projects identified in this section.

Table 3-2
Comparison of High-Priority Potential Green Infrastructure Projects
City of Berkeley 2019 Green Infrastructure Plan

Location	Watershed	Max Feature Size (acres)	Max Drainage (acres)	MBPT Score	PCB Reduction Potential for Microshed* (mg/year per acre treated)	Potential Treatment Area (acres)	Description
<i>West Berkeley</i>							
Heinz and Railroad (3rd st)	Potter	0.04	6.5	9	48.4	1.3	Opportunity for bioretention feature at dead-end of Heinz (at 3rd) with existing inlet that drains to Potter Outfall
Grayson and Railroad (3rd st)	Potter	0.1	5.5	9	52.4	3.3	Opportunity for bioretention features along either side of Grayson, between 7th and 3rd
Dwight and Railroad (3rd st)	Potter	0.09	1.6	9	36.3	3.0	Opportunity for bioretention features in parking lane/planter strip along either side of Dwight, between 4th and 3rd
Channing and Railroad (3rd st)	Potter	0.03	15.8	9	32.7	1.0	Opportunity for bioretention feature at dead-end of Channing (at 3rd) with existing inlets that drain to Potter Outfall
<i>Gilman Watershed</i>							
Jones between 4th and Railroad (3rd st)	Gilman	0.08	15.4	9	31.8	2.7	Opportunity to install two connected bioretention features along the south side of Jones between 4th St and the Railroad ROW
Page between 4th and Railroad (3rd)	Gilman	0.04	9.6	9	34.3	1.3	Opportunity to install a bioretention feature at the dead-end of Page St at the Railroad ROW
<i>Codornices Projects</i>							
10th St at Codornices Creek	Codornices	0.03	2.9	13	40.9	1.0	Opportunity to install bioretention features on the east and west sides of 10th St at Codornices Creek, similar to the existing rain gardens on 6th St at Codornices Creek
9th St at Codornices Creek	Codornices	0.03	3	14.5	40.9	1.0	A portion of the concrete island at end of 9th St could be converted to a bioretention feature treating runoff from 9th st before it flows into Codornices Creek. Challenges include coordination with and financial participation from upstream and downstream private property owners, and any creek restoration requirements
<i>Piedmont Ave/UC Joint Project</i>							
Piedmont Traffic Circle	Potter	0.12	5.8	14.5	21.2	4.0	Large grassy traffic circle could be converted to a bioretention feature to treat runoff from Piedmont Ave and Channing Way
Median between Durant and Channing	Potter	0.16	1.5	14.5	21.2	5.3	Large grassy median could be converted to a bioretention feature to treat runoff from Piedmont Ave
<i>Parks Projects</i>							
San Pablo Park (Ward St)	Potter	0.1	8.9	14	21.2	3.3	Grassy area in NW corner of park or strip of grass along northern side of park could be converted to a swale to treat runoff from Ward St

MBPT = Multi-Benefit Prioritization Tool

* = Calculated using the BASMAA Interim Accounting Methodology for TMDL Loads Reduced



Figure 30 – Extension and retrofit of existing sidewalk planter strips into bioretention features may be feasible on Grayson Street between Seventh Street and the UPRR ROW.



Figure 31 – Extension and retrofit of existing sidewalk planter strips into bioretention features may be feasible on Dwight Way between Fourth Street and the UPRR ROW.

3.3 Early Implementation Projects

The projects listed in Appendix B have been identified by the City of Berkeley as Early Implementation Green Infrastructure Projects in accordance with MRP Provision C.3.j.ii. Of the six projects listed, four were completed prior to 2019. The remaining two projects (San Pablo Avenue Storm Water Spine and Woolsey Street Bioswale and Flow Detention) are funded and designed, with construction anticipated to begin in 2019.

4. Tracking and Mapping Completed GI Projects

The process for tracking and mapping completed GI projects, both public and private, and making the information publicly available, as required by Provision C.3.j.i.(2)(d), is described below. This process was developed by the ACCWP, which participated in regional coordination with BASMAA, to comply with the requirement in Provision C.3.j.iv.(1) that "Permittees shall, individually or collectively, develop and implement regionally-consistent methods to track and report implementation of green infrastructure measures including treated area and connected and disconnected impervious area on both public and private parcels within their jurisdictions."

4.1 Project Tracking and Load Reduction Accounting Tool

As a member agency of the ACCWP, the City of Berkeley uses an ArcGIS Online (AGOL) web application-based tool, the C3 Project Tracking and Load Reduction Accounting Tool ("AGOL Tool"), which ACCWP developed in cooperation with the Contra Costa Clean Water Program to assist its member agencies in meeting the requirements described above. Detailed information and instructions on the tool can be found in the C3 Project Tracking and Load Reduction Accounting Tool Guidance Document (ACCWP 2017).

The general process for entering GI projects into the AGOL Tool involves logging in to the ArcGIS Online web application, opening the tool, and entering data. There are two methods for entering data, but, in general both involve: locating the project area, drawing the project boundary, entering project attributes, drawing the stormwater treatment facility(ies), and entering facility attributes. Project attributes include jurisdiction, location description, type of project, project name, and additional optional fields that can be populated if the information is known. Facility attributes include hydraulic sizing criterion, project ID, facility type, treatment, and percent of project area treated by the facility.

The City of Berkeley has incorporated the use of the AGOL Tool into its processes for reporting C.3 Regulated Projects and non-C.3 Regulated projects that include green infrastructure – encompassing both public and private projects. The tool includes a feature for generating tables of C.3 Regulated Projects and GI projects that include MRP-required project data for annual reporting purposes.

4.2 Making Information Publicly Available

As required by the MRP, the process for tracking and mapping completed projects (public and private) includes making the information generated by the tool publicly available. Information from the tool will be made publicly available as follows.

- On an annual basis, include in the Annual Report for the City of Berkeley's Stormwater Program information from the tool in the form of (1) a list of GI projects (public and private) that are planned for implementation during the permit term as required in Provision C.3.j.ii, and (2) a list of Regulated Projects approved during the fiscal year reporting period as required in MRP Provision C.3.b.iv.

- Coordinate with ACCWP to develop a viewable version of the AGOL tool, which is anticipated to be embedded on ACCWP's public website and may also be accessible via the City of Berkeley's website.

5. Summary of General Guidelines for GI Projects

General Guidelines are presented in Appendix C to guide the City of Berkeley in designing a project that has a unified, complete design that implements the range of functions associated with GI projects, and in providing for appropriate coordination of projects and project elements. The General Guidelines include hydraulic sizing guidance, standard specifications, and typical designs for GI projects. Additional information about the General Guidelines is summarized below.

5.1 Implementing Projects with a Unified, Complete Design

The General Guidelines presented in Appendix B focus on designing and coordinating projects that implement a range of functions appropriate to the type of project. For example, the guidelines for designing street projects address a range of functions including pedestrian travel, use as public space, for bicycle, transit, vehicle movement, and as locations for urban forestry. The guidelines for coordination identify measures for implementation during construction to minimize conflicts that may impact green infrastructure.

5.2 Hydraulic Sizing Requirements

Provision C.3.j.i.(2)(g) of the MRP states that GI projects are required to meet the treatment and hydromodification management (HM) sizing requirements included in Provisions C.3.c and C.3.d of the MRP. However, an exception to this requirement is provided in Provision C.3.j.i.(2)(g) for street projects that are not Regulated Projects under Provision C.3.b ("non-Regulated Projects").

The General Guidelines in Appendix C provide hydraulic sizing guidance for GI projects, addressing the hydraulic sizing criteria in MRP Provisions C.3.c and C.3.d, as well as the alternate sizing approach for constrained street projects developed by the Bay Area Stormwater Management Agencies Association. These guidelines do not address Regulated Projects as defined in Provision C.3.b of the MRP.

Please note that some non-Regulated Projects are required to implement site design measures in accordance with Provision C.3.i of the MRP. Appendix L of the ACCWP C.3 Technical Guidance Manual (ACCWP 2017b) explains how to determine whether Provision C.3.i applies to your project, and how to incorporate applicable site design measures, if required.

Table 5-1 presents a summary of resources for hydraulic sizing guidance, and other applicable guidance, for different types of projects.

Table 5-1: Hydraulic Sizing Guidance and Other Guidance Resources- by Project Type

Type of Project	Where to Find Guidance	
	Provision C.3.i or HM Guidance, if Applicable	Hydraulic Sizing Guidance
Non-Regulated Green Infrastructure Project (public or private project) that is NOT subject to Provision C.3.i ⁶	Not applicable	Appendix C – General Guidelines for GI Projects
Non-Regulated Green Infrastructure Project (public or private project) that IS subject to Provision C.3.i	ACCWP C.3 Technical Guidance (Appendix L, Site Design Requirements for Small Projects)	
Regulated Project that is NOT a Hydromodification Management (HM) Project ⁷	Not applicable	ACCWP C.3 Technical Guidance (Section 5.1, Hydraulic Sizing Criteria)
Regulated Project that IS an HM Project	ACCWP C.3 Technical Guidance (Chapter 7, Hydromodification Management Measures)	

5.3 Standard Specifications and Typical Designs

Appendix C of this GI Plan includes typical design drawings and standard specifications for GI projects, which address various types of land-use, transportation, and site characteristics. GI projects may also utilize design guidance provided in Chapter 6 of the C.3 Technical Guidance Manual for other types of low impact development storm water treatment facilities, subject to City staff approval.

⁶ MRP Provision C.3.i applies to projects that create and/or replace at least 2,500 but less than 10,000 square feet of impervious surface; and Individual single family home projects that create and/or replace 2,500 square feet or more of impervious surface.

⁷ An HM Project is a Regulated Project that creates and/or replaces one acre or more of impervious surface, will increase impervious surface over pre-project conditions, and is located in a susceptible area, as shown on the ACCWP default susceptibility map.

6. Integration of GI Requirements in Other City Planning Documents

Provision C.3.j.i.(2)(h) of MRP 2.0 requires permittees to update planning documents that may affect the future alignment, configuration, or design of impervious surfaces within the Permittee's planning authority. City of Berkeley documents and programs that include GI elements are listed below.

- City of Berkeley General Plan
- Downtown Berkeley Design Guidelines
- Downtown Streets and Open Space Improvement Plan
- Downtown Area Plan
- Berkeley Strategic Transportation Plan (BeST Plan)
- Watershed Management Plan
- Hazard Mitigation Plan
- Adeline Corridor Specific Plan (in progress)
- Pedestrian Master Plan (update in progress)
- Southside Complete Streets (in progress)

Adeline Corridor Specific Plan

The Adeline Corridor Specific Plan (Adeline Plan) was developed between 2015 and 2019, coinciding with development of the GI Plan. The concurrent development of these two plans represented an opportunity to create an example showing how the GI Plan can be integrated with an area-specific plan. As shown in Figure 32, several sections of Right-of-Way and parcels within the Adeline Corridor Area rank highly as GI opportunity sites according to the Multi-Benefit Prioritization Tool. The Adeline Plan presents a conceptual redesign of portions of Adeline Street and Shattuck Avenue in South Berkeley. Green infrastructure opportunities identified in the Adeline Plan include the use of permeable pavement in the parking lanes, walkways, and medians, and potential bioretention features in the buffers strips, medians, and newly developed public open spaces. Along the Adeline Corridor, the underlying BART Tunnel may render some types of stormwater infiltration facilities unfeasible. However, flow-through planters completed above the Downtown Berkeley BART Station in 2018 (Figure 33) provide a great example of the types of GI facilities that could be installed above the BART Tunnel.

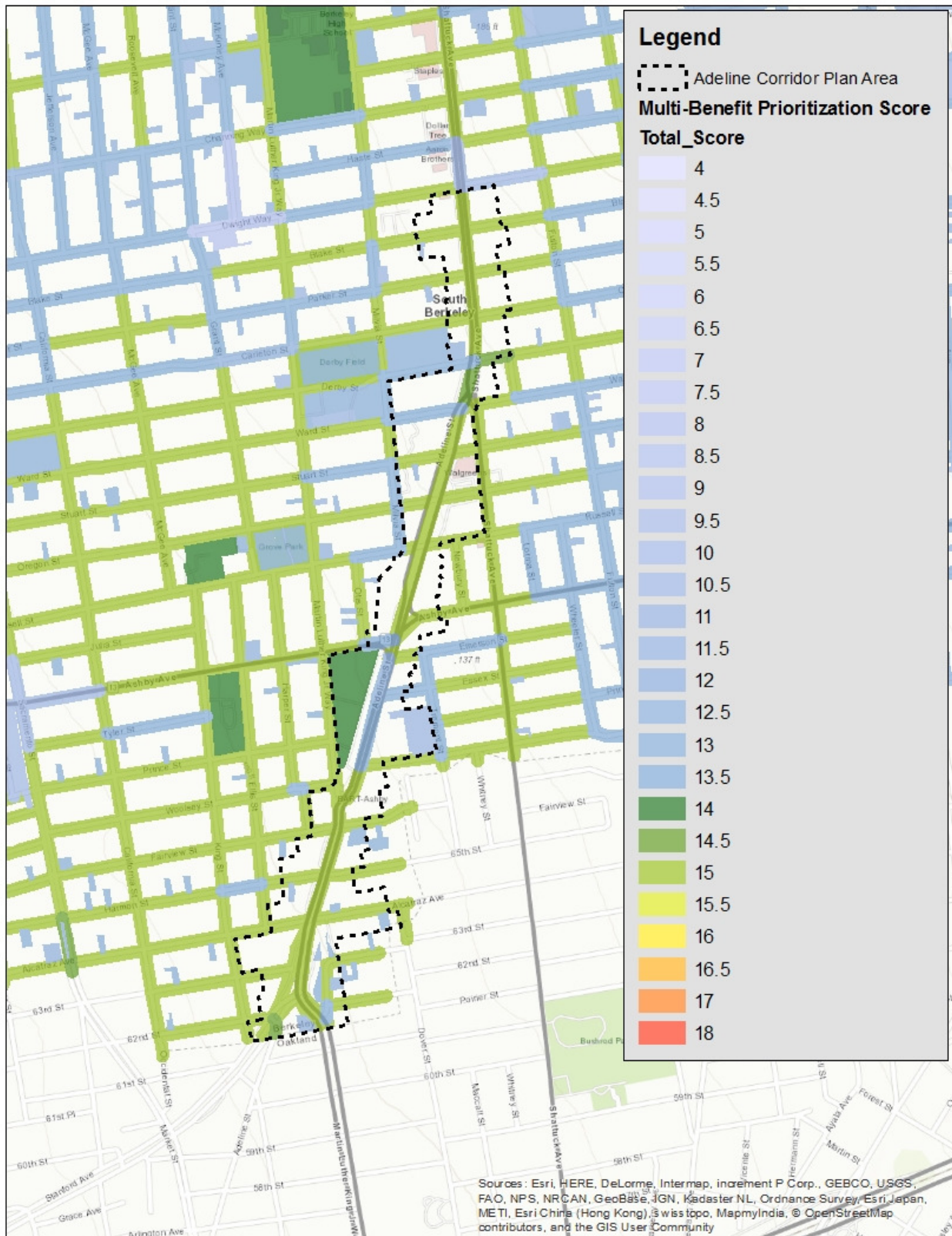


Figure 32 – Outline of the Adeline Corridor Specific Plan Area Overlain with Results from the Multi-Benefit Prioritization Tool



Figure 33 – Flow-through planters installed above the Downtown Berkeley BART Station treat runoff from Shattuck Avenue.

Watershed Management Plan

As discussed in previous sections, the City of Berkeley's 2011 Watershed Management Plan (WMP) includes many references to green infrastructure. As discussed in Section 3 of the GI Plan, potential green infrastructure projects identified in the WMP have been reevaluated using the tools of the GI Mechanism. Hydraulic models of the Potter and Codornices Watersheds were developed for the WMP. The City hopes to develop models for additional watersheds as recommended in the WMP. If potential green infrastructure sites are identified through future modelling efforts, those locations will also be evaluated using the tools of the GI Mechanism to inform prioritization.

Green Infrastructure Plan Adaptability

The Green Infrastructure Plan is intended to be an adaptable, living document and the tools of the GI Mechanism are meant to be modular and compatible with other current and future City prioritization protocols. As future City plans are developed, the tools of the GI Mechanism should be utilized to help identify potential green infrastructure locations that are complementary to the scope of those plans. As the tools of the GI Mechanism are GIS-based, they can be overlain with

other current or future City GIS layers and GIS analytical tools may be used to run updated prioritization analyses.

7. Evaluation of Funding Options

As required by provision C.3.j.i.(2)(k) of the MRP, The City of Berkeley has evaluated funding options for implementation of green infrastructure projects. An evaluation of funding options for the City's Stormwater Program performed by MWH in 2015 is included as Appendix D. Additionally, Chapter 9 of the WMP (Appendix A) contains a discussion of funding options for the City's Stormwater Program. As recommended in the MWH evaluation, a Proposition 218-compliant process to increase of the City's Clean Stormwater Fee was undertaken in 2018. After a series of productive public meetings and input from the community, the citizens of Berkeley voted to pass the fee increase (Appendix E).

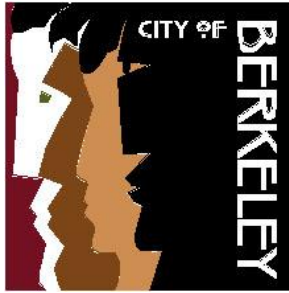
In 2019, the ACCWP completed the countywide Storm Water Resource Plan. Completion of this plan makes Berkeley and the other entities that contributed to the plan eligible for California Proposition 1 grants. It is envisioned that revenue from the City's Clean Stormwater Fee, potentially supplemented by grant monies will be the primary sources of funding for green infrastructure in Berkeley in the short term. There has been some interest in exploring the feasibility of an In-Lieu Fee program as a source of funding for green infrastructure in the future.

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Appendix A

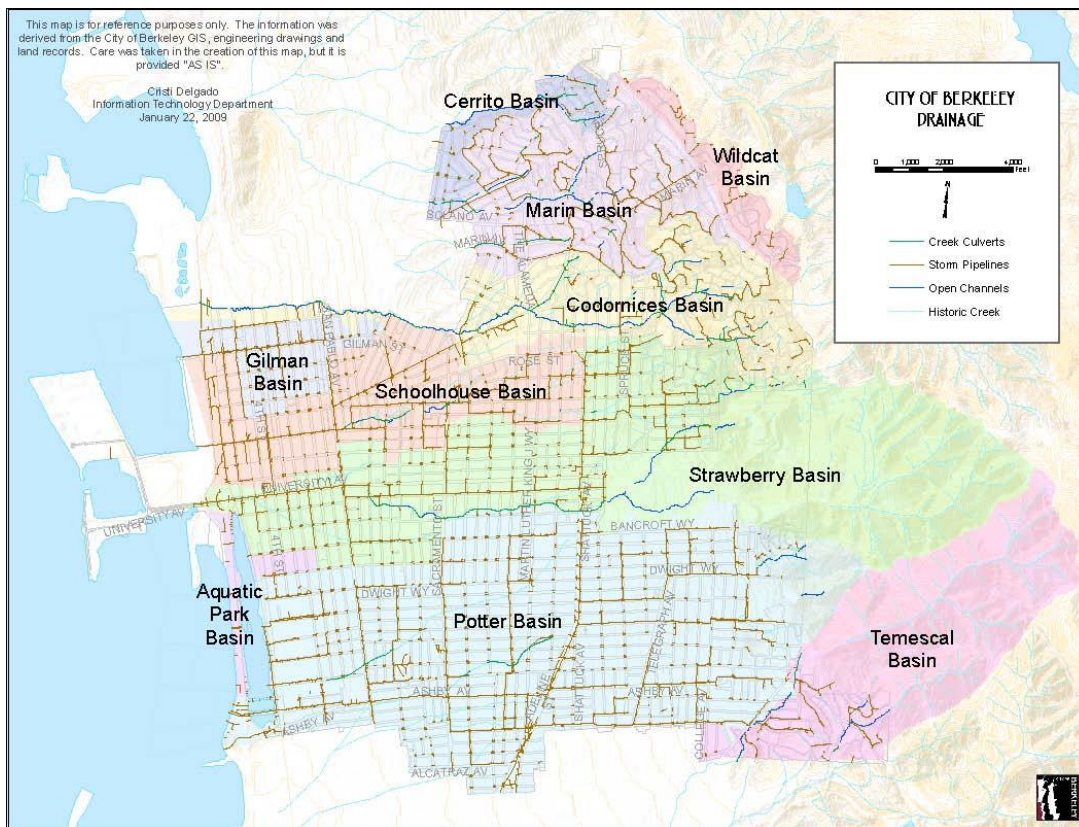
City of Berkeley Watershed Management Plan



CITY OF BERKELEY

2011

WATERSHED MANAGEMENT PLAN



Public Works Engineering

Version 1.0 October 2011

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EXECUTIVE SUMMARY

The Watershed Management Plan (WMP) presents an integrated and sustainable strategy for managing urban water resources. It is meant to guide future City efforts in promoting a healthier balance between the urban environment and the natural ecosystem. The document is arranged by various topic areas, providing an overview of current City activities and making recommendations for improvements. The WMP should be considered a document that will evolve over time as new information is gathered and analyzed, technologies advance, and regulatory requirements change.

Berkeley is a densely built-out city, comprised of 11 watersheds wholly or partial within City limits. All watersheds in Berkeley eventually drain to the San Francisco Bay, which is an important economic engine and an internationally recognized natural resource. Each watershed is unique with various mixtures of: land uses, demographic communities, and remaining aquatic and wildlife habitats. Chapter 2 provides an overview of watershed characteristics as well as common issues associated with urban settings. These issues include high rates and volumes of stormwater runoff (flooding), stormwater pollution, and degradation of creeks.

The WMP looks at addressing water quality, flooding, and the preservation of creeks and habitats using multi-objective approaches where possible. This entails supplementing the existing engineered storm drain infrastructure with greener approaches that mimic natural hydrologic processes including filtration and infiltration by soils and plants. Chapter 3, discusses various green retrofit measures appropriate for the public right-of-way as well as for public and private property. These green approaches also provide opportunities for the collection and non-potable re-use of stormwater. Additional discussion of water quality programs and recommendations are provided in Chapter 4.

There are an estimated 8 miles of open creeks in the City. Only 7% of this is on public lands, the remainder flows through private properties. There are about 6.5 miles of creek culverts, with about 60% on public property. There is little data available on the physical conditions of both creeks and creek culverts, thus one of the primary recommendations is for additional information gathering. Further discussion of the benefits, functions and associated habitats of creeks is provided in Chapter 5, which also articulates the City's regulatory roles and the distinction between creek culverts and storm drainpipes.

There are about 93 miles of storm drain pipelines under the public right-of-way throughout the City, much of which is nearing or past its design life expectancy. Chapter 6 discusses the public storm drain pipe infrastructure and how the City approaches its management. Additional information gathering is needed to assess the physical conditions and hydraulic capacities of these facilities. Maintenance programs are further discussed in Chapter 7.

For WMP development, City Council approved funding for the hydraulic modeling of the Potter and Codornices Watersheds (Chapter 8). These two watersheds represent the

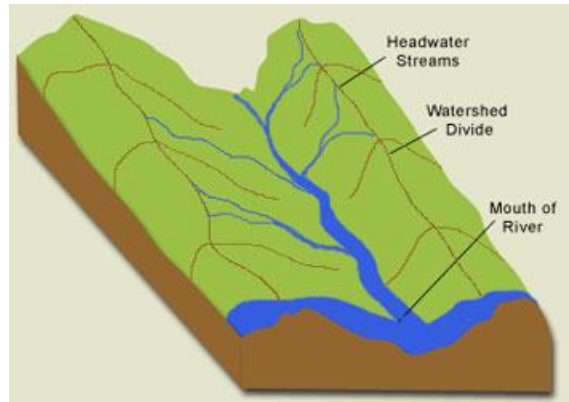
full range of the drainage spectrum in Berkeley. The Codornices Watershed is drained by one of the most open creeks remaining in the East Bay, while the Potter Watershed (the largest in the City) is drained exclusively by storm drain pipes. The modeling results were used to develop Capital Improvement recommendations for both watersheds. These recommendations call for an innovative combination of conventional measures (such as pipe enlargement) and green right-of-way retrofits to treat, slow, and potentially re-use stormwater. These measures, called Green Infrastructure, include right-of-way landscaping, underground temporary storage piping, permeable surfacing, and trash capture devices.

Implementing WMP recommendations will require coordination among City Departments; participation and support from the public; partnerships with stakeholders; gathering and analyses of information; and financial resources. Chapter 9 provides four funding scenarios with a corresponding level of WMP implementation associated for each.

CHAPTER 1: WMP OVERVIEW

INTRODUCTION

Simply stated, a “Watershed” is the area of land that drains into a common waterbody, such as a creek or the San Francisco Bay. A watershed can be thought of as a large bathtub: when a drop of water hits anywhere in the tub, it eventually finds its way to the drain (the lowest point). In this instance, the bathtub rim defines the watershed boundary. On land, a watershed boundary is determined by topography—ridgelines or high elevation points—rather than by political jurisdictions. A watershed includes surface water bodies (e. g., streams, rivers, lakes, reservoirs, wetlands, and estuaries), groundwater (e.g., aquifers and groundwater basins), and the surrounding landscape.



A single watershed often encompasses a wide variety of land uses, business types, demographics, and natural resources in a densely, urbanized environment such as Berkeley. These components can all influence watershed function, due to cumulative effects on hydrology, water quality, and ecosystem health. In 2008, on the recommendation of the temporary Creeks Task Force¹, the City Council authorized the creation of the Watershed Resources Specialist position within the Public Works Department’s Engineering Division to assist in the creation of a watershed plan.

A Watershed Management Plan (WMP) is a strategy that provides assessment and management information for a geographically defined watershed, including the analyses, actions, participants, and resources related to developing and implementing the plan. The key components of watershed planning are:

- Definition of management goals.
- Characterization of existing conditions.
- Development of protection and remediation strategies.
- Implementation of selected actions (adapted over time as necessary).

The WMP offers guidance for enhancing the City’s efforts to manage watershed resources within the public right-of-way and on public property. It also provides a platform from which to encourage other watershed stakeholders (residents, property-

¹ The Creeks Task Force was established by City Council in November 2004 and sunset in May 2006. It was tasked with recommending revisions to the Berkeley Municipal Code 17.08, Preservation and Restoration of Natural Water Courses.

owners, businesses, developers, local public agencies, non-governmental organizations, etc.) to participate.

MISSION & INTENDED USE OF WMP

The mission of the Watershed Management Plan (WMP) is to promote a healthier balance between the urban environment and the natural ecosystem, including the San Francisco Bay. The WMP serves to guide the development, enhancement, and implementation of actions to achieve the following goals and objectives:

WMP GOALS	OBJECTIVES
Protect Water Quality	<ul style="list-style-type: none"> • Improve pollutant removal operations within City right-of-way. • Reduce sources of non-point-source pollution. • Raise public consciousness about water resources and pollution prevention. • Collect/analyze data to better understand issues and plan accordingly.
Reduce Urban Flooding	<ul style="list-style-type: none"> • Maintain and operate appropriately sized storm drain pipe infrastructure. • Reduce peak runoff volumes and velocities. • Keep stormwater inlets free of obstructions. • Collect/analyze data to better understand issues and plan accordingly.
Preserve Natural Waterways and Habitat	<ul style="list-style-type: none"> • Preserve /enhance natural riparian spaces. • Increase habitat connectivity. • Collect/analyze data to better understand issues and plan accordingly.
Re-Use Rainwater as Resource	<ul style="list-style-type: none"> • Reduce use of potable water for non-potable uses. • Reduce peak runoff volumes and velocities. • Encourage public awareness and participation.

Implementing the WMP will require on-going inter-departmental coordination within the City government as well as participation and support from the wider stakeholder community. It will also need adequate funding to plan, implement, and maintain recommended capital improvements and programs.

The WMP is a document that will continue to evolve. The City recognizes that technologies are constantly changing and improving and new information is continually being gathered and analyzed. The WMP should be considered a guide for improving watershed function and health, rather than as a strict plan.

WMP DEVELOPMENT PROCESS

The WMP consolidates and builds on existing City activities. The City of Berkeley has long engaged in on-going planning and actions in several distinct areas with watershed implications. These activities include, among others, stormwater quality management, flood management, creek protection, and land use planning. The City has incorporated

these interrelated components into a holistic watershed context. The WMP does this, while adding a new element that promotes the harvesting of rain water as a resource for non-potable re-use.

In developing the WMP, staff reviewed existing City policies, programs, plans, and infrastructure inventories to identify opportunities for improvements, efficiencies, and coordination. Most of these City plans and policies are further described within the relevant chapters WMP. Appendix A provides a consolidated summary of many of these plans and policies, emphasizing each one's respective nexus to the WMP.

Sophisticated computer modeling was used on two watersheds (Potter and Codornices) in the City to: 1) identify existing condition drainage capacities and constraints, and 2) determine the feasibility of both traditional and innovative approaches to resolving these issues. The results of this effort are provided in Chapter 8, which includes prioritized lists of recommended capital improvements for these specific watersheds.

Stakeholder Process

The on-going engagement of a wide spectrum of stakeholders will be fundamental to the WMP process. Policies and programs recommended by the WMP potentially affect internal City departments, as well as the broader community. This community includes: other local, regional, and state public agencies and special districts (i.e. Berkeley Unified School District [BUSD], East Bay Regional Parks District [EBRPD], the University of California [UCB], adjacent municipalities, Caltrans, and the Union Pacific Railroad [UPRR]); land developers, designers, and contractors; merchant associations and business owners; non-governmental organizations with environmental, social, and economic missions; and property-owners and residents.

The primary avenues for WMP communication will be City interdepartmental meetings, public community meetings, stakeholder group meetings, and a dedicated WMP webpage on the City's website: www.cityofberkeley.info/WatershedResources.

RECOMMENDATIONS FOR STAKEHOLDER PARTICIPATION

The following activities are recommended initial steps in promoting stakeholder awareness of, support for, and partnerships of the WMP.

- 1.1 Inter-Departmental Coordination: Conduct on-going inter-departmental coordination of priorities and recommendations to pursue opportunities for joint pilot programs and projects.
- 1.2 WMP Public Meetings & Presentations: Conduct public meetings and make presentations over the next year to various City Commissions and Council.
- 1.3 WMP Website: Use electronic media (such as the Watershed Resources webpage on the City's website) and other means to keep public and any interested parties informed of upcoming meetings, volunteer opportunities, and the latest version of the WMP.

- 1.4 Potter and Codornices Watersheds – Public Meetings: Conduct watershed-specific public meetings in the Potter and the Codornices Watersheds to discuss and refine watershed-specific goals and priorities.
- 1.5 Partnership Opportunities: Identify partnerships opportunities with institutional/agency stakeholder groups (i.e. UCB, and BUSD) to develop mutually beneficial projects and agreements,
- 1.6 Other Watersheds – Goals/Modeling/Priorities: As funding becomes available for the hydraulic modeling of each remaining watershed and after completion of the modeling for each, conduct watershed-specific public meetings within the modeled watershed to discuss and refine watershed-specific goals and priorities.

CHAPTER 2: WATERSHED CONDITIONS

Watershed management and planning begins with a basic understanding of the physical setting, landforms, and the key processes that shape the land. This understanding of a watershed's governing forces is important when considering future opportunities and projects, and when identifying appropriate approaches for particular locations. This chapter presents a general overview of the City's physical setting, climate, and watershed conditions. It also briefly describes basic hydrology, geomorphology, and the impacts of urbanization to watershed resources.

PHYSICAL SETTING

The City of Berkeley, approximately 10.5 sq miles, is located on the eastern shoreline of the San Francisco Bay (Bay) and extends east to the ridgelines of the East Bay Hills. In general, the physiography of the Berkeley watersheds reflects their general position or alignment in relation to the primary geologic structures. The watersheds in Berkeley typically drain to the west out of the steeper headwaters (Berkeley Hills, with a maximum elevation of approximately 1,770 ft at Chaparral Peak), across a transitional alluvial fan zone, and then across the more gently sloping Bay plain before discharging into the Bay (approximately at sea-level). One exception is the Wildcat watershed which drains to the north on the eastern side of the ridgelines of the Berkeley Hills.

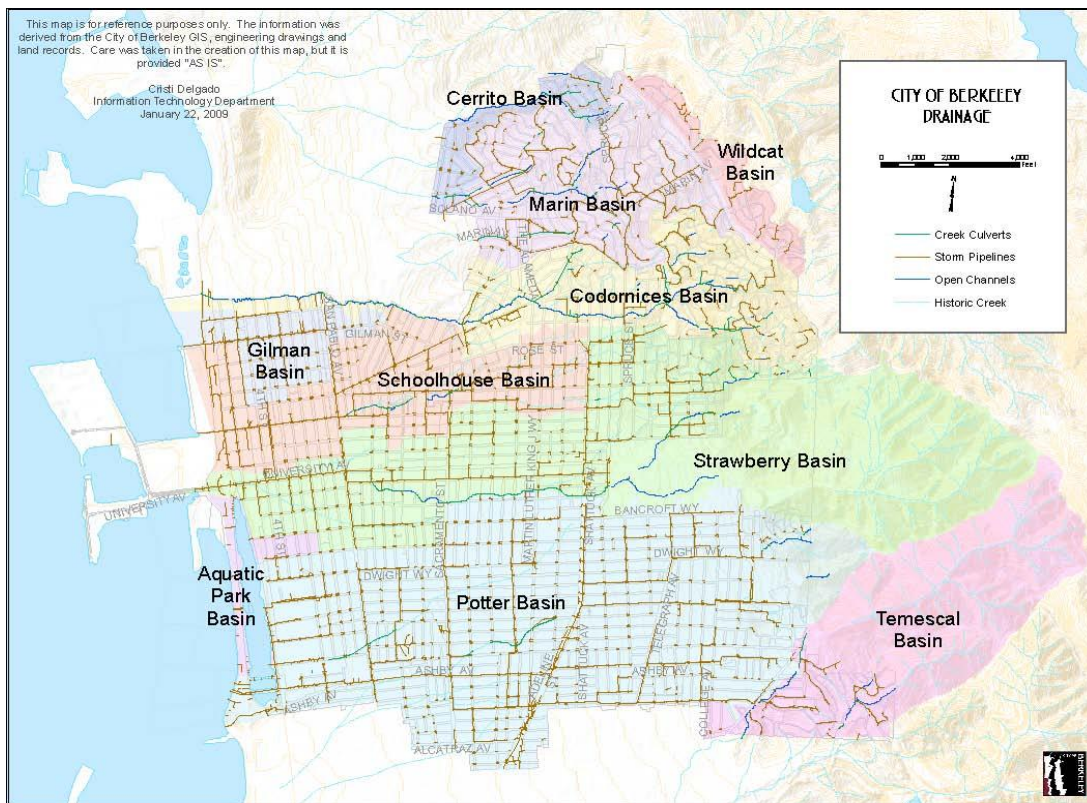


Figure 2-1, Map of Watersheds in City of Berkeley

There are 10 watersheds wholly or partially within the City of Berkeley (not including the Marina). Moving from north to south, these are: Wildcat, Cerrito, Marin, Codornices, Gilman, Schoolhouse, Strawberry, Aquatic Park, Potter, and Temescal (Figure 2-1). Several watersheds extend past Berkeley's municipal boundaries into the City of Emeryville and the City of Oakland to the south, and the Cities of Albany and El Cerrito to the north. The City of Berkeley is predominately urban; however drainage from approximately 2 sq. mi. of non-urban area outside the City boundary flows into the City from Strawberry Canyon and Claremont Canyon east of the City.

CLIMATE

Climate is one of the basic drivers of hydrologic processes such as precipitation, stream flow, soil moisture, and evapotranspiration. Such conditions, in turn, help determine regional and local ecology. Berkeley's climate is largely governed by weather patterns originating in the Pacific Ocean. In winter months, the Polar Jet Stream's southern descent brings mid-latitude cyclonic storms. Climatic conditions in Berkeley are generally characterized as Mediterranean with moist, mild winters and hot, dry summers. Winter temperatures vary between highs of 50°–60°F and lows of 30°–40°F. Summer temperatures generally range between highs of 60°–80°F and lows of 40°–50°F. Greater than 90% of precipitation falls between November and April, with an annual rainfall amount of about 18-26 inches depending on location (microclimate effects). Areas of higher elevation receive higher rainfall amounts annually due to the rainshadow effects of the Berkeley Hills.

Microclimates

Topography, orientation, wind patterns, and distance from the Bay and the Pacific Coast, create diverse microclimates. These microclimates can present stark climatic variations in only a few miles distance. This is reflected in different water balance conditions across the city, primarily as the result of differences in rainfall amounts and evapotranspiration. These microclimates create the varied vegetation communities and habitats associated with surface water flows.

Summer in the Bay Area is known for its thick marine fog layer in the areas closest to the coast. This fog is brought into the Bay through an advection ("horizontal air/water flow") process. A daily westerly (i.e., from the west, toward the east) breeze is formed by the strong pressure gradient between the hot Central Valley (surface low pressure) and the cooler coastal areas (surface high pressure). This moist air is cooled to dew point when it crosses the cooler waters of the California Current (near the coast). This advection process results in a thick fog forming just offshore, which is pulled eastward through gaps and passes (most famously through the Golden Gate) into the Bay Area. Fog diminishes with distance inland from the Bay, as well as distance north and south from gaps and passes.

Global Climate Change

The U.S. Environmental Protection Agency reports that the Earth's surface temperature has risen by about 1 degree Fahrenheit in the past century, with accelerated warming

during the past two decades. This warming is associated with the buildup of greenhouse gases in the atmosphere – primarily carbon dioxide, methane, and nitrous oxide. Scientists expect that the average global surface temperature could rise 2.2 to 10°F (1.4-5.8°C) in the next century, with significant regional variation. Evaporation will increase as the climate warms, which will raise average global precipitation. Soil moisture is likely to decline in many regions, and intense rainstorms are likely to become more frequent. Average sea level may rise two feet or more along most of the U.S. coast. Studies project the Bay to rise between 7” and 55” by the year 2100.

Although specific outcomes of global climate change on the regional climate of the Bay Area are uncertain, potential changes are likely to include increased seasonal mid-latitude type precipitation through a northern migration of the tropical jet stream. Other scenarios might include greater variation in seasonal/annual precipitation due to increased variation along the more northerly Polar Front Jet Stream. Other studies suggest that increased temperatures in the mid latitudes will result in reduced snowfall and increased precipitation in such places as the Sierra Nevada, which may affect drinking water supply for the Bay Area.

BASIC OVERVIEW OF HYDROLOGY AND GEOMORPHOLOGY

Although watersheds are complex systems with multiple and concurrent water inputs and outputs, the simplified hydrologic cycle (Figure 2-2) provides a general overview. The hydrologic cycle comprises a continuous cycle of water movement through the atmosphere (air), lithosphere (ground), and hydrosphere (water bodies). Rainfall is intercepted by vegetation, or directly falls on soil, water, or the built landscape. Precipitation infiltrates into the ground and recharges groundwater or flows as surface runoff to storm drains or waterways both of which drain to the Bay. Water can also return to the atmosphere (either through evaporation or by transpiration from plants)

Surface water flows can initiate the erosion, conveyance, and storage of soil deposits. In the Bay Area, tectonic, faulting, and structural controls often influence the relative distribution of sediment. Landslide and sediment source areas tend to be in the foothills and uplands, while deposition areas tend to be on the alluvial fan after the slope break.

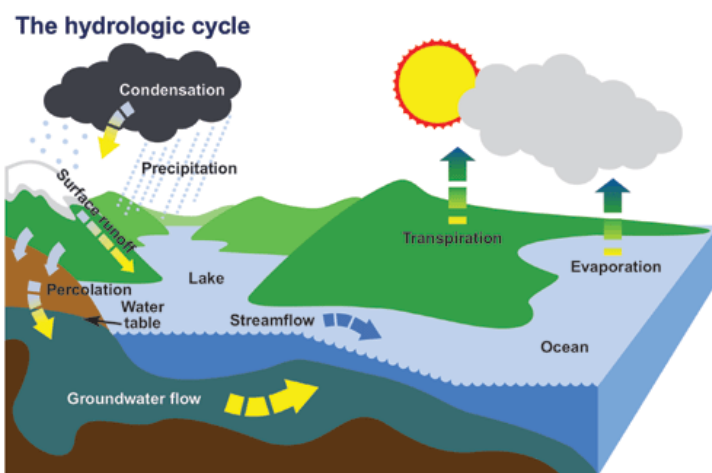


Figure 2-2 Basic Hydrologic Cycle

Source: Environment Canada, <http://www.ec.gc.ca/1>

Further discussion of sediment transport is found in Chapter 6, Creeks.

EFFECTS OF URBANIZATION

Hydrograph/Peak Flows

Watershed surfaces become more impervious, as land is developed over time to accommodate individual and societal human needs. Like most densely urban communities, much of Berkeley watersheds are covered by hardened surfaces and compacted soils. This condition diminishes the watersheds' natural ability to infiltrate (absorb) stormwater into native soils or evapotranspirate it through plants. The end result is that urbanization increases surface runoff volumes.

Traditional stormwater management approaches have developed efficient drainage measures that favor rapid concentration of excess water and routing it off-site through "hard infrastructure" such as curbs and gutters, inlet structures, and storm drain pipes (Prince George's County, Dept. of Environmental Resource Programs, 1999). This approach increases the rate (or velocity) of runoff.

When runoff volumes and rates are increased, urbanized watersheds experience greater peak flows which contribute to localized flooding (Figure 3-3).

Water Quality/Non-point Source Pollution

In addition to changes in hydrology, urbanization also affects water quality. Natural filtration through soils and vegetative uptake of pollutants is diminished by impervious surface development. The loss of natural filtration processes is exacerbated by the generation of various non-point source pollutants associated with routine activities of the general population and businesses within a densely populated area such as Berkeley. Figure 2-4 describes the impacts of impervious land on stormwater runoff. Table 2-1 lists the most common urban stormwater runoff pollutants and their typical sources.

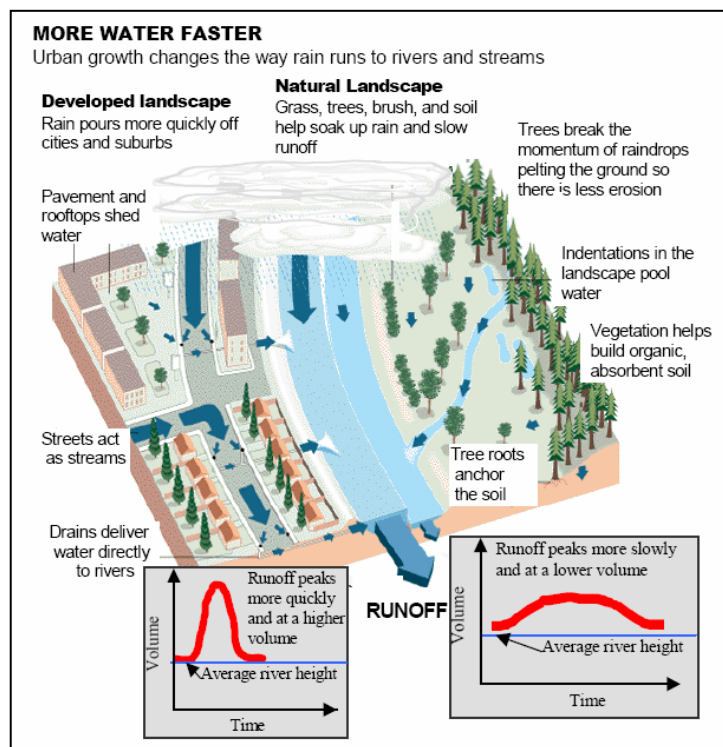


Figure 2-3, Urbanization Effect on Runoff Volumes and Rates

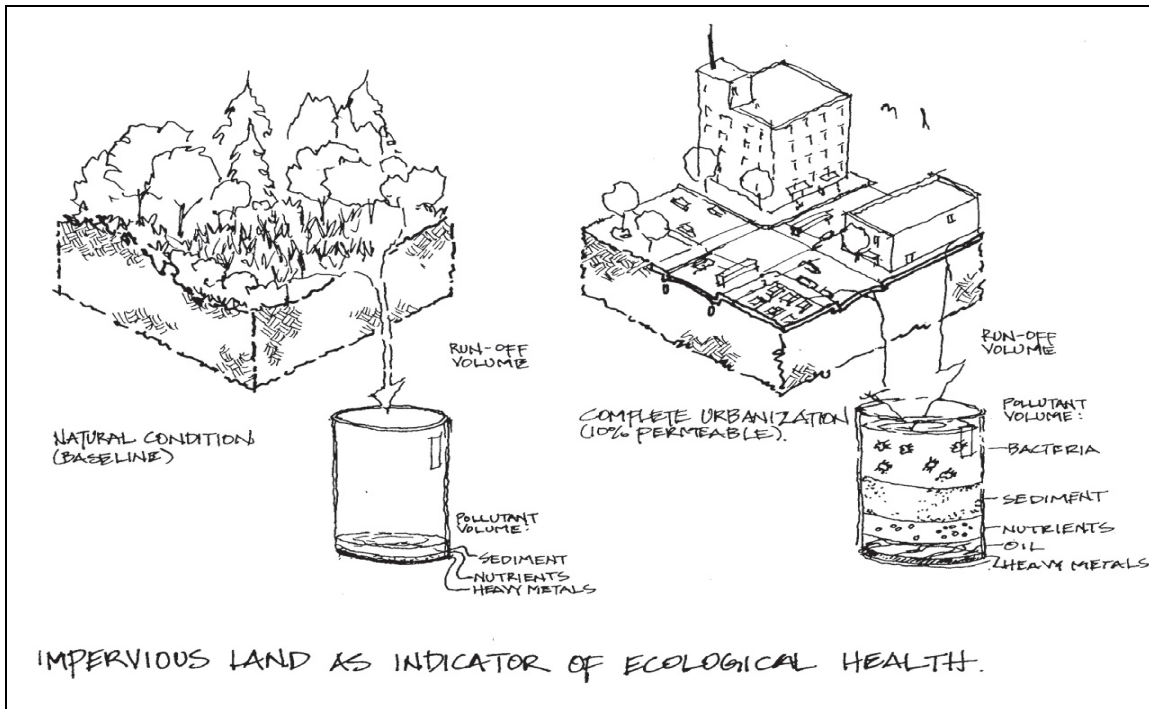


Figure 2-4

Pollutant	Source
Metals	Automobiles, roof shingles
Oil and grease	Automobiles
Oxygen-depleting substances	Organic matter, trash
Sediment	Construction sites, roadways
Trash and debris	Multiple sources
Bacteria	Pet waste, wastewater collection systems
Nutrients	Lawns, gardens, atmospheric deposition
Pesticides	Lawns, gardens
Toxic chemicals	Automobiles, industrial facilities

Table 2-1

Natural Waterways and Habitat

Prior to the arrival of Spanish explorers in the late 1700s, creeks in Berkeley supported a range of terrestrial and aquatic wildlife (including song birds, fish, raptors, rodentia, deer, elk, bear and mountain lions) that used them for water sources, vegetative cover, and food. The indigenous Huchiun-Ohlone peoples used the creeks to fish, hunt, and gather food supplies. (Charbonneau) Watersheds and their associated open watercourses were significantly altered from the mid-1700s to the early 1900s by changes in land uses associated with settlements and subsequent urbanization (such as cattle grazing, building of transportation infrastructure, and subdividing and building on land tracts). These past alterations included physical modifications to the creeks to:

- Impound water for drinking, fire suppression, and irrigation (damming).
- Mine creek beds and banks for road building materials (widening & deepening).
- Dispose of wastewater (sewage) and refuse (dumping).
- Create predictable flow paths resistant to erosion and incision (channel armoring and straightening).
- Maximize developable space by undergrounding creeks in pipes (culverts).

Over time, these changes have resulted in the loss of open watercourses and related terrestrial and aquatic wildlife habitat throughout the city. The greatest losses occurred in the flatlands where developable space was at a premium. For example, Potter and Derby Creeks, respectively, drained two historically distinct watersheds, which are now merged into the current Potter Watershed. Although there are some remaining open channels in the Berkeley Hills, and a mix of active and abandoned creek culverts (needing to be confirmed through field investigations), the Potter Watershed is almost exclusively drained by storm drain infrastructure.

Urbanization also contributes to the degradation of water quality and the ecological integrity of creeks. As concentrated flows are discharged to creeks, excessive stream bank erosion and channel overflows can occur, resulting in damage to aquatic habitat (scour or excessive sedimentation) as well as to property (loss of land and undermining of adjacent structures). Groundwater supplies, which contribute to summer flows of Bay Area creeks, are less able to be replenished as the percentage imperviousness in a watershed area increases. Although urbanization leads to significant increases in flooding during and immediately after wet weather, in many instances it results in lower stream flows during dry weather, which can compromise the survival of native fish and other aquatic life.

BERKELEY WATERSHEDS CHARACTERISTICS

A number of statistics have been compiled to provide a snapshot of important characteristics of the watersheds in Berkeley (Table 2-2). These include: drainage area, annual precipitation averages, land use types and sizes, and estimated percent of impervious coverage. This data can be used to generate estimated gross runoff volumes and calculate runoff estimates associated with different storm intensities. Also provided in the table are estimated lengths of the various drainage pathways for each watershed, including creeks (open and culverted) and storm drain pipelines. Finally the table provides the estimated area within each watershed that is at higher risk for hazards, such as flooding, landslides, seismic activity, and soil contamination. These hazard areas may be inappropriate for certain WMP recommended measures.

Watershed Characteristic Parameter	Citywide	Cerrito	Marin	Codornices	Gilman	Schoolhouse	Strawberry	Aquatic Park	Potter	Temescal	Wildcat	
Drainage Area Total (acres)	6,156 ¹	1,927 ⁵	1,063 ⁵	796 ²	249 ⁴	703 ¹	1,977 ⁵	134 ¹	2,693 ⁵	4,324 ⁵	6,326 ⁵	
Drainage Area in City Boundary (acres)	6,156 ¹	149 ¹	699 ⁴	570 ⁴	249 ⁴	703 ⁴	1,385 ¹	134 ¹	2,053 ²	205 ¹	152 ¹	
Annual Precipitation (inches)	18-26 ⁴	22 ⁵	22 ⁵	24 ²	20	21 ⁵	23 ⁵	20	22 ²	24 ⁵	23 ⁵	
Land Use Area by Type (acres)	Recreational	6% ³	1 ¹	7 ⁴	26 ⁴	0	13 ⁴	29 ⁴	78 ¹	143 ⁴	0	NC
	Open Space		0	0	26 ⁴	25 ⁴	46 ⁴	588 ⁴	78 ¹	294 ⁴	NC	NC
	Institutional	9% ³	0	4 ⁴	15 ⁴	1 ⁴	50 ⁴	470 ⁴	30 ¹	185 ⁴	NC	NC
	Industrial	4% ³	0	0	0	80 ⁴	71 ⁴	28 ⁴	11 ¹	184 ⁴	NC	NC
	Industrial/Residential		0	0	0	0	0	0	7 ¹	0	NC	NC
	Commercial	7% ³	0	16 ⁴	6 ⁴	38 ⁴	51 ⁴	170 ⁴	NC	174 ⁴	6	NC
	Com/Res		0	0	0	2 ⁴	0	10 ⁴	NC	101 ⁴	NC	NC
	Low Density Res	48% ³	148 ¹	672 ⁴	496 ⁴	101 ⁴	438 ⁴	498 ⁴	NC	931 ⁴	194 ¹	152 ¹
	Med Density Res		0	0	1 ⁴	2 ⁴	25 ⁴	102 ⁴	9 ¹	101 ⁴	6	NC
	High Density Res		0	0	0	0	9 ⁴	82 ⁴	NC	230 ⁴	NC	NC
	Vacant	2% ³	NC	NC	NC	NC	NC	NC	NC	NC	NC	NC
	City Streets (848 acres) ⁶	24% ³	NC	NC	NC	NC	NC	NC	NC	NC	NC	NC
City Sidewalks (182 acres) ⁶	NC		NC	NC	NC	NC	NC	NC	NC	NC	NC	
Est. % Impervious ²	NC	NC	NC	34	NC	NC	NC	NC	55	NC	NC	
Avg. Annual Wet Season Runoff Volume (acre ft.) ⁵	NC	1,700	802	596	NC	653	2,482	NC	2,460	3,386	4,020	
Annual Wet Season Runoff Volume, Avg. (1998-2007) (af) ⁵	NC	2,201	1,024	740	NC	884	3,123	NC	3,200	4,027	5,031	

Table 2-2 (continued on next page)

Part 2 of Table continued on next page.

Watershed Characteristic Parameter	Citywide	Cerrito	Marin	Codornices	Gilman	Schoolhouse	Strawberry	Aquatic Park	Potter	Temescal	Wildcat
Estimated Open Channel Length (ft) ¹											
Total	42,139	5,063	6,116	15,477	NA	1,690	7,092	NA	2,254	4,447	NA
City Property	3,010	211	508	1,873	NA	0	298	NA	0	120	NA
Private Property	39,129	4,852	5,608	13,604	NA	1690	6,794	NA	2,254	4,327	NA
Estimated Active Creek Culvert Length (ft) ¹											
Total	35,059	2,220	4,284	11,435	NA	2,309	9,501	NA	3,037	1,848	426
City Property	19,959	924	3,066	6,083	NA	1,287	5,796	NA	1,676	1,127	UNK
Private Property	14,674	1,297	1,218	5,351	NA	1,022	3,705	NA	1,360	721	UNK
Storm Drain Pipe Length (ft) ¹											
Public ROW only	492,365	1,880	61,584	40,088	23,856	65,637	82,758	3,583	187,020	20,698	5,262
Hazard Study Areas (acres) ¹											
FEMA 100yr Flood Zone	105	0	0	25	0	0	0	80	0	0	0
FEMA 500yr Flood Zone	203	1	0	16	39	72	13	0	49	12	0
Landslide	1,104	54	232	378	0	0	326	0	31	19	64
Fault Zone	647	63	186	106	UNK	UNK	170	UNK	69	54	UNK
Liquefaction	1,423	UNK	UNK	64	193	194	286	46	640	1	UNK
Soil Contamination	1,727	UNK	11	61	162	258	720	134	377	4	UNK

Table 2-2 (continued)

Key: NA = Not Applicable; NC = Not Calculated (to be added at a later date); UNK = Unknown

Sources:

1. City GIS Database
2. Balance Hydrologics Report (see Appendix E)
3. City of Berkeley General Plan, 2002
4. CH2MHill Report, 1994
5. San Francisco Estuary Institute, *Hydrology Estimates in Small Urbanized Watersheds Paper*, 2010
6. Email Communication, W. Wong, Public Works Engineering – Streets & Sidewalk Group, May 26, 2009

RECOMMENDATIONS FOR WATERSHED CONDITIONS

- 2.1 Global Climate Change Monitoring: Monitor and review scientific reports and information on Global Climate Change, and amend WMP as appropriate.

CHAPTER 3: LOW IMPACT DEVELOPMENT/ GREEN INFRASTRUCTURE

A variety of stormwater management strategies can be employed to achieve the stated goals of the WMP. This chapter describes technologies and methods currently available to the City as well as property owners, developers, and residents. As new approaches become available and accepted, they will be added to the watershed management best management practices.

LOW IMPACT DEVELOPMENT/GREEN INFRASTRUCTURE OVERVIEW

Low Impact Development (LID) and Green Infrastructure (GI) describe a strategy that emphasizes conservation and the use of distributed, small-scale stormwater controls to mimic natural hydrologic patterns in residential, commercial and industrial settings. GI is the term used for LID measures the City can undertake within the public right-of-way. LID/GI measures entail managing runoff as close to its source as possible using landscape-based practices to promote the natural processing (removal of pollutants) of runoff by filtration, infiltration, adsorption, and/or evapotranspiration.

LID/GI also provides runoff volume and velocity reduction benefits, which become most effective when used on a wide scale, or in combination with other means and methods. This approach can lead to cost savings in the form of reduced traditional stormwater conveyance infrastructure. LID/GI practices also protect downstream resources from adverse pollutant and hydrologic impacts that can degrade stream channels and harm aquatic life.

LID/GI TYPES and EXAMPLES

There are four fundamental types of LID/GI best management practices (BMPs), which can be applied within the he public right-of-way, institutional facilities, or on lot-level property (public or private) as appropriate. These are categorized as Site Planning BMPs, Building BMPs, Street/Sidewalk Retrofit BMPs, and Landscape BMPs. The following is a summary of the different categories.

Site Planning BMPs

(also known as “Conservation Design”)

Site Planning BMPs are important because planning occurs prior to earth-moving and construction activities. Use of Site Planning BMPs minimizes the generation of runoff by preserving open space and pervious surfaces. Site Planning BMPs preserve important features on the site such as wetland and riparian areas, forested tracts, and areas of porous soils. Proper planning can enhance natural drainage patterns and preserve the infiltration capacity of the existing soil. Examples of Site Planning BMPs include: open space preservation, reduced pavement widths for streets and sidewalks, and shared driveways.

Building BMPs

Building BMPs typically focus on the capture, storage, and potential reuse stormwater that is shed from a building. The captured stormwater can be discharged to landscaped areas or to existing storm drainpipe infrastructure (as metered flow); or it can be reused for non-potable applications as appropriate. Harvested rainwater is chemically untreated 'soft water' that is suitable for gardens and compost and other non-potable needs, free of most sediment and dissolved salts. Building BMPs include rainwater harvesting and green roofs.

A. Rainwater Harvesting

Rainwater harvesting systems can range from a simple barrel (Figure 3-1) at the bottom of a roof gutter downspout to multiple cisterns, pumps, and treatment systems. In Berkeley, a simple rain barrel system (less than 100 gallons) that collects from a roof downspout can be used for outdoor irrigation without permits. These smaller units can accommodate a small fraction of roof runoff and should be emptied between storms if they are to help reduce peak flows.

Cisterns are larger systems (greater than 100 gallons) and may include pumps to move rainwater to the garden or thorough treatment systems and plumbing for indoor non-potable use such as toilet flushing and laundry (Figures 3-2

and 3-3). In Berkeley, cisterns must be permitted and need a zoning certificate if above ground. Linked barrels providing over 100 gallons of storage per downspout are also considered a cistern and are subject to permitting requirements. More information about the City of Berkeley's Rainwater Harvesting Guidelines can be found on the City's website: www.cityofberkeley.info/ResidentialRainwater.

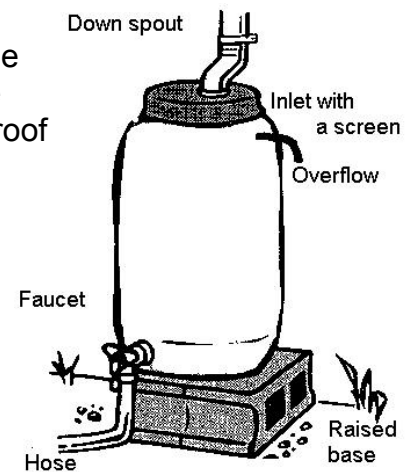


Figure 3-1, Simple Rain Barrel



Figure 3-2, Large Cistern at Chicago Center for Green Technology

Source: <http://glasscityjungle.com/wordpress>



Figure 3-3, Residential Cistern, Seattle

https://rainwise.seattle.gov/city/seattle/solution_brochures/cistern?lightview=true

B. Green Roofs

Also known as Eco-Roofs), Green Roofs are roofs (entirely or partially) covered with vegetation and soils, which improve water quality and reduce runoff through filtration, absorption, and detention. Modern green roofs can be categorized as "intensive" or "extensive" systems depending on the plant material and planned usage for the roof area. Intensive roofs, or rooftop gardens, are heavier, support larger vegetation and can usually be designed for use by people.

Extensive green roofs are lightweight, uninhabitable, and use smaller plants.



Figure 3-4, Great City Hall Chicago

Green roofs (Figures 3-4 and 3-5) can be installed on most types of commercial, multifamily, and industrial structures, as well as on single-family homes, garages, and sheds. Green roofs can be used for new construction or to re-roof an existing building. Candidate roofs for a "green" retrofit must have sufficient structural support to hold the additional weight of the green roof, which is generally 10 to 25 pounds per square foot saturated for extensive roofs and more for intensive roofs (San Francisco Public Utilities Commission, 2007). Vegetated roofs have a longer life span than standard roofs

because they protect the roof structure from ultraviolet radiation and fluctuations in temperature that cause roof membranes to deteriorate. (Water Environment Research Foundation)



Figure 3-5, Garage Green Roof in Mount Baker

Street and Sidewalk Retrofit BMPs

Berkeley has an estimated 49 million sq. ft. of streets and sidewalks comprising the public right-of-way. Berkeley streets and sidewalks can be retrofitted to reduce impervious surface area and reduce runoff volumes by:

- Replacing concrete sidewalks with permeable materials.
- Installing bio-swailes within the existing planter-strip area of sidewalks.
- Installing curb extensions for bio-retention cells.
- Converting medians and traffic circles to vegetated bio-filtration areas.
- Replacing impermeable asphalt with permeable surfacing on low volume traffic streets.
- Using open-graded gravels and amended soils as subsurface media for storage and treatment.

- Installing underground stormwater storage pipes or cisterns that meter outflow to the storm drainpipe infrastructure (or for potential non-potable re-use) Additional benefits common to most of these BMPs are aesthetic improvements to the local neighborhood.

A. Permeable Paving

Permeable paving may be constructed of three basic material types: Porous concrete, Porous asphalt, and Pervious Joint Pavers.

Porous concrete (Figure 3-6) and porous asphalt (Figure 3-7) often look the same as their conventional counterparts but are mixed with a low proportion of fine aggregates, leaving void spaces that allow for infiltration. Permeable joint pavers (Figure 3-8) themselves are impervious, but gravel- or grass-filled voids in between the blocks allow stormwater to enter the subbase.



Figure 3-6, Porous Concrete

www.nrmca.org/greenconcrete/default.asp

Permeable paving is primarily used in parking lots, driveways, sidewalks, and roadways with low-traffic speeds and volumes. When used in as a driving surface, permeable paving systems must be designed to support the same loads as conventional paving to support the weight and forces applied by vehicles. When using pervious joint paving in pedestrian or bicycle lane applications, tightly spaced non-chamfered (beveled-edge) unit pavers provide the smoothest surface for wheel-chairs and cyclists. Some patterns and orientations also provide a smoother surface.



Figure 3-7, Porous Asphalt
(adjacent to conventional asphalt)

Source: <http://3.bp.blogspot.com>

The amount of drainage from the subbase to native soils depends on the permeability of the existing soil. In full exfiltration systems, all stormwater is expected to exfiltrate into the underlying subsoil. Partial exfiltration systems are designed so that some water exfiltrates into the underlying soil while the remainder is drained by an overflow device to prevent ponding. No exfiltration occurs when the subbase is lined with an impermeable membrane and water is removed at

a controlled rate through an overflow device. Tanked systems are essentially underground detention systems and are used in cases where the underlying soil has low permeability and low strength, there is a

high water table, or there are water quality limitations. (Water Environment Research Foundation)



Figure 3-8, Pervious Joint Paving in Parking Lanes of Residential Street

Source: nevue ngan associates, San Mateo County Sustainable Green Streets and Parking Lots Design Guidebook

B. Vegetated Swales

Also known as Bioswales, vegetated swales are broad, shallow channels designed to convey and filtrate stormwater runoff. The swales are vegetated along the bottom and sides of the channel, with side vegetation at a height greater than the maximum design stormwater volume.

Vegetated swales (Figure 3-8) are often designed with highly permeable soils and an underdrain to allow the entire stormwater volume to convey or infiltrate away from the surface of the swale shortly after storm events. (Water Environment Research Foundation)



Figure 3-8, Vegetated Swale at Curb Extension

Source: [flickr.com/photos/84977575@N00/2570180671](https://www.flickr.com/photos/84977575@N00/2570180671)

C. Tree Well Filters

A tree well filter's basic design is a vault filled with bioretention soil mix, planted with vegetation, and underlain with a subdrain (Figure 3-9). However, design variations are abundant and evolving.

Tree well filters are especially useful in ultra-urban settings where there is no existing planter strip in the sidewalk area. This application can also be used in the design of an integrated street landscape where multiple tree wells are connected through piping or other means--a choice that transforms isolated street trees into stormwater filtration devices.

D. Hydrodynamic Separator Units

These are devices used for water quality improvement where there is little opportunity for landscape-based

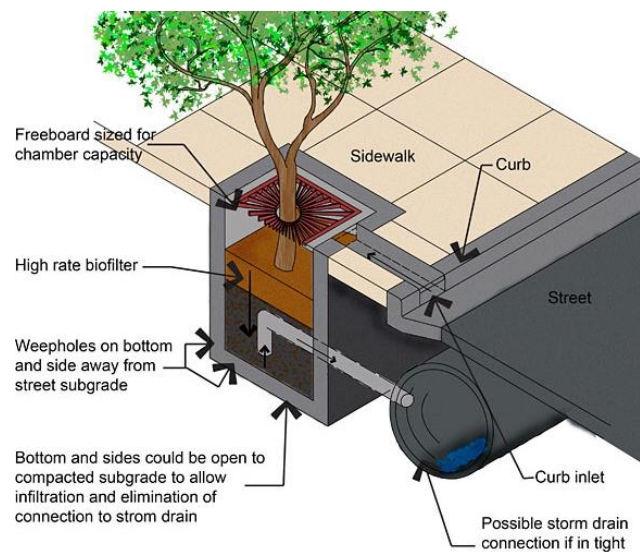


Figure 3-9, Typical Tree Well Filter

ladstudios.com/LADsites/Sustainability/Strategies/Strategies_TreeWell.shtml

treatment measures. A Hydrodynamic separator unit (HSU) is an underground gross pollutant removal device that funnels runoff flow through a circular vault to form a vortex that separates floatables and solids from stormwater (Figure 3-10). The floatables and suspended solids become trapped in a sump for removal typically by vacuum truck, while the screened water is allowed to flow through the device back into the drainage pathway. The HSUs are intended to screen litter, fine sand, and larger particles that can have other pollutants adsorbed to them. They can act as a first screen influence for trash and debris, vegetative material, oil and grease, and heavy metals. Because these devices can hold the separated gross pollutants along with residual water, it is recommended that they be serviced soon after storm events to prevent mosquito breeding or the organic breakdown and re-suspension of pollutants which may escape the vault as they become soluble.



Figure 3-10, Hydrodynamic Separator Unit
ngenvironmental.cam.au/septic1

Landscape BMPs

Landscape-based BMPs use various arrangements of vegetation and soil media to function as filtration devices that remove pollutants through a variety of physical, biological, and chemical treatment processes. They also reduce runoff rates by detaining stormwater. Landscape BMPs include trees, swales, bioretention cells, and open spaces.

A. Trees

A healthy tree canopy can provide substantial stormwater management benefits. The branches and foliage at the top of a tree can intercept and store about 50-100 gallons of rainwater. This not only reduces runoff rates and volumes, but also reduces erosion associated with the impact of raindrops on exposed soils. Tree roots create channels in the soil, which increase the soil's ability to store water.

The City recognizes the important role of trees in stormwater management, plus the additional benefits they provide by absorbing CO₂ (a greenhouse gas) and shading city streets to reduce the urban "heat island effect." Native trees are well-suited as landscape BMPs because of their ability to use large amounts of water when available, but can still withstand long periods of reduced soil moisture. Berkeley's on-going urban forestry program, not only supports the goals of the WMP, but also results in cooler temperatures, improved aesthetics, and enhanced property values.

B. Bioretention Cells

Also known as rain gardens, Bioretention Cells (Figure 3-11) are vegetated depressions that can resemble miniature ponds or long strips. Bioretention Cells may be lined or unlined, depending on site requirements, but are typically designed to avoid ponding for longer than 24 hours. These measures are appropriate for median strips, planter strips and curb extensions within the public right-of-way. They are also appropriate for parking lot islands, yard areas, and park spaces.



Figure 3-11, El Cerrito Rain Garden Project, San Pablo Ave.

Benefits of LID/GI

In 2007, the US Environmental Protection Agency released a report called, *Reducing Stormwater Costs through Low Impact Development (LID) Strategies and Practices*. This report used 17 case studies of LID/GI projects located throughout the country to compare the costs associated with this stormwater management approach relative to conventional methods. In addition to this cost analysis, this report provides a summary of both the actual and assumed benefits of LID/GI.

Environmental, Land Value, and Quality of Life Benefits (modified from EPA Report)

1. Pollution abatement – Urban runoff pollutants are removed through the various processes of settling, filtration, adsorption, and biological uptake of stormwater. This benefits the receiving waterways by improving aquatic and terrestrial wildlife habitat.
2. Protection of Natural Waterways – Excessive erosion and sedimentation within creeks can be reduced through the runoff volume and velocity reductions associated with infiltration, detention, and retention.
3. Groundwater Recharge – Infiltration practices can be used to replenish groundwater and increase stream baseflow. Groundwater resources are critical as water shortages seem to increase nationwide and globally. Adequate baseflow in creeks during dry seasons is essential for the survival of aquatic life.
4. Water Quality Improvements/Reduced Treatment Costs – As urban runoff is processed by vegetated filtration and/or infiltration into native or amended soils, the water is cleansed before it reaches stormdrain inlets and pipelines. This saves on the costs of installing expensive end of pipe treatment facilities.
5. Reduced Sanitary Sewer Overflows – LID/GI can reduce wet weather infiltration and inflow (I/I) into sanitary sewer systems through the disconnection of downspouts from sanitary sewer lines and directing flow to landscaped areas or storage devices. The City of Berkeley is mandated to reduce I/I by Stipulated Order of the EPA.

6. Habitat Improvements – The addition of increased vegetation through decentralized green infrastructure measures can create additional wildlife habitat in a densely built city like Berkeley.
7. Reduced Flooding and Property Damage – The reduction of peak flows and runoff volumes associated with green infrastructure can aid the City’s flood prevention activities. It also can reduce the hydraulic loading to the city’s already stressed stormwater conveyance infrastructure, which is currently operating at or near capacity.
8. Aesthetic Value – LID/GI relies on landscape-based approaches that can be designed to be attractive amenities to the site. The use of designs that enhance a site’s aesthetics can increase property values and result in faster sales due to the perceived value of “extra” landscaping.
9. Public Spaces/Quality of Life/Public Participation – Placing water quality practices on individual lots or at surface level in the public right-of-way provides opportunities to involve residents in stormwater management and enhances awareness of water quality issues.

LID/GI Constraints

To ensure long-term functionality and minimize unintended negative impacts, it is important to understand the limits and site-specific constraints associated with LID/GI approaches. When selecting LID/GI measures, the following factors should be considered (further detailed information on these techniques, including sizing, location, design, and maintenance can be found in the Alameda Countywide Clean Water Program’s C.3 *Stormwater Technical Guidance Handbook, Version 2.0*, cleanwaterprogram.org/):

- **Space/Real Estate Requirements** – Surface-level space is at a premium in the built out City of Berkeley. LID/GI measures must be sized appropriately to provide the desired stormwater treatment, flow volume control, and/or storage capacity for future non-potable re-use. A rule of thumb for many landscaped-based measures is that the space needed is 4-6% of the drainage area being captured.
- **Soils** – Soils and subsoil conditions are critical to LID/GI effectiveness. These conditions affect infiltration rates, vegetation growth, and surface loading capacities. The use of underdrains can provide positive subdrainage for bioretention practices located on clayish soils. Use of infiltration practices can threaten groundwater quality if high levels of soil contaminants are present.
- **Slopes** – The steeper the slope, the higher the erosion potential and flow velocities. Many LID measures are limited to slopes under 5-10%. Infiltration measures are not appropriate for steep slopes or in areas of landslide hazards.
- **Water Table** – The general criterion is to provide at least 10 feet of separation between the bottom of the GI measure and the top of the seasonally high water table elevation. Also, the potential for contamination should be considered.

- **Proximity to Foundations** – Care must be taken not to locate infiltration measures too close to building foundations and other structures. Considerations include distance, depth, and slope.
- **Existing Utilities** – Much of the GI opportunity sites are located where gas, electric, water, sewer, and telecommunication conduits are. Care must be taken to avoid disrupting these utilities when constructing and maintaining GI measures.

LID/GI Pollutant Removal Efficiency Matrix

Over the last 10-15 years, numerous municipal agencies² across the nation have used LID/GI BMPs (in varying degrees) as stormwater management strategies. The high costs of laboratory analyses and rigorous technical quality assurance and quality control requirements inhibit many agencies’ abilities to scientifically monitor the pollutant removal performance of LID/GI BMPs. However, over time there has been enough monitoring data collected and analyzed to characterize the relative effectiveness of these measures. Table 3-1 provides a “High”, “Medium”, “Low” scorecard of expected pollutant removal efficacy for various LID/GI BMPs.

BMP TYPE	Pollutant Removal/Avoidance Effectiveness – Water Quality						
	Trash	Sediments	Nutrients	Metals	Oil & Grease	Organics	Bacteria
Bioretention Cell ¹	H	H	H	H	H	H	H
Vegetated Swale ¹	L	M	M	M	M	M	L
Permeable Paving ^{1*}	H	L	H	H	H	L	L
Green Roof ¹	H	H	M	H	H	H	H
Cistern ¹	H	H	H	H	H	H	H
Hydrodynamic Separator Unit ²	H	M	L	L	M	L	L

H = High; M = Medium; L = Low; NA = Not Applicable; ND = No Data
 *assumes no exfiltration to native soils
¹Source: *Low Impact Development Standards Manual*, County of Los Angeles, 2009
²Source: *California Stormwater Best Management Practices Handbook for New Development and Redevelopment*, CASQA, 2003

Table 3-1, Pollutant Removal Effectiveness of LID/GI Types

² Green Infrastructure strategies have been adopted and piloted by cities such as Portland, Seattle, Los Angeles, Santa Monica, San Francisco, Chicago, Washington D.C., and Philadelphia. Each has implemented demonstration projects to better understand the effectiveness and costs of these methods. Some have developed guidelines and programs for integrating GI/LID methods into their existing design review, capital improvement, and maintenance activities. A commonality among most of these cities is that they have combined stormwater/sanitary sewer systems (CSS). Cities with a CSS are under regulatory requirements to reduce overflows and have a funding resource through Sanitary Sewer fees to undertake these innovative approaches.

LID Hydrologic Impacts

Two fundamental goals of the WMP are to reduce urban flooding and protect natural waterways and habitat. Table 3-2 provides a summary of the hydrologic impacts of various LID/GI BMPs. All categories under “Hydrologic Impacts” provide benefits associated with these goals.

BMP TYPE	Hydrologic Impacts		
	Runoff Volume Reduction	Peak Flow Reduction	Groundwater Recharge*
Bioretention Cell ¹	H	H	H
Vegetated Swale ¹	M	L	M
Permeable Paving ^{1*}	L	H	L
Green Roof ¹	L	H	L
Cistern ^{1**}	M	L	L
Hydrodynamic Separator Unit ¹	NA	NA	NA

H = High; M = Medium; L = Low; NA = Not Applicable; ND = No Data
 *assumes infiltration to native soils, no subsurface storage
 **varies depending on size of storage unit
¹Source: Low Impact Development Manual for Southern California, Low Impact Development Center, 2010

Table 3-2, Hydrologic Impacts of LID Types

LID/GI BMP Siting Considerations

Landscape-based LID/GI measures rely on some degree of runoff holding (residence) time to promote maximum vegetative uptake and/or filtration through soil media. Thus these BMPs need certain amount of surface level area for effectiveness. Stormwater capture and storage measures require a much smaller footprint, but should also be sized approximately to meet reuse needs or should be frequently discharged to accommodate runoff from the next storm. Detailed information on sizing criteria can be found in the Alameda Countywide Clean Water Program’s *C.3 Stormwater Technical Guidance Handbook, Version 2.0, 2010*.

Some land use types provide excellent opportunities for LID/GI retrofits, while others will need site-specific analysis to ensure that BMPs will not contribute to the mobilization of pollutants (such as industrial areas, where there may be existing soil contamination) or create potential public safety hazards (such as permeable paving in high volume travel lanes of streets).

Table 3-3 provides a summary of available space needs associated with various LID BMPs. It also provides a general summary of the suitability of LID BMPs by land use types, including Residential (Res.), Commercial (Com), Industrial (Ind.), and Recreational/Institutional (Rec/Instit). The streetscape category includes sidewalks, streets, alleys, and medians.

BMP TYPE	Site Suitability: Space Needed and Potential Land Use Applications						
	Space Needed	Res.	Com.	High-Density	Ind.	Rec/Instit	Street Scape
Bioretention Cell ¹	M	H	H	L	H	H	H
Vegetated Swale ¹	M	H	H	L	H	H	H
Permeable Paving ¹	L	H	H	H	L	H	L-H**
Green Roof ¹	L	H	H	H	H	H	NA
Cistern ¹	L	H	H	H	H	H	NA***
Hydrodynamic Separator Unit	L	M	H	H	M	L	H

H = High; M = Medium; L = Low; NA = Not Applicable; ND = No Data
 **Primary source describes permeable paving applicability in streets as “limited,” as recognized in the WMP. However use of permeable paving is suitable for the City right-of-way on a site-specific basis.
 ***Primary source describes capture and reuse as not applicable to streets. However, the storage pipes described in the GI Approaches section below can be considered cisterns (with a potential for reusing stored water in the City right-of-way).
¹Source: Low Impact Development Manual for Southern California, Low Impact Development Center, 2010 Low Impact Development Standards Manual, County of Los Angeles, 2009

Table 3-3, Space Needs for LID Types

RECOMMENDATIONS FOR LID/GREEN INFRASTRUCTURE

- 3.1 San Pablo Stormwater Spine Project: participate in grant-funded multi-City demonstration project installing LID retrofits on San Pablo Avenue sites from Oakland to Richmond. The City is a partner in this grant-funded effort spearheaded by the San Francisco Estuary Partnership to identify, design, install GI retrofits along San Pablo Ave with each site treating one acre of impervious surface run-off.
- 3.2 LID/GI Coordination Opportunities with other Public Works Programs: seek opportunities for incorporating LID/GI measures as a standard element in the design and implementation of various Public Works projects and programs. The City undertakes numerous capital improvement projects annually to enhance transportation, public safety, community aesthetics, environmental processes, and internal and external services. The City can and should be a model for others to follow in designing and implementing LID/GI BMPs for future projects.

Potential PW programs to coordinate with include:

- 3.2.1 Streets & Sidewalks Group: The reconstruction of streets and sidewalks can incorporate Landscape and Street & Sidewalk Retrofit BMPs
- 3.2.2 Sanitary Sewer Group: Disconnecting roof drain downspouts from sanitary sewers is one preferred method of reducing infiltration and inflow (I/I) to the sanitary sewers, which can become overwhelmed during the wet season rains. The Downspout Disconnection Program can promote the use of LID

- measures (such as rain barrels, cisterns or landscape-based BMPs) for properties subject to disconnection. Connections are currently being investigated through smoke-testing.
- 3.2.3 Buildings and Facilities Group: Integrate LID measures into building and facility renovations and new construction. Examples of City projects that have LID measures include the new Animal Shelter at Aquatic park (green roof) and the Fire Station Warehouse on Folger (rainwater harvesting cistern).
- 3.3 Technical Guidance on LID BMPs: Review and edit LID technical guidance information distributed at Permit Service Center and public events. Because of the cumulative nature of the benefits of LID throughout a watershed, it is important to encourage voluntary use of LID BMP installations within the private sector. Appropriate and consistent LID BMP guidance information should be available to the general public, project proponents (including developers, landscape architects, architects, and contractors), and City staff responsible for Plan Check and Design Review.
- 3.4 Investigate the Potential and Use of “In-Lieu” Pilot Program for LID: the City could develop a pilot program to allow for the (partial or full) financing of adjacent public right-of-way GI retrofits and long-term maintenance as an “in-lieu” condition of approval. While it is always preferable to treat and manage stormwater on-site, in ultra-urban settings like Downtown Berkeley it may be challenging to incorporate on-site LID measures in design plans due to limited space or other constraints.

CHAPTER 4: WATER QUALITY

This chapter describes the variety of urban runoff pollution prevention activities the City currently performs. It also provides an overview of the regulatory framework and collaborative approach that helps organize these efforts.

URBAN RUNOFF POLLUTANTS OVERVIEW

Urban runoff has been identified as one of the leading contributors of nonpoint source pollution³ to “receiving waters in the United States”. In Berkeley, urban runoff mobilizes the accumulation of various pollutants from land and building surfaces and carries them into local waterways and the SF Bay. When pollutants are discharged into local waterways or the San Francisco Bay, they can harm fish and wildlife populations, kill native vegetation, and make recreational areas unsafe and unpleasant.

The primary sources of urban runoff pollutants include the following areas and operations: industrial and commercial areas; highly active parking lots; material storage and handling areas; vehicle and equipment fueling, washing maintenance and repair areas; erodible soil; streets and highways; and handling and application of landscape maintenance products. (LA Reference of BMPs, 2000, pg 20). The most common urban stormwater run-off pollutants include:

- **Sediments** – Sediments are soils or other surficial materials transported or deposited by the action of wind, water, ice, or gravity, as a product of erosion. Primary sources are lands disturbed by a construction activity or heavy rainfall. Sediments can increase turbidity, clog the gills of fish, reduce spawning, lower the ability of young aquatic organisms to survive, smother bottom dwelling organisms, and suppress the growth of aquatic vegetation.
- **Nutrients** – Nutrients are inorganic substances, such as nitrogen and phosphorous. They commonly exist in the form of mineral salts that are either dissolved or suspended in water. The primary source of nutrients in urban runoff has been identified as fertilizer products. Discharge of nutrients to water bodies and streams can result in excessive aquatic algae and plant growth. As this excessive organic matter decays, it can deplete oxygen in the water, leading to the eventual death of aquatic organisms.
- **Heavy Metals** – At small concentrations naturally-occurring in soil, heavy metals (such as lead, mercury, copper, and chromium) are not considered toxic.

³ “Nonpoint source” pollution is defined to mean any source of water pollution that does not meet the legal definition of “point source” in section 502(14) of the Clean Water Act. “Point source” means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include agricultural storm water discharges and return flows from irrigated agriculture.

However, at higher concentrations, certain heavy metals can be toxic. A primary source of heavy metal pollution in stormwater is the degradation and leaching of commercially available metals and metal products. These metals are also used as raw material for fuels, adhesives, paints, and other coatings.

- **Toxic Chemicals** – Toxic chemicals are either organic or inorganic substances, which at certain concentrations can indirectly or directly constitute a hazard to life or health. Some commercially available or naturally occurring toxins include cyanides, solvents, organic compounds, and hydrocarbons. For example, the excessive application of pesticides may result in runoff containing toxic levels of the pesticide's active component. Also, when rinsing off objects, toxic levels of solvents and cleaning compounds can be discharged to the storm drain. Other sources of potentially toxic or hazardous substances include: automotive fluids that drip and leak from vehicles; illegally discharged motor fluids (such as motor oil and radiator fluid); cleanup wastes (such as concrete mixers, paints, adhesives, etc.); industrial, sanitary, and animal wastes; and certain types of litter.
- **Oxygen-Demanding Substances** – Oxygen-demanding substances are those substances that require oxygen as part of their natural, biological, or chemical processes. The oxygen demand of a substance can lead to depletion of natural oxygen resources in a water body and possibly the development of septic conditions. Proteins, carbohydrates, and fats are examples of oxygen-demanding substances. They can also be referred to as "biodegradable organics." The presence of oxygen-demanding substances in water is measured as biochemical oxygen demand (BOD) and chemical oxygen demand (COD).
- **Floatable Materials** – Trash (e.g., paper, plastic, polystyrene packing foam, aluminum materials, etc.) and biodegradable organic matter (e.g., leaves, grass cuttings, food waste, etc.) are considered floatable materials. The presence of floatable materials has a significant impact on the recreational value of a water body and can potentially impact aquatic species habitat. Excess organic matter can create a high biochemical oxygen demand in a stream and thereby, lower the water quality of the stream. Also, in areas where stagnant water exists, the presence of excess organic matter can promote septic conditions resulting in the growth of undesirable organisms and the release of odorous and hazardous compounds such as hydrogen sulfide.
- **Oil and Grease** – Primary sources of oil and grease are petroleum hydrocarbon products, motor products, esters, oils, fats, waxes, and high molecular-weight fatty acids. Migration of these pollutants to the water bodies are very possible due to the wide uses and applications of some of these products in either municipal, residential, commercial, industrial, or construction areas. Elevated oil and grease content can decrease the aesthetic value of the water body, as well as the water quality.
- **Bacteria and Viruses** – Bacteria and viruses are micro-organisms that thrive under certain environmental conditions. Water, containing excessive bacterial and viral levels, can alter the aquatic habitat and create a harmful environment

for humans and aquatic life. This type of water pollution is characterized by high coliform bacterial counts. It is typically caused by excess animal or human fecal wastes in the water. Also, the decomposition of excess organic waste causes increased growth of undesirable organisms in the water. (City of LA , Reference Guide for Stormwater BMPs, 2000, pg 3-5)

EXISTING REGULATORY FRAMEWORK

Beyond the City's proactive activities to protect water quality and steward watershed resources, there are also water quality regulations and requirements with which the City must comply and/or enforce. This section briefly describes fundamental regulatory drivers and provides electronic links for further information. The City recognizes that there are other regulatory agencies and laws which may be applicable to WMP implementation as it relates to water quality

Municipal Regional Stormwater NPDES Permit (MRP), *California Water Quality Control Board, San Francisco Bay Region, Order No. R2-2009-0074-NPDES Permit No. CAS612008*

The MRP is the current National Pollutant Discharge Elimination System (NPDES) Permit under which the City discharges urban runoff. It covers municipal dischargers in Alameda (such as the City of Berkeley as a Permittee), Contra Costa, San Mateo, and Santa Clara counties, and the cities of Fairfield, Suisun City, and Vallejo. The MRP establishes quality and monitoring requirements for discharging urban runoff. These requirements include the use of best management practices for new and significant redevelopment projects, public education and outreach, industrial inspections, and guidance to the City's own Public Works staff to reduce or remove pollutant loads from urban runoff to the maximum extent practicable. The MRP also requires that trash be reduced by 40% by July 2014 when the permit expires. Permittees submit annual reports evaluating their efforts in meeting the NPDES performance standards.

swrcb.ca.gov/rwqcb2/water_issues/programs/stormwater/mrp.shtml

Stormwater Quality Management Plan (SQMP)

The SQMP describes a framework for the management of stormwater discharges designed to fulfill the requirements of the MRP. In the SQMP, performance standards are established for each program area component and serve as the reference points upon which municipal stormwater pollution prevention effectiveness evaluations and consideration of opportunities for improvement are made. (NPDES Permit, Findings, pg 5).

California Porter-Cologne Act, *California State Legislature (1969)*

The Porter-Cologne Act is the principal law governing water quality in California. It applies to both surface water and ground water. Porter-Cologne establishes the State Water Resources Control Board as the statewide water quality planning agency, while the nine Regional Water Quality Control Boards are responsible for developing Regional Water Quality Plans (basin plans). These statewide and regional plans include the

identification of beneficial uses of water, water quality objectives, and implementation plans. swrcb.ca.gov/laws_regulations/docs/portercologne.pdf

Federal Clean Water Act, 33 U.S.C. §1251 et seq. (1972)

The Clean Water Act (CWA) establishes the basic structure for regulating discharges of pollutants into the waters of the United States and regulating quality standards for surface waters. The basis of the CWA was enacted in 1948 and was called the Federal Water Pollution Control Act, but the Act was significantly reorganized and expanded in 1972. "Clean Water Act" became the Act's common name with amendments in 1977. epw.senate.gov/water.pdf

CITY ACTIVITIES TO PROTECT WATER QUALITY

The City of Berkeley has been engaged in water quality protection activities such as street sweeping, installing and servicing trash receptacles, and cleaning of storm drain inlets well before the issuance of the first NPDES Permit. However, the introduction of the NPDES Permit established many additional stormwater pollution prevention requirements. It also provided a framework for formalizing and tracking the City's stormwater pollution prevention activities.

Alameda Countywide Clean Water Program

With the development of the NPDES permit, the City joined other municipalities in Alameda County, the county, and its special flood control and water conservation district in creating the Alameda Countywide Clean Water Program (ACCWP) in 1991. The ACCWP assists its member agencies by developing model policies and programs, scientific studies, and materials to educate their respective employees, policy-makers, local residents and business communities about stormwater pollution prevention. The program is funded by member agencies through contributions proportional to their area and population—the City of Berkeley contributes about \$100,000 annually. By pooling resources and sharing information, all member agencies are continually improving the effectiveness of their urban runoff pollution prevention and control efforts.

There are eight components to the ACCWP:

1. Planning and Regulatory Compliance
2. Municipal Maintenance
3. New Development and Construction Controls
4. Illicit Discharge Controls
5. Industrial/Commercial Discharge Controls
6. Public Information and Participation
7. Watershed Assessment
8. Monitoring and Special Studies

These components are coordinated through subcommittees. All subcommittees report to the Management Committee which is the official decision-making body for the

ACCWP. The presence of staff from each member agency on subcommittees and the Management Committee ensures that program activities and benefits are equitably distributed and responsive to agency needs.

PLANNING AND REGULATORY COMPLIANCE

This component encompasses the major planning, regulatory compliance, watershed management, and administrative activities of the ACCWP and member agencies. This includes the development of partnerships with other organizations and agencies with compatible objectives, such as the Green Business Program and StopWaste.Org. , Under the umbrella of the ACCWP and as an individual permittee, the City engages in the regulatory permit development process by reviewing and commenting on draft legislation and proposed regulations. Every year, the City submits its Annual Report to the SF Regional Water Quality Control Board describing the range of activities completed to comply with the MRP.

MUNICIPAL MAINTENANCE

General Operations

The City's Department of Public Works, Maintenance Division provides the maintenance service for streets, sanitary sewers, storm drain pipelines and its appurtenances, and City-owned creek culverts. City workers employ BMPs to minimize or eliminate the potential discharge of stormwater pollutants in their daily operations. This begins at the City's Corporation Yard and Solid Waste Transfer Station (where vehicles are fueled, washed, and serviced; and chemical-products are used and stored) and extends to field operations such as road repair, asphalt and concrete removal, and graffiti removal.

Proper Handling of Materials & Spill Response

City Maintenance crews often use or handle asphalt and other petrochemical materials, paints, solvents, and other products that if mishandled can become environmental pollutants. Thus, Maintenance staff are trained in the proper collection and disposal of waste materials and chemicals (including recycling when appropriate).

Maintenance staff are also called upon to contain and clean up non-hazardous spills to prevent the discharge of pollutants into storm drains and inlets. Thus, maintenance staff are trained for such activities. When dispatched to handle a non-hazardous spill, Maintenance staff follow spill response notification and reporting protocols to appropriate environmental safety and protection agencies.

Watercourse Water Quality Maintenance

There remain only a small percentage of open water courses on City-owned property. Within City parks, the Parks, Recreation, and Waterfront Department's landscape gardeners remove litter and service trash receptacles. Additionally, City forces from Public Works and Parks inspect and service in-stream trash racks.

More discussion of the watershed-related maintenance programs are provided in Chapter 7.

NEW DEVELOPMENT AND REDEVELOPMENT

Design Review and Post-Construction Inspections

New development and redevelopment project design is critical in that it defines the scope of a project, including its impacts to site-specific natural resources and the potential creation of additional impervious cover. Proposed public or private development and redevelopment projects (outside the public right-of-way) are reviewed at the City Planning Department's Permit Service Center (PSC). The PSC provides pre-application and educational materials containing information on stormwater controls and requirements to developers, contractors, construction site operators, and owners/builders. Through this process, City staff ensure project designs conform to the City's building codes and design standards, which include impervious area limitations and, when necessary, stormwater pollution control measures.

Where runoff from a proposed project may impact the hydrology of an open creek, the project proponent is required to incorporate design measures that prevent additional discharge volumes. The City's *Preservation and Restoration of Natural Water Courses* ordinance (BMC 17.08), also limits a proposed new or redevelopment project's encroachment into the riparian corridor, which provides natural water quality benefits.

Required stormwater runoff treatment and control measures are expected to be in place and maintained over the life of the constructed project. After construction, the City inspects a portion of these sites annually to ensure these measures are in place and are adequately maintained. The City has authority take enforcement actions for violations by its *Discharge of Non-Stormwater into the City's Storm Drain System – Reduction of Stormwater Pollution* ordinance (BMC 17.20).

Construction Controls

In addition to issuing Conditions of Approval for private and public projects outside the public right-of-way, which may require inclusion of stormwater controls in the project design, the City also mandates the construction process follow best management practices to minimize or eliminate the discharge of pollutants. This includes requiring contractors to submit and follow erosion and sediment control plans, appropriate equipment refueling practices, and so on. The City dispatches inspectors to routinely visit construction sites to ensure these BMPs are in place and are adequately maintained. The City has authority take enforcement actions for violations by its *Discharge of Non-Stormwater into the City's Storm Drain System--Reduction of Stormwater Pollution* ordinance (BMC 17.20).

INDUSTRIAL/COMMERCIAL INSPECTIONS

Both the Planning Department's Toxics Management Division (TMD) and the Public Health Department's Environmental Health Services Division conduct routine inspections of industrial or commercial business sites that have high potential to be stormwater pollution sources. These business types include, but are not limited to: restaurants, dry cleaners, corporation yards, automotive repair facilities, gas stations, and photo-processing and printing shops. Sites are inspected once every three years to ensure detergents, cleansers, solvents, food waste grease, oil, liquids from dumpsters, mop

water, and pressure washer effluent are properly handled and not discharged to storm drains or creeks. The City has authority take enforcement actions for violations by its *Discharge of Non-Stormwater into the City's Storm Drain System--Reduction of Stormwater Pollution* ordinance (BMC 17.20). Enforcement actions are taken against non-compliant businesses.

ILLICIT DISCHARGE CONTROL ACTIVITIES

The Public Works Department is tasked with removing illegally dumped material. Annually, 160 tons of materials, debris and waste are dumped on the streets of Berkeley. The cost to clean up illegal dumping is over \$100K a year. The Public Works Department conducts additional targeted litter control activities, such as the hand sweeping and steam-cleaning of sidewalks in designated areas of the City (i.e. Downtown, San Pablo Avenue, Telegraph Avenue, South Berkeley, and North Shattuck). Approximately 360 tons of materials are collected and disposed of through the City's illegal dumping and targeted litter abatement programs. The City also provides and maintains litter receptacles in commercial areas and other litter source areas.

The Toxics Management Division implements the MRP-required Illicit Discharge Screening Program by conducting a survey of 10 strategic check points each year in dry weather conditions. The screening points include:

- Potter Outfall
- University Outfall (behind Seabreeze Market, Strawberry Watershed)
- Virginia Outfall (Schoolhouse Watershed)
- Gilman Outfall
- Strawberry Creek Park (near Corp Yard)
- Strawberry Creek @ Oxford
- Codornices Creek at Albina (St. Mary's College High School)
- Codornices Creek Park/Rose Garden
- Capistrano Creek behind Thousand Oaks School
- Harwood Creek @ Brookside Ave. (located near the Oakland border, off of Claremont, and is the Temescal Watershed)

By ordinance the discharge of non-stormwater into storm drains and watercourses is prohibited. Reports of non-stormwater discharges to the 311 customer service system are routed to the appropriate City Department for investigation and enforcement. The Department of Public Works or the Planning Department's Building and Safety Division staff respond to construction-related discharges. Environmental Health inspectors respond to restaurant and sewage related discharges. The Toxics Management Division responds to hazardous substance discharges.

PUBLIC INFORMATION AND PARTICIPATION

The diffuse sources of urban runoff pollutants (many generated by activities outside the City's control, such as over-use of pesticides and fertilizers) make them particularly difficult to minimize or eliminate. As the general public becomes more aware of the sources and impacts of non-point source pollution, individual and community behaviors

and actions that contribute to the problems are likely to change. In addition to its numerous maintenance activities, commercial and industrial business inspection programs, and design and construction requirements, the City also strives to increase public awareness about stormwater pollution prevention.

The City participates in fairs and public events (such as the Solano Stroll, the Spice of Life Festival, and the Watershed Poetry Festival) by staffing information booths to provide information and explanation on BMPs and alternative methods for pest control, automobile maintenance and washing, animal care, etc. intended to reduce urban runoff pollution. For the 2011 Berkeley Bay and Earth Day Festivals, city staff emphasized a pesticide-use reduction message by distributing non-toxic pest control recipes, coupons, and other educational materials.

As part of its Group Activities, the ACCWP also develops regional, countywide, and local public outreach campaigns and materials. This can take the form of targeted outreach, educational pamphlets and booklets, or public service announcements in electronic and print media. The ACCWP also funds school-based programs and awards small grants (\$5,000 maximum) for local community watershed stewardship activities.

Volunteer Opportunities

The City also encourages citizens to volunteer in activities designed to reduce or eliminate water pollution. These activities include:

- Storm Drain Inlet Stenciling: Public Works staff provide safety training, maps, and equipment needed for volunteers to paint the “No Dumping, Drains to Bay” message onto storm drain inlets. Volunteers typically include school groups, community-service organizations, and environmental stewardship organizations. This message is designed to make people aware that storm drain inlets are not trash receptacles. The City will use a new metallic medallion with a similar message on storm inlets in commercial areas this year. The medallions should last much longer than painted stencils, which tend to wear out after a few years.
- Adopt-A-Drain Program: On-going program where a citizen or business commits to proactively removing accumulated debris and litter from around a particular (set of) storm drain inlets. Public Works staff provide safety training and equipment needed for volunteers to rake, scoop, and bag debris for City pick-up. There are about 70 Adopt-A-Drain volunteers throughout the City.
- Coastal Clean-Up: annual event where Berkeley citizens and city forces (Parks and Recreation and Public Works) work to collect and count litter and debris from Berkeley’s shoreline and Aquatic Park Lagoons. This effort is combined with shoreline and watercourse clean-up activities across the state to ascertain the amounts and types of litter most common in local waterbodies. This information is used to develop local and state policies designed to curb these pollutant sources. Plastics, food packaging, and cigarette butts are consistently at the top of items removed.

- UC Berkeley Community Enhancement Projects Days: Up to three times a year, the University of California and the City of Berkeley partner to provide hundreds of student volunteers for community enhancement projects around the City. These volunteer efforts usually include a few dozen volunteers dedicated to cleaning around and/or stenciling storm drain inlets, often in areas around the UCB campus.
- Open Space/Watercourse Stewardship: The City coordinates with and supports the efforts of citizen-based, non-governmental groups wanting to provide additional maintenance or approved improvements to City-owned open spaces or creeks on City-owned property. These efforts can include weed abatement, trash collection, trail building, and planting activities.

The City conducts annual trash clean up and assessment activities at three Hot Spots along waterbodies, as a requirement of the MRP. The goal not only is to remove trash, but also to quantify the volume and identify the dominant types of trash removed. The 3 Hot Spots are:

1. Brickyard Cove, Bay shoreline just south of University Avenue.
2. Aquatic Park Main Lagoon, north-east shoreline from Touchdown Plaza towards Bancroft.
3. Codornices Creek, from Second Street upstream to UPRR.

The work is performed by volunteers under supervision of City staff either during the Coastal Clean Up or scheduled separately. Volunteer groups also perform clean-up activities along these sites on other occasions, without the coordination or supervision of City staff. It is recommended the City develop Volunteer Trash Assessment Protocols so non-supervised volunteer groups can collect trash data that the City can use to monitor rates of accumulation, likely sources, and volumes removed.

ACCWP Group Activities

The implementation of most MRP requirements is left to the individual municipalities. However some MRP components are more practicably conducted under the umbrella of the ACCWP as Group Activities. These include Watershed Assessment, Monitoring and Special Studies, and elements of Public Outreach. This is because assessment results, study findings, and outreach campaigns are generally applicable to multiple jurisdictions within the county. In this same vein, other Countywide Clean Water Programs around San Francisco Bay collaborate on regional efforts through the Bay Area Stormwater Management Agencies Association (BASMAA).

WATERSHED ASSESSMENT

The focus of this component is on characterizing landscape-level attributes of watersheds and streams within Alameda County, with consideration of beneficial uses and management issues specifically tied to physical, biological, or social conditions in individual watersheds.

Using pilot watersheds throughout the county, the program has identified indicators and benchmarks for evaluating the conditions of an urban creek's beneficial uses. These indicators and benchmarks include: measurements of individual pollutants, characterization of the amount and timing of creek flows in relation to precipitation, and surveys of diversity and composition of plant and animal communities living in creeks and adjacent riparian areas.

MONITORING AND SPECIAL STUDIES

This program component addresses pollutants and problems that tend to be uniformly distributed in urbanized areas where study and management areas are greater than the individual watershed scale. The results of the water quality monitoring and related activities are used to focus collective and individual member-agency actions that reduce pollutant loadings to protect and enhance receiving waters and to comply with regulatory requirements.

The Clean Water Program conducts or participates in are numerous on-going monitoring and special study efforts, including:

- Regional Monitoring Program for Trace Substances (RMP): collaborative effort with the San Francisco Estuary Institute (SFEI) involving collection and analysis of data on pollutants and toxicity in water, sediment, and biota of the Estuary
- Status Monitoring/Rotating Watersheds: seasonal sampling program conducted on a rotating-watershed basis to assess biological characteristics, general water quality, chlorine levels, temperature, water column toxicity, sediment-based toxicity and pollutants, pathogen indicators, and stream surveys.
- Pollutants of Concern (POC) Monitoring: assesses inputs of POCs to the Bay from local tributaries and urban runoff. It also assesses progress toward achieving wasteload allocations for Total Maximum Daily Loads (TMDL) and helps resolve uncertainties associated with loading estimates.
- Long-Term Trends Monitoring: assesses long-term trends in pollutant concentrations and toxicity in receiving waters and sediment to evaluate if stormwater discharges are causing or contributing to toxic impacts on aquatic life.

The findings of the monitoring programs have led to the establishment of TMDLs by the Water Board for diazinon and pesticide toxicity in urban creeks, mercury, and PCBs. The Water board also plans to establish TMDLs for other pollutants of concern such as PBDEs, Legacy Pesticides, and Selenium. The ACCWP continues to conduct and participate in targeted Pollutant of Concern studies, reduction plans, and programs to identify pollutant levels and potential sources. These include:

- Pesticide Toxicity Control: Currently the Pesticides of Concern include: 1) organo-phosphorous pesticides, 2) pyrethroids, 3) carbamates, and 4) fipronil. The Program coordinates with BASMAA, the Urban Pesticide Pollution Prevention Project, and the Urban Pesticide Committee to track data, express concerns, and request consideration of its issues in federal and state insecticide registration decisions. The Program also participates in the "Our Water, Our

World”, a point-of-purchase campaign that encourages retailers to stock and promote the sale of less-toxic alternatives to pesticides. The ACCWP prints and distributes pesticide-related brochures, fact sheets, and informational guides, as well as financing the development of regional and local Advertising campaigns aimed at reducing the use of pesticides

- Sediment Bound Pollutants (Mercury, PCBs, legacy pesticides, PBDEs): The Water Board has established a TMDL for Mercury and one pending approval for PCBs. The Program conducts special Mercury & PCB monitoring programs and pilot projects to evaluate: the abatement of sources in drainages, enhancement of sediment removal and management practices, on-site treatment practices, diversion of first-flush flows to wastewater treatment facilities, and quantification of loads and loads reduced to name a few).
- Copper Controls: The Program participates in the Brake Pad Partnership, a collaborative process to reduce copper discharged from automobile brake pads.

Additional monitoring and special studies that are to be undertaken in response to the requirements of the MRP include: 1) stressor/source identification as follow-up to monitoring results, 2) Best Management Practices (BMP) effectiveness investigations, 3) geomorphic data collection for creeks, and 4) sediment delivery estimations to determine sediment volumes entering the bay from local tributaries, 5) studies on emerging pollutants such as endocrine-disrupting compounds and estrogen-like compounds, 6) and citizen monitoring and participation.

Additional City Policies Relevant to Water Quality Protection

Integrated Pest Management (IPM)

The City has maintained an Integrated Pest Management (IPM) approach since 1988 with its Revised Pest Management Policy, Resolution No. 54,319-N.S. The policy assumes that pesticides are hazardous to human and environmental health, thus non-chemical management tactics should be employed first. Use of chemicals is to be considered as a last resort and must follow the Pesticide Selection Criteria established in the resolution.

Precautionary Principle

Through its adoption of the “Precautionary Principle” by Resolution Number 62,259-N.S. in 2003, and the “Environmentally Preferable Purchasing Policy” by Resolution No 62,693-N.S. in 2004, the City reaffirmed its commitment to minimizing health risks to City staff and residents, minimizing the City’s contribution to global climate change, improving air quality, and protecting surface water and groundwater quality.

Bay Friendly Landscaping

Established by Resolution Number 64,507-N.S., this policy requires new development, redevelopment, or renovation projects initiated by the City (after August 1, 2009) with greater than 10,000 sq. ft of landscaping to achieve the minimum Bay-Friendly Landscape Scorecard points into their design and implementation. Other City projects,

not meeting the 10,000 sq. ft. threshold, are required to achieve the most Bay-Friendly Scorecard points as practicable. These Bay-Friendly Scorecards and associated Guidelines, developed by StopWater.org (formerly the Alameda County Waste Management Authority), promote green landscaping as a whole-systems approach designed to conserve natural resources, reduce waste, minimize water and pesticide use, and reduce stormwater run-off. Further, green landscaping also creates wildlife habitat, protects local ecosystems, promotes native plant species, and reduces maintenance needs.

RECOMMENDATIONS FOR WATER QUALITY PROTECTION ACTIVITIES

- 4.1 ACCWP Planning and Regulatory Compliance activities, including: Management Committee and subcommittees, Watershed Assessment Program, and Monitoring and Special Studies – continue at existing level
- 4.2 New Development and Redevelopment Controls – continue at existing level
- 4.3 Industrial/Commercial Discharge Inspections & Controls – continue at existing level
- 4.4 Illicit Discharge Control Activities – continue at existing level
- 4.4 Private Property LID Promotion - Examine Policy Option to Reduce Hydromodification and C.3 Thresholds. Explore the potential impacts (to staff resources and property owners) of reducing existing threshold requirements that trigger the use of LID and other stormwater management techniques to avoid hydromodification and increased runoff.
- 4.5 Trash Assessment Protocols – develop Trash Assessment Protocol guidance for volunteers. Trash collection activities are conducted by volunteer groups throughout the year. Sometimes these events take place in the designated Hot Spots, without supervision by City staff. With the proper protocols available, non-supervised volunteer groups can collect trash data that the City can use to monitor rates of accumulation, likely sources, and volumes removed.

CHAPTER 5: CREEKS

In the WMP, “creek” is synonymous with “open channel”, “open watercourse”, “natural watercourse”, and “stream”. The term “creek” is defined in the BMC Chapter 17.08 as a watercourse that: 1) *carries water from either a permanent or natural source, either intermittently or continuously, in a defined channel, continuous swale or depression, or in a culvert that was placed in the general historic location thereof; and 2) the water either merges with a larger watercourse or body of water, or is diverted into an engineered structure that does not follow the general historic course of creek. A "creek" does not include any part of an engineered structure developed for collection of storm or flood waters (e.g. a storm drainpipe) that does not follow the general historic course of a creek. A "permanent or natural source" includes a spring, artesian well, lake, estuary, or a rainfall drainage area that covers at least one-third acre (14,520 square feet).*

The protection of natural waterways and aquatic habitat is identified as a goal of the WMP. This chapter reviews: the benefits of open watercourses, the City’s regulations to protect creeks, the City’s role in Floodplain Administration, and the responsibilities of property owners with creeks and creek culverts on their property. Finally, this chapter gives an overview of general creek functions and their associated habitats.

BENEFITS OF OPEN WATERCOURSES

The City recognizes the importance and benefits of creeks, as set forth in BMC Chapter 17.08. This ordinance states that the desired condition of creeks within the City includes natural stream banks and a corridor of natural vegetation. This is to support channel stability, natural ecosystems, water quality, and physical attributes of natural watercourses. Creeks and their associated natural habitats provide myriad water resource and ecological benefits to both humans and wildlife. A summary of these benefits is provided below:

- **Stormwater/flood control** – A healthy creek corridor can detain stormflow volumes and reduce flow velocities, thereby moderating flooding and protecting downstream areas. Aquatic vegetation slows the flow of water through physical resistance while features such as bank terraces can provide additional storage capacity.
- **Water quality** – Wetlands vegetation can protect and enhance water quality by removing toxins, such as oils, herbicides, and pesticides, and excess nutrients and sediments from influent water.
- **Groundwater recharge** – By slowing the flow of water, vegetation facilitates groundwater recharge by increasing residence time, allowing water to seep into the soil and enter underlying aquifers.
- **Wildlife habitat** – Structural complexity and rejuvenation are maintained by flooding and channel movement, contributing to the diversity of wildlife species in riparian corridors. Wildlife utilizes these corridors for roosting, breeding, foraging,

and refuge. High-value riparian habitat has a dense and diverse canopy structure with varied vegetation heights creating complex microhabitats.

- **Aquatic habitat** – Roots, fallen logs, and overhanging branches from riparian vegetation create diverse habitats and cover for fish, aquatic insects, and invertebrates. Bed substrate is also used by fish for redd (spawning nest) construction.
- **Temperature** – Overhanging trees and other riparian vegetation shade streams and reduce water temperatures, particularly during the summer months when streamflow is typically lower. Elevated water temperatures can be stressful or lethal to many insects, amphibians, and fish species.
- **Erosion control and channel stability** – Riparian and aquatic vegetation can help minimize erosion and sedimentation, stabilizing stream banks with their root systems. Excessive erosion can undercut stream banks and reduce channel complexity. Channel incision can lead to reduced groundwater levels. Excessive sedimentation can reduce the capacity of the channel to carry floodwaters and can smother fish spawning and foraging areas.
- **Recreation opportunities** – Habitat restoration along creeks and wetlands can include trails and other recreation opportunities to enhance visitors' enjoyment of the area, such as bicycling, walking, jogging, and bird-watching. As an innovative example, the recently constructed Codornices Creek Restoration project between Eight and Sixth Streets incorporates an outdoor classroom feature.
- **Existence value** – Existence value refers to the value of the watershed as a natural resource, outside and irrespective of human values.
- **Water supply** – Headwater tributaries and lower stream corridors provide and convey fresh water sources for humans and wildlife, both through conveyance of runoff and exchanges with underlying aquifers.

CURRENT STATUS OF CREEKS

Open Creeks

According to the City's GIS database, there are approximately 8 miles of open creeks within Berkeley city limits (Table 5-1). About 10% (less than 1 mile) of this total length is on City-owned property. The remaining 7 miles are located on private property. The Berkeley Hills retain the majority of open watercourses within the City limits (Cerrito Creek, Blackberry Creek, Capistrano Creek, Codornices Creek, Strawberry Creek, Derby Creek (Potter Watershed), and Harwood and Vicente Creeks (Temescal Watershed).

Creeks are complex, interdependent systems where actions in one location may have significant impacts either upstream or downstream, regardless of property lines. More data is needed to further refine the WMP in regards to preserving and enhancing creeks and their associated habitats. Because the majority of open watercourses flow through private property, access to conduct creek and habitat condition investigations would require the permission of the property-owners.

Volunteer-based Creek Assessment Pilot Program

The City could develop a pilot program for using trained volunteers using Global Positional System (GPS) equipment to collect in-stream and creek bank features (physical conditions and habitat data) for mapping and analyses. This information can be used to improve the City's GIS maps, refine future hydraulic modeling efforts, and identify common concerns across property lines. This pilot program would start on Codornices Creek.

Creek BMP Guidance Materials

Information generated from future data collection efforts can help the City identify common problems and opportunities. It can also help tailor guidance materials the City can develop to help property owners make informed creek management decisions.

Creek Culverts

There are approximately 7.35 miles of active creek culverts within city limits (Table 5-1). About 60% (just over 4 miles) of this total length is on City-owned property, mostly where streets cross over creek corridors. The remaining 3.15 miles of culverted creeks are located on private property.

Creeks & Creek Culverts by Watershed	Citywide	Cerrito	Marin	Codornices	Schoolhouse	Strawberry	Potter	Temescal	Wildcat
Estimated Open Creek Length (ft)									
Total	42,139	5,063	6,116	15,477	1,690	7,092	2,254	4,447	0
City Property	3,010	211	508	1,873	0	298	0	120	0
Private Property	39,129	4,852	5,608	13,604	1690	6,794	2,254	4,327	0
Estimated Active Creek Culvert Length (ft)									
Total	35,059	2,220	4,284	11,435	2,309	9,501	3,037	1,848	426
City Property	19,959	924	3,066	6,083	1,287	5,796	1,676	1,127	unk
Private Property	14,674	1,297	1,218	5,351	1,022	3,705	1,360	721	unk

Table 5-1, Creeks and Creek Culverts by Watershed

Wherever an open or culverted creek traverses city-owned property, the City is bound by the same regulations as any other property-owner. If the City desires to restore a length of creek or construct a facility in or adjacent to a creek or creek culvert, it too must obtain and pay for a Creek (Culvert) Permit. The City is also responsible for obtaining any other necessary permits from regional, state, and federal agencies as appropriate (including, but not limited to the California Department of Fish and Game, the Regional Water Quality Control Board, and the US Army Corps of Engineers).

The City, like any other property owner, is also responsible for the maintenance and stewardship of those portions of the creek or creek culvert on its property. This is further discussed in Chapter 7. Whether within the public right-of-way or on other city-owned property where the creek centerline defines the City's jurisdictional boundary, maintenance responsibilities are either shared with the neighboring municipality or wholly the responsibility of one jurisdiction.

Creek Culvert Conditions Assessment Program

A Closed Circuit Television (CCTV) Investigation program, using remote camera technology and certified confined spaces personnel, is needed for physical conditions assessments of creek culverts under the right-of-way or on City property. This program would help the City identify and determine of the extent of needed repairs and to prioritize and budget for these needs. This program should strive to investigate 20% of the city-owned creek culverts annually. This would begin with the Potter and the Codornices Watersheds, to understand how needed repairs may impact the rehabilitation portion of the Capital Improvement Program in Chapter 8.

Creek Culvert Rehabilitation Program

Based on results of hydraulic modeling and CCTV investigations, the City would develop a Creek Culvert Rehabilitation Plan (CCRP). The CCRP would identify and prioritize any needed repairs.

Private Creek Culverts

Creek culverts on private property are a concern because of their age and lack of maintenance. Many property-owners are unaware that culverts are their property. The City receives numerous calls from property owners and potential buyers looking for information about creek culverts. Many creek culverts were installed by private developers to expand buildable space prior to 1929 when the City began requiring permits for their construction. The City generally does not have record of most of these private structures other than location locations on historic maps.

CITY REGULATORY ROLES

As an entity, the City of Berkeley has three primary regulatory roles related to creeks: 1) Compliance and Enforcement of MRP pollution prevention requirements, 2) Creek Protection Ordinance Compliance and Enforcement, and 3) Floodplain Administration.

MRP Compliance

Urban Creeks that are tributary to the San Francisco Bay have been designated as "impaired" by diazinon and trash by the San Francisco Bay Regional Water Quality Control Board (SFBRWQCB). A Total Maximum Daily Load (TMDL) allocation, expressed in toxic units and diazinon concentrations, has been established for all urban runoff. The City has already adopted and continues to implement an Integrated Pest Management Policy (Resolution No. 54,219-N.S., 1988) that directs a less-toxic approach to pest management. The MRP also establishes trash-related Receiving

Water Limitations, requiring municipal permittees to take actions to reduce trash loads by 40% by 2014. These issues are further discussed in Chapters 4 and 7.

Open watercourses are protected by Hydromodification Management (HM) requirements mandated by the MRP and are implemented by the Planning Department. HM requirements currently target new and redevelopment projects that create and/or replace one acre or more of impervious surface. It prohibits any increased stormwater discharges from such projects that could affect creek bank and/or bed erosion, silt generation, and other potential adverse impacts to the receiving watercourse. City staff also inspect all required HM controls to ensure they are being properly operated and maintained over the life of the project. Additional discussion of MRP requirements is provided in Chapter 4.

Creek Protection Ordinance

In 1989, the City passed an ordinance which established development setbacks to maintain a riparian buffer zone. The ordinance was further revised in 2006 to reflect the recommendations of the Creeks Task Force, a City Council-created body charged with studying the existing regulations and proposing policy. The latest version includes a 30 foot setback from the centerline of an open creek for new development, although some expansion of existing buildings may occur within 25 feet of an open creek with issuance of an Administrative Use Permit. Construction within 15 feet of the centerline of a culverted creek is regulated to ensure that the project and the culvert will not have a negative impact on each other and to ensure appropriate setbacks that promote safety and allow access for maintenance and repair. The current ordinance and guidelines for compliance are available on the City's webpage: www.cityofberkeley.info/CreeksOrdinance.

Distinction between Creek Culverts and Storm Drains

The City provides many services to its residents such as maintaining storm drain pipes in the right-of-way and performing flood investigations related to creeks. However, creeks are the responsibility of the owner of the property within which the creek lies. A few of the major differences between creeks and storm drain pipes are:

- Most creeks and creek culverts retain the name "creek" in their name.
- The alignment of creeks and creek culverts follow closely the original path of the creek. Most storm drain pipes follow street alignments.
- Creeks and creek culverts are generally constantly fed by natural sources. Storm drain pipes are generally empty except during and immediately after rainstorms.
- Creeks provide habitat value. Storm drain pipes do not.
- Creek culverts were typically built (a) by private developers to enlarge the buildable space on private lots, or (b) by the City to allow a street to pass over a creek. Storm drain pipes are public structures under streets designed to carry stormwater runoff.

Floodplain Administration

Flood zone development in the city is regulated through implementing the requirements set forth in BMC Chapter 17.12—Flood Zone Development. This chapter was last updated by Ordinance No. 7,108—N.S. in September 2009. The requirements of BMC 17.12 make flood insurance available to homeowners, renters, and business owners in the City, through the federally backed National Flood Insurance Program (NFIP). BMC 17.12 establishes procedures for reviewing new and redevelopment projects, administering changes to the Flood Insurance Rate Map (FIRM), and processing appeals and variances.

Watercourse Flooding – Investigation & Assessment

In cases of emergency, the City is often the first responder. The City performs Watercourse Flooding – Investigation & Assessment site visits regardless of property-ownership as a matter of public safety. These investigations often seek to determine additional circumstances above and beyond natural causes leading to damages. The City may undertake enforcement activities on the responsible party if it is found that negligent maintenance or other preventable condition contributed to the damages.

CREEK RESTORATION

Creek restoration can encompass a range of objectives and activities. At minimum, restoration includes reestablishing native riparian plant communities on creek banks to naturally enhance bank stability, habitat, and water quality. Restoration can also include more intensive measures to reestablish natural channel form (cross-sectional dimensions, meander pattern, and profile) while maintaining or increasing flow capacity. This type of project is typically done to move the creek towards an equilibrium state where it is transporting both water and sediments without excessive deposition or erosion. When the physical form and vegetation are restored, the creek ecosystems are rejuvenated.

In urban settings, creek restoration reaches are often defined by upstream and downstream creek culverts which serve as fixed controls. Often times the creek reach between these control points crosses several property lines, necessitating coordination and partnerships.

The City has engaged in numerous creek restoration and stewardship projects over the years either as a project lead or project participant. This includes the 1986 daylighting of a 220' reach of the Strawberry Creek culvert in the creation of Strawberry Creek Park, between Addison and Bancroft Streets. This project is widely considered to be the first daylighting project in the country.

Joint Watershed Goals Statement

In 1996, the City—in partnership with the cities of Albany, El Cerrito, and Richmond, and the East Bay Regional Park District, and the University of California—adopted a Joint Watershed Goals Statement, committing each entity to cooperate closely to achieve the following goals:

- Restoring creeks by removing culverts, underground pipes, and obstructions to fish and animal migration
- Restoring creek corridors and natural transportation routes with pedestrian and bicycle paths along creekside greenways; wherever possible using creekside greenways to connect neighborhoods and commercial districts east of the Interstate 80 freeway to the shoreline of San Francisco Bay and the San Francisco Bay Trail.
- Restoring a healthy freshwater supply to creeks and the bay by eliminating conditions that pollute runoff and eliminating conditions that prevent groundwater recharge
- Instilling widespread public awareness of the value of developing infrastructure along lines that promote healthier watersheds and watershed oriented open spaces where nature and community life can flourish.

Lower Codornices Creek

The City is a partner with the City of Albany and UC-Berkeley in the long-range planning, implementation, and maintenance of restoring a ½ -mile stretch of Codornices Creek from San Pablo Avenue to the UPRR railroad tracks (Third Street). Thus far the project has completed three phases, restoring the creek corridor from the railroad tracks to 8th street. In addition to restoring meanders, modified floodplain terraces, and native riparian vegetation, this effort also includes construction of a bicycle/pedestrian trail and an outdoor classroom.

Additional locations on Codornices Creek have been identified as candidate restoration sites, pending agreements with partners and property owners and securing funds to design, implement, and maintain. These sites are:

- Eastshore Hwy Rd to UPRR tracks
- Vacant Lot on Kains Avenue

WATERCOURSE FUNCTIONS & ASSOCIATED HABITATS⁴

Natural water courses are innate features of watersheds, occurring in topographical depressions where surface runoff and groundwater contribute to channel forming flows. The channel form is further dictated by a complex combination of climatic conditions, geology, and ecology. Bay Area creeks originate in elevated headland areas and flow toward the Bay plain at a rate relative to slope or gradient and the volume of surface runoff or discharge. During travel across the alluvial fan, stream velocity generally declines, water temperatures and turbidity tend to increase, and the channel bottom changes from rocky to muddy (McNaughton and Wolf 1973). At the Bay, discharge into

⁴ The following descriptions of Bay Area Watercourse Functions, Associated Habitats, Common Impacts, and Linkages Between Hydrology, Geomorphology, Water Quality and Habitat are taken from Chapter 2 of the *Watershed Management/Habitat Protection and Restoration Component of the San Francisco Bay Area Integrated Regional Water Management Plan*, created in 2006 by Jones and Stokes. Some minor changes have been made to the text to be more descriptive of Berkeley conditions.

tidal marshlands forms a salinity gradient from brackish to saline, depending on the volume of discharge from streams.

Creeks can be divided into the following categories, which generally describe their function within a watershed.

- **Ephemeral:** Channel contains flow for short periods of time during a rainfall event or immediately after the event and become dry between events.
- **Intermittent:** Channel contains flowing water seasonally and is supported by direct runoff as well as sub-surface baseflow. In the dry summer months, there is no flow, but isolated pools may persist.
- **Upper Perennial:** Generally located in the zone between mid to lower watershed, there is no tidal influence and some water flows throughout the year. The substrate consists of rock, cobbles, or gravel with occasional patches of sand. Gradient and velocities are lower than in the upper watershed intermittent systems, though steeper than the lower perennial and tidal zones, and there is very little floodplain development.
- **Lower Perennial:** Found in the lower Bay watersheds approaching the tidal zone, the water velocity is slower than the upper perennial reaches. There is no tidal influence, and some water flows throughout the year. The substrate consists mainly of sand and mud. Oxygen deficits may sometimes occur. The fauna is composed mostly of species that reach their maximum abundance in still water. The floodplain is well developed.
- **Tidal:** The gradient is low and water velocity fluctuates under tidal influence. The streambed is mainly mud with occasional patches of sand. Oxygen deficits may sometimes occur. Historically, the floodplain along the tidal front was broad, but in much of the Bay Area today, these floodplains are more restricted due to levees, roadways and other human development.
- **Habitat Types:** From headwaters to confluence, open creeks create a wide variety of habitat settings. In addition to aquatic and riparian habitats, adjacent upland vegetation plays an important role in watershed ecosystems. Many bird and terrestrial species use both upland and wetland areas for different lifecycle needs, and connectivity among these areas is essential for sustaining wildlife populations.

Creeks (Riverine)

Water flows, velocity, depth, and tree shading determine the quality of riverine habitats. Due to the Mediterranean climate, nearly all Bay Area streams experience very low flows and nearly dry up at some point. Because of the intermittent nature of flows, water temperatures in mainstem riverine habitat are not constant. In general, small, shallow streams tend to follow but lag behind air temperatures, warming and cooling with the seasons as well as the day/night cycle. Creek with large areas exposed to direct sunlight are warmer than those shaded by trees, shrubs and high, steep banks. The

eddying and churning of high-velocity water over riffles and falls results in greater contact with the atmosphere, and thus a high oxygen content. In polluted waters, deep holes, or low velocity flows, dissolved oxygen is lower (Smith 1974). This habitat supports 1) the water-loving flora (alders, willow, etc) which comprise the riparian zone, 2) benthic macroinvertebrate organisms (BMI) which are aquatic animals, such as the nymph stage of damsel flies and dragonflies, worms, crayfish that generally feed on the vegetative detritus of leaf fall, 3) fish and birds, who feed on the BMI.

Codornices Creek still supports a native population of rainbow trout as well as steelhead salmon (*Oncorhynchus mykiss*) (Keir Associates, 2007) (Leidy, 2007), which is federally designated as a threatened species.

Riparian

Riparian habitat is found along rivers and streams, as well as lakes, ponds, reservoirs and other water bodies or drainages. Riparian ecosystems are generally characterized by increased structural diversity, as compared to surrounding plant communities (Manci 1989). Live oak, big leaf maple, California bay, and Fremont cottonwood are typical dominants of riparian habitats in the Bay Area. Tree cover provides hiding places for aquatic species to escape predation, increased substrate for food items and for egg attachment. Shading produces lower water temperatures which benefit many aquatic species. Tree litter contributes organic substances to the aquatic system (Brooks et al. 2003). The range of wildlife that use riparian habitat for food, cover, and reproduction includes amphibians, reptiles, birds, and mammals. Terrestrial species that benefit from the region's riparian zones include: raccoons, striped skunk, coyote, deer, gray fox, bobcats, and mountain lions. These habitats are critical for at-risk or protected species including the bald eagle, golden eagle, Swainson's hawk, Cooper's hawk, foothill yellow-legged frog, and steelhead salmon.

Tidal Wetlands

Tidal wetlands are characterized as salt or brackish marshes. Tidal wetlands extend from moist grasslands and riparian habitats downstream to intertidal sand and mud flats along the Bay margins. Salt marsh vegetation is generally found immediately adjacent to the Bay and along the margins of associated creek and slough channels where the water is relatively saline. Plant species composition is dependent on elevation, and level and frequency of inundation relative to the daily tidal cycle. The lower portions of the marsh (below mean high water) are inundated more frequently and typically support monotypic stands of California cordgrass. The mid-portion of the marsh is inundated less frequently (mean high water to mean higher high water) and is typically dominated by pickleweed, as well as Jaumea and the parasitic salt marsh dodder. The upper portions of the marsh (above mean higher high water) are inundated infrequently and support an assemblage of plant species that are adapted to drier, more saline conditions, including alkali heath, sea lavender, salt grass, marsh gum plant, and brass buttons.

Waterfowl, herons, egrets, rails, gulls, terns, and a variety of shorebird and songbird species all use tidal wetlands habitats for foraging and nesting. Tidal wetlands are also

often the preferred habitat for specialized groups of insects and other invertebrates that rely on a saline environment. Wetlands are important habitat for at-risk Bay Area species including the California clapper rail, California black rail, western snowy plover, California least tern, song sparrow, salt-marsh common yellowthroat, salt-marsh harvest mouse, harbor seal, steelhead, and Chinook salmon.

Uplands Habitats

Uplands habitats consist of adjacent lands that are important to wetland and riverine ecosystems, but that are not typically inundated by surface water. Uplands habitats throughout the Bay Area typically include grasslands, oak woodland, and mixed evergreen forest. In Berkeley, the Oak-Woodland ecosystem dominates. Oak woodlands are an integral part of watershed ecosystems as they provide important foraging, roosting, and breeding habitat for many species of amphibians, reptiles, birds, and small mammals. Representative species associated with oak woodlands include southern alligator lizard, gopher snake, red-tailed hawk, California quail, acorn woodpecker, western jay scrub, California ground squirrel, and black-tailed deer (Goals Project 1999).

Common Impacts to Creeks & Associated Habitat

Flow Regime, Channel Incision and Aggradation

Flow volumes also determine the resulting amount of in-stream and riparian habitat, as creek bed material, channel morphology, and flow hydraulics affect habitat quality for aquatic species (Young 2001). Changes in the physical characteristics of in-stream and floodplain habitats can lead to associated changes in local species composition and diversity. With increased in flow volume and velocities associated with urbanization, peak storm events scour the channel bed, mobilizing and transporting bed material downstream, reducing the quality and quantity of habitat (e.g., fish spawning⁵ gravels, and redds⁶).

While creeks are more commonly known for their water transport capabilities, they also transport sediment. Stream channels undergo continuous modification (plan form, slope, and cross-sectional dimensions) through processes of erosion or deposition of bank and bed materials. Watershed enhancement or restoration projects should take into account the incision and deposition characteristics of a particular creek.

Though incision (down cutting of the creek bed through stream flow erosion) can occur due to natural processes, in the Bay Area most channel incision is attributed to human land uses. High flows can result in sorting of bed sediment on riffles and point bars, as well as abrasion across the bedload surface and/or riparian and aquatic plants (Brookes 1995). Scouring of the bed and banks and around structures is accompanied by subsequent deposition of sediment elsewhere in the watershed, both of which can

⁵ Spawning refers to the reproductive process of aquatic animals (not including mammals) that release or deposit eggs and sperm, usually into water

⁶ A Redd is a depression in the gravel of a spawning stream where a female lays her eggs.

increase maintenance costs. Channel incision often occurs where less overbank flow occurs (typically areas where the creek is disconnected from its natural floodplain). In many cases, changes in channel morphology associated with incision (i.e., smaller width to depth ratio) result in development of a narrow steep-banked channel with low species diversity and low habitat complexity.

Bed aggradation occurs in creeks, mostly in Bay plain settings where eroded materials from watershed headwaters are deposited. Downstream reaches typically aggrade due to high sediment yields carried downstream from incising reaches as well as breaks in channel slope at the alluvial fan. Aggradation can lead to reductions in channel capacity, thereby creating flood hazards in downstream reaches.

Surface Runoff and Erosion

Runoff and erosion processes are key factors affecting creek bed and bank stability, and the quality of aquatic and riparian habitat systems. Erosion can cause degradation of downstream water quality (turbidity), embeddedness of streambed substrate, reservoir sedimentation, and bank erosion and bed degradation in downstream reaches (Brooks et al. 2003).

One of the most obvious linkages in a watershed is the relationship between surface runoff and sedimentation caused by erosion. The materials that constitute a floodplain, e.g., alluvial fans, point bars, and river beds, illustrate the sediment transport process whereby flowing water picks up mineral grains of various sizes and deposits them elsewhere (Dunne and Leopold 1978). Suspended sediment is the greatest surface water non-point-source pollutant on a volumetric basis for California watersheds (Charbanneau and Kondolf 1993). Reduction of erosion and sedimentation is a key watershed management component of watersheds that support populations of anadromous fish.

Flooding and Overbank Flows

Because of their effects on channel morphology, floods of various sizes are important determinants of the structure of aquatic and riparian habitats. In the channel, flooding creates stress on the streambanks, disturbs vegetation, and dislodges bottom-dwelling fauna. This natural cycle contributes to species composition and diversity within a watershed (Young 2001). Floods recruit large woody debris to the channel and determine the frequency of major habitat disturbance in the in-stream environment. Floods also drive the water regime in many floodplain environments (although groundwater and local runoff also play a role) and hence determine the range of plant communities.

Groundwater Recharge

Aquifers generally surface at springs, seeps, and stream channels, where they release surface water to flow downstream within the channel. The flow of a creek in dry weather, and therefore the width of the nearby riparian zone, is often derived from water released from an aquifer. Groundwater recharge contributes water to an aquifer that may then provide base flows within creeks during the dry season. The flow

characteristics and water quality of creeks are dependent on the processes of infiltration, percolation through the soil profile, and movement by underground flow paths through riparian areas (Holmes 2000). Recharge of groundwater is particularly important for areas that withdraw water supplies from groundwater wells (not generally applicable in Berkeley). Excessive drawdown of an aquifer for human uses can indirectly impact the condition of riparian habitats by reducing or eliminating base-flow to streams.

RECOMMENDATIONS FOR CREEKS

- 5.1 Floodplain Administration Duties: continue at current level of service.
- 5.2 Watercourse Flooding Investigations: continue at current level of service.
- 5.3 Preservation and Restoration of Natural Watercourses: continue at current level of service.
- 5.4 Creek Culvert Condition Assessment Program – Perform condition assessment investigations on 20% of City owned creek culverts annually. Thus the entire City would be covered in 5 years. The process would begin again after the 5 years, providing opportunity to prioritize replacement and rehabilitation opportunities based on need. This will also enable the City to track the rate of deterioration. Characteristics such as pipe shape, invert elevations, length, and construction materials obtained from the condition assessments will be input into the City’s GIS database.
- 5.5 Creek Culvert Rehabilitation Program – Based on results of hydraulic modeling and CCTV investigations, the City would develop a Creek Culvert Rehabilitation Plan (CCRP). The CCRP would identify and prioritize any needed repairs.
- 5.6 Creek Restoration – Identify, seek partnerships, and grant funding for creek restoration and stewardship projects. Identify capital improvement funds that can be available as “matching funds” for grant programs.
- 5.7 Volunteer GPS Creek Assessment Program – Pilot open watercourse assessment program on Codornices Creek, using trained volunteers to collect physical conditions and habitat data with Global Positional System (GPS) technology with permission of private property owners. This data can be used to further refine future hydraulic modeling efforts and identify common concerns across property lines.
- 5.8 Creek Guidance Materials – Provide creekside property owners with best management guidance for stewardship.

CHAPTER 6: STORM DRAIN FACILITIES

A fundamental component of watershed management planning is the consideration of the City's storm drain pipe infrastructure, which is designed to intercept, collect, and convey stormwater runoff from the public right-of-way either directly to the Bay or to nearby watercourses that ultimately discharge into the Bay. This infrastructure accepts runoff from public and private facilities (such as buildings, parking lots, and driveways) while protecting them from chronic inundation associated with wet weather. Much of the storm drain pipe infrastructure is over 80 years old and well past its useful life expectancy.

STORM DRAIN PIPES & APPURTENANCE TYPES

In assembling the WMP, staff analyzed the GIS database of the city's storm drain infrastructure components. In addition to providing a general location of these facilities, the City's GIS database is set up to store information on various characteristics of the system components such as: date constructed, material used, dimensions, and slope. Many of these data fields are empty and will require a proactive data gathering effort to backfill. Currently, the database gets updated from as-built information of construction projects, observations by City staff, as well as field information gathered by the City's surveyors and private surveyors.

The City's storm drain infrastructure inventory includes nearly 100 miles of underground pipelines, and their attendant appurtenances. These features are further described below:

- **Pipelines (nearly 100 miles):** Generally located under the public right-of-way, these are the primary conveyance conduits of the City's gravity-controlled storm drainage infrastructure. The pipe materials and shapes vary, often indicating the era in which they were built, as design standards and building materials evolved. Thus, the existing array of pipes shapes include: circular, egg, horse-shoe, and box. The range of materials used to fabricate the pipes include: vitrified clay, (reinforced) concrete, corrugated metal, ductile iron, steel, asbestos cement, plastic, polyvinyl chloride (PVC), and (high density) polyethylene (PE or HDPE). Pipe dimensions typically range from 6" to 108" diameter.
- **Manholes (1,200):** Extending from surface (street) level to the invert elevation (inside bottom) of pipelines, these shaft-structures are designed to provide convenient access for inspection, maintenance, and repair of storm drain pipelines. Manholes can also be designed to allow for multiple pipe intersections, ventilation, and pressure relief. In Berkeley, the typical manhole is constructed of brick or concrete with a cast iron cover fitting snugly against the manhole rim-frame.

- **Curb & Gutters:** Raised concrete or stone border along a roadway (curb) and a channel (gutter) that directs runoff into an inlet or catchbasin or other stormwater conveyance
- **Inlets (515):** There are several different inlet types used to intercept and convey surface runoff into the pipelines. These include curb opening inlets, grate inlets, curb and grate (combination) inlets, which are all generally located in the curb and gutter of the public right-of-way. Inlet types and placement (often at intersections) are selected using factors that consider not only hydraulic conditions, but also likelihood of clogging, traffic considerations, and pedestrian/bicycle safety. Inlet clogging with leaf-litter and debris is the most frequent cause of localized flooding in the city.
- **Catch Basins (2,840):** These shaft-shaped structures serve as inlets to the storm drain pipelines.
- **Cross-Drains (1,450):** Shorter conduits often located at the corners of intersections to convey gutter flows beneath the corner at a 45-degree angle rather than around a 90-degree turn. Cross-drains are also used at to convey gutter flows beneath the crown of a cross street to the downstream gutter.
- **Valley Gutters (63):** These are very shallow concrete swales used to at intersections to convey gutter flows past the cross-street to the next downstream gutter. These surface-level facilities are more expensive to install, but much easier to maintain than cross-drains.
- **Wyes and Tees (962):** Wyes and tees describe the general shape of specialty pipes used to connect one underground pipe to another.
- **Outlets (238):** Outlet structures are used where storm drain pipes end at receiving waters.

STORM DRAIN PIPE FACILITIES EXISTING CONDITIONS

Moderate to heavy rainstorms can cause localized flooding in storm drain facilities. This is due to a number of contributing factors including:

- Conveyance capacity
- Tidal effects of the Bay
- Age and physical condition
- Obstructions (from leaves and debris) (see Chapter 7)
- Street gradient changes (see Chapter 7)
- Tree root damage (see Chapter 7)

Design Storm

A design storm is a mathematical representation of a precipitation event that reflects local conditions for the design of storm drain pipe infrastructure. It provides guidance for computing flows and sizing infrastructure (such as pipes, curbs & gutters, and valley gutters). Design storm criteria provide for consistency in the design of public (City) and private storm drain improvements. Design storms are defined by their duration, total rainfall depth, temporal patterns, and special characteristics (such as average spatial distribution, storm movement, and spatial development and decay).

The City of Berkeley design storm characteristics are summarized in this Table:

Recurrence Interval ⁷	Total Rain Fall (in)	Duration (hr)
10-yr	2.03	6
25-yr	2.44	6

Conveyance Capacity

Conveyance capacity describes the hydraulic volume or flow that the storm drain pipe infrastructure is designed to convey without flooding. The use of a 10-year design storm is appropriate for most of the Berkeley because it is applied to drainage areas under 1,000 acres. The 25-year design storm is recommended for storm drain trunk lines that drain areas 1,000 acres or more; this applies only to the Potter Watershed (Adeline/Woolsey to the Bay) and the Strawberry Watershed (Curtis/University to the Bay).

When precipitation from storm events cause stormwater runoff at volumes larger than the 10-year design storm, localized flooding and nuisance ponding can occur.

Hydraulic Modeling

Hydraulic models are tools used to quantify the conveyance capacity of drainage pathways within a watershed. These models are computer-generated representations of predicted flows and drainage pathways associated with various storm event sizes. While empirical evidence of flooding at certain locations is readily available, hydraulic models are able to analyze the entire drainage network within a watershed. They can be used not only to analyze existing conditions, but also to evaluate the expected hydraulic effects of potential modifications.

⁷ Storms are classified by intensity (inches of rain fall in a given time), duration (how long the storm lasts), and recurrence interval. Recurrence interval may be expressed as a “2-year” or “5-year” or “100-year” storm. This means that statistically a storm of a given duration and intensity can be expected to occur every 2, 5, or 100 years. The probability that a 100-year storm or greater can occur in any given year is 1%; a 25-year storm probability is 4%; a 10-year storm is 10%; a 5 year storm is 20%; and a 2-year storm is 50%. A 2-year storm is less severe than a 5-year storm; a 5-year storm is less severe than a 10-year storm and so on. It is possible to have a 25-year event two years in a row or even within the same year. (City of Pocatello, www.pocatello.us/se/documents/2000_SWMP/chapter-05.pdf).

The hydraulic modeling efforts conducted thus far (see Chapter 8) have led to the development of various Capital Improvement Project recommendations, which are predicted to resolve many flooding problems within the subject watersheds. Hydraulic modeling of the remaining watersheds is needed to determine the existing capacity of storm drain pipe infrastructure and develop recommended Capital Improvement Projects for each watershed.

Capital Improvement Projects (CIP) Program

The term “Capital Improvement” is often used to describe any construction-related work. However, in the context of storm drain pipe facilities, the WMP breaks construction activities into two distinct categories: 1) Rehabilitation and 2) Capital Improvement.

1. **Rehabilitation (Rehab)** describes construction-related work to correct structural or physical defects to maintain proper functioning and extend the useful life of existing storm drain pipe infrastructure. This can include various methods and means, such as:
 - Correction of specific problems in a certain section of pipe (“Point Repairs”).
 - Reinforcement of the inside of an existing pipe with a hardened membrane (“Slip-lining”).
 - Replacement of a pipe with another pipe with the same hydraulic capacity.
2. **Capital Improvement (CI)** is any construction project that increases the hydraulic capacity of the storm drain pipe infrastructure. This can include various methods and means, such as:
 - Construction of new storm drain pipe infrastructure that expands the network.
 - Construction of pump stations or retrofit of pipes to operate under pressurized conditions to force more discharge through the same size pipes.
 - Enlargement of storm drain pipes by replacing existing pipelines with larger pipelines (“Upsizing”).
 - Construction of detention facilities, such as Green Infrastructure/storage measures.

PW Maintenance and Engineering Divisions keep a list of repair and nuisance locations. This list is updated each year. Projects are prioritized based on potential for property damage and public safety issues. Projects are implemented as funding is available.

CCTV Inspection Program

As aging storm drain pipe infrastructure deteriorates, defects can become more pronounced. Typical defects can be divided into two categories: 1) structural and 2) physical condition. Structural issues include cracks, fractures, breaks, holes, joint offsets, and sags. Physical condition-related defects include root intrusion, infiltration, debris accumulation, obstructions, and material deterioration.

A CCTV program is used to determine the extent of needed rehabilitation repairs and to prioritize and budget for these needs. The number and location of structural and physical condition-related problems within the storm drain infrastructure is largely unknown. In larger diameter pipes, only specially-trained and certified personnel are allowed into the confined spaces to perform visual condition assessments. Otherwise, remote camera technology, using CCTV, would be typically deployed to inspect the storm drain pipe infrastructure.

RECOMMENDATIONS FOR STORM DRAIN FACILITIES

6.1 CIP Program

6.1.a. Rehabilitation Program: Current Rehab projects come from the list of priority projects that have recurring localized flooding issues or present a public nuisance. Projects are implemented based on funding available. Future additional rehab projects would be based on results of hydraulic modeling and CCTV investigations.

6.1.b. CI Program: Recommended CI plans are provided for the Potter and the Codornices Watersheds (Chapter 8), which have already been hydraulically modeled. CI planning for the remaining watersheds will be done after analyzing the results of future hydraulic modeling of each watershed.

6.2 Hydraulic Modeling: As funding becomes available, develop hydraulic models for all watersheds in Berkeley to determine extent of capacity issues, identify constrictions, and evaluate potential capacity gains from pipe upsizing, realignments & modifications, and green infrastructure measures.

6.2.a. The Potter Watershed and the Codornices Watershed have already been hydraulically modeled. Uplands draining into Aquatic Park south of Channing are included in the Potter Watershed analysis.

6.2.b. Remaining Watersheds to be modeled in order of priority:

- | | |
|----------------|-------------|
| 1. Strawberry | 5. Cerrito |
| 2. Schoolhouse | 6. Wildcat |
| 3. Gilman | 7. Temescal |
| 4. Marin | |

6.3 CCTV Inspection Program: Perform physical conditions assessment investigations on 20% of the City's storm drain pipe infrastructure annually. Thus the entire City would be covered in 5 years. The process would begin again after the 5 years, providing opportunity to prioritize replacement and rehabilitation opportunities based on need. This program will also enable the City to track the rate of deterioration. Characteristics such as pipe shape, invert elevations, length, and construction materials obtained from the condition assessments will be input into the GIS database.

The first watersheds for CCTV Inspection should be the Potter and Codornices Watersheds. Storm drain pipes that are not included in the CIP recommendations (Chapter 8) or are less than 18" in diameter in should be investigated.

CHAPTER 7: MAINTENANCE

Drainage pathways (whether natural or engineered) require routine on-going maintenance and servicing to ensure long-term function and performance. The Public Works Department's Maintenance Division is the agency most responsible for providing, operating, and maintaining the City's storm drain infrastructure and its water quality protection measures. In addition, the Parks, Recreation, and Waterfront Department is responsible for creek stewardship in City parks as well as the maintenance of street trees and medians.

PW MAINTENANCE PROGRAM OVERVIEW

Over time PW staff have become very familiar with the drainage pathways within the City right-of-way and their seasonal characteristics. This knowledge helps PW to anticipate when and where problems are likely to occur and to allocate resources accordingly. The most common concerns are localized flooding and surface ponding often due to: (1) blockages, and (2) pipeline defects. PW addresses these problems by conducting on-going debris removal operations (such as catch basin & inlet servicing and street sweeping programs) as well as performing storm drain pipe facility repairs and street/curb & gutter repairs as needed.

PW Maintenance manages its routine and seasonal work by dividing the city into 9 primary "storm maintenance" districts, and further divides these into 39 smaller sub-districts (See Appendix C – Maps, Storm Maintenance Districts Map). This helps to efficiently deploy and track the progress of assigned crews, which is especially useful prior to and throughout the wet season when areas with known drainage issues are patrolled and serviced more frequently.

PW Maintenance Major Task Categories

Clean Storm Fund revenue is the primary source of funding for PW Maintenance activities related to watershed management. Table 7-1 shows the various existing tasks conducted by the Public Works Department as an average percentage of Clean Storm Fund expenditures (according to analysis of Fund 831 expenditures from 2004 through 2011).

Maintenance Division's Watershed Management-related Tasks (Fund 831):

FUND 831 EXISTING TASKS	% of Mtnce Budget
Service Catch Basins (XX3131)	26.8
Service Inlets/Outlets (XX3137)	23.1
Storm Repairs (04AD66)	17.7
Winter Storms (10EM02) & Storm Response (10SD12)	11.7
All Storm Day (10SD11)	5.6

FUND 831 EXISTING TASKS	% of Mtnce Budget
Service Sidewalk/Tree Root Damage (09AD06)	3.0
Service Trash Racks (XX3135)	2.6
Misc. Activities (pothole repair, sand bags, leaf removal, etc)	9.5
TOTAL	100.0%

Table 7-1

Catch Basin and Inlet/Outlet Servicing

Catch Basin and Inlet/Outlet Servicing includes the routine inspection and removals of trash, gravel, silt, and other debris from inlets, catch basins, cross drains, and adjacent curb & gutter areas. This task provides both flood and water quality benefits and is an established performance standard of the SQMP, described in Chapter 4. The City strives to service each storm drain catch basin, cross drain, and inlet/outlet at least once per year and as needed according to local conditions. Areas prone to flooding and heavy leaf fall receive more service visits than others. Annually 85% of catch basins, cross drains, and inlets/outlets are serviced.

The jet-vector truck (with a crew of two laborers) is equipped with a high-pressure jet flushing device (for dislodging debris) and a vacuum hose (for removing solids and fluids). Cross-drain and Inlet/Outlet Servicing is typically conducted by the “hand-rodding” crew (one laborer) with hand tools and a utility truck.

Minor Storm Drain Facility, Curb & Gutter & Street Repairs

This task includes the repair and replacement of storm drain inlets, catch basins, pipes and manholes to correct structural deficiencies and improve drainage. This task also includes the temporary and permanent repair of damaged curb & gutters to eliminate irregularities caused by tree roots, as well as storm drain facility-related patching of potholes, trenches, failed areas, breaks and depressions. These repairs help to maintain drainage flow by preventing ponding in addition to improving public safety by providing smooth surfaces for pedestrian or vehicular travel.

Repairs are scheduled on a priority basis based on public safety factors. Determination for priority is made by the Streets Senior Supervisor and the Supervising Civil Engineer.

Wet Weather Maintenance Programs

PW Maintenance workforce assignments are shifted just prior to the rainy season (typically at the end of October) to ensure that drainage inlets and pathways in the right-of-way throughout the city are unobstructed. Tasks include:

- Storm Patrols
- Sand Bags Program
- Additional Commercial District Storm Drain Facility Servicing
- Concentrated Leaf & Debris Clearing (All Storm Day)
- Trash Rack and Creek Culvert Inspections and Servicing

Storm Patrol

The Storm Patrol services priority areas with a propensity for localized flooding. The Storm Patrol crew proactively looks for flooding from manholes, inlets, or catch basins. This crew is also available to respond to dispatched service calls.

Sand Bags Program

A limited number free of sandbags are made available for City of Berkeley residents who are threatened by flooding. Maintenance crews fill and supply sand bags to local fire stations for citizen pick-up. A supply of sandbags is also stored at the Corporation Yard. Customers are required to present proof of Berkeley residency and fill out a form acknowledging receipt of the sandbags in order to participate in this program.

Additional Commercial District Storm Drain Facility Servicing

An additional vector truck is assigned to clean commercial district streets on a regular basis, due to the heavy volume of debris they generate. The districts covered include San Pablo, University, Ashby, Adeline, Shattuck, and Telegraph Avenues.

Concentrated Leaf & Debris Clearing (All Storm Day)

Initiated in 2006, All Storm Day has evolved into an annual single day event typically held in late October or early November. All PW field personnel are assigned to areas throughout the city to remove leaf and debris from City curbs & gutters, inlets, and catch basins. In addition to personnel using hand tools, the City also deploys mechanical street sweepers, utility and dump trucks, and refuse collection trucks to collect and transport materials to the Transfer Station. Volunteers are also encouraged to participate in these efforts.

Trash Rack and Creek Culvert Inspections and Servicing

PW Maintenance crews conduct visual inspections of creek culvert inlets at street crossings and also inspect and service trash racks in creeks on public property. Trash racks are cleared of debris at this time and after the first storm events.

Street Sweeping Programs

Curb & gutters serve as pathways for the transport of many urban runoff pollutants that originate from the street, wash off from adjacent lands, or are deposited atmospherically. Street sweeping is a service that the City of Berkeley has always provided, initially with horse-drawn carts sprinkling dirt roads to keep dust down, and subsequently on an as-needed basis with voluntary participation by City residents.

In 1987, City Council adopted Resolution No. 54-513-N.S., which established regular street sweeping scheduling and mandatory parking enforcement to ensure effectiveness of the Residential Street Sweeping Program. Street sweeping has since expanded to commercial and industrial areas as an established performance standard of the SQMP, described in Chapter 4. In addition to protecting water quality, routine street sweeping also improves community aesthetics and livability, prevents inlet blockages, and increases

vehicular safety in wet weather. The City's Clean Cities program (Fund 820) supports street cleaning programs including both mechanical and hand sweeping activities.

Residential Street Sweeping Program

This program includes once a month mechanical sweeping of city streets in most residential neighborhoods. Local parking restrictions are established on certain days and times to maximize the sweeper's access to the curb/gutter area where pollutants and debris accumulate. Sweeping is performed by one mechanical sweeper operator using a mechanical street sweeper, which averages 25-35 curb miles a day.

Residential areas that are not routinely mechanically swept year-round include:

- Hillside areas, which are excluded due to steep, windy road grades, narrow streets or absence of curbs
- Opt-out areas, where residents were given the opportunity to petition out of the program and accept responsibility for cleaning the street curb area (opt-out option discontinued in 1994)
- Selected omitted streets approved by the City Manager due to noise complaints.

When access to the curb and gutter is available, mechanical street sweeping is the most cost effective way of removing leaves and debris from the City streets. The challenge to maximizing efficiency is the on-going conflict between parking and sweeping. Where parking spaces are at a premium in certain areas of the City, automobile owners often choose to pay a monthly fine, rather than move their cars and risk losing the space. Those sections of streets cannot be swept effectively.

Commercial/Industrial Street Sweeping

Commercial districts, such as San Pablo Ave, University Ave, Downtown/Shattuck, Telegraph Ave, and Adeline (So. Berkeley) are serviced by mechanical sweeping service three to five times a week. In these high trash-generating areas, the mechanical sweeper is deployed at night to minimize conflicts with business hour parking. The Commercial Street Sweeper crew (one operator and one mechanical sweeper) currently takes on additional routes every two weeks to service Industrial areas. The Industrial area street sweeping routes were reduced due to budget constraints.

Hand Sweeping

Mechanical sweeping is supplemented in commercial areas by the Clean City Program's BOSS hand-sweeping crews who service the sidewalk, gutters, and tree wells for litter pick-up on a daily basis. The hand sweeping crews are comprised of one skilled laborer and one laborer with a truck and hand tools (brooms, rakes, etc). This supplemental labor force, which can sweep around and between parked cars, is critical due to night-time parking conflicts which are more prevalent due to mixed-use zoning trends.

Mechanical Leaf Removal

Street sweeping once a month in heavy leaf fall areas is not enough during the winter season. Residential streets within heavy leaf fall areas receive additional leaf removal services nine months out of the year (August through April). Determination of “heavy leaf fall” is based on the age and maturity of the street trees, and density of vehicular traffic. Leaf removal operations are performed on a rotational basis with a leaf vacuum machine which allows sweeping around parked cars. All areas not in the routine residential street sweeping program due to steep road grades, narrow street widths, and absence of curbs receive leaf removal services 4 times per year on average.

Miscellaneous On-Going PW Maintenance Tasks

The PW Maintenance Department adheres to water pollution prevention best management practices in its servicing, washing, and fueling of City fleet vehicles and equipment; as well as the storage of hazardous and non-hazardous materials. Waste materials and chemicals from field jobs and the corporation yard are disposed of properly. The Maintenance Corporation Yard is swept weekly or as needed. Crews are trained in the proper response, containment, clean up and reporting of non-hazardous spills. These practices are established performance standards of the SQMP, described in Chapter 4.

PRW MAINTENANCE MAJOR TASK ACTIVITIES RELATED TO WMP

The Parks, Recreation, and Waterfront Department (PRW) also provides on-going watershed management-related maintenance services in the public right-of-way. This includes maintaining street medians (81 sites) and street trees (approximately 4,000) within the public right-of-way. PRW provides a level of service that includes tree pruning, young tree care (staking, irrigation, mulch, training), and root pruning for parkway strips (also known as planter strips) along sidewalks.

PRW operates and maintains City Parks and open spaces, including the upkeep, litter abatement, and vegetation management of watercourses within city parks. This work, which includes wildlife habitat restoration and protection, is conducted by landscape gardeners, landscape gardening supervisors using a variety of hand tools, mowing equipment, and utility trucks.

Like PW, the PRW also performs seasonal duties such as providing emergency response services (roughly 500 calls per year) to handle public tree hazards and right-of-way clearing. During the winter season and just prior, PRW inspects and cleans creek trash racks, ensures functioning catch basins in parks, and assists PW in clearing street drain pipe inlets and catch basins. PRW also assists PW in filling sand bags as needed.

NEW MAINTENANCE TASKS

Full Trash Capture

To comply with the new Full Trash Capture provision of the MRP (Provision C.10), the City must install and maintain full trash capture devices⁸ servicing a total catchment area of 55 acres of commercial areas by July 1, 2014. These devices must handle flow from a storm that has a return frequency of one year and one hour duration (1-1 Storm), which is a typical storm event. The full trash capture devices currently being tested include retrofitting existing catch basins and inlets with various configurations of 5 mm mesh screening.

It is anticipated that subsequent MRP permit cycles will mandate further trash reduction requirements (the stated goal in current MRP is 100% trash capture by the July 1, 2022).

Green Infrastructure Maintenance

Green infrastructure measures undertaken by the City will need on-going maintenance to ensure functionality, safety, and aesthetics as appropriate. These maintenance measures can be performed by the Public Works Department or by the Parks Waterfront and Recreation Department as mutually determined and funding made available. No matter which City departments are ultimately responsible for GI maintenance, appropriate personnel will need to be trained to properly perform this role.

As described in Chapter 3, the GI approaches most appropriate for the public right-of-way and in parks are: 1) Bioretention cells, 2) permeable paving, 3) underground pipe storage (for temporary detention and possible reuse), and 4) hydrodynamic separator units. Staff have reviewed technical guidance documents from various municipalities both local and from across the country to develop estimated operations and maintenance activities associated with these recommended GI measures.

Bioretention Cells (rain gardens and vegetated swales)

Maintenance Highlights:

- Routine trash and weed removal.
- Must be pruned, mulched, and watered until plants are established. Plants take about three years to become established: Year 1 – water frequently, limit pruning

⁸ Provision C.10 of the MRP recognizes trash as a significant pollutant in urban runoff and requires the City to install Full Trash Capture (FTC) devices to serve a minimum of 55 acres within the City by July 1, 2014. FTCs are defined as devices able to control trash equal to the screening of a 5 millimeter mesh screen, and will be installed in the public right-of-way in storm drains, catch basins, and inlets. Because this is a new and unfunded mandate, the City is participating in a Bay Area-wide Trash Capture Demonstration Project funded by a \$5 million allocation from the Federal American Recovery and Reinvestment Act of 2009 (ARRA) to the San Francisco Estuary Partnership. Berkeley's allocation is anticipated to provide for the purchase and installation of approximately 10 types of Water Board-approved FTC devices. This project will allow the City to pilot test the FTCs to determine which type will best serve the City's needs, meet MRP requirements, and determine associated operations and maintenance costs.

to removal of damaged limbs; Year 2 – less frequent watering, weeding necessary, limited pruning.

- If patches of bare soil emerge, plantings should be added to prevent erosion.
- Semi-annual plant maintenance is recommended including replacement of diseased or dead plants. If groups of plants fail, consider alternative species.
- Maintain mulch layer to retain moisture and control weeds. Rake mulch and soil surfaces to break crusts, which can reduce infiltration rates. Add or replace mulch as needed in spring and fall.
- Once plants are thriving, periodic trimming, thinning, and pruning may be necessary to ensure swale edge is not obscured.

The maintenance regime for bioretention cells is built around keeping the soils and plantings healthy enough for their biological processes to both breakdown and uptake pollutants. This requires initial irrigation for dry weather months, which can be built into the project as a temporary system or by weekly water truck visits during the first year after construction. Re-mulching the area every spring is recommended. Adjacent property owners and residents may want to supplement the City's routine maintenance by providing additional weed abatement and litter pick up to promote community aesthetics.

Permeable Paving

Maintenance Highlights:

- Conduct periodic visual inspections (at least once a year) to determine if surfaces are clogged with vegetation or fine soils. Correct clogged surfaces immediately.
- Street sweep with vacuum sweeper twice/annually during dry weather (after autumn leaf-fall, again in early spring).
- Inspect after at least one major storm per year.
- Surface sealing NOT allowed.
- Replenish aggregate material as needed.

The option of permeable paving may be considered for parking lanes, sidewalks, and low volume residential streets. Maintenance is primarily geared towards removing sediments from the pavement openings and joints to prevent clogging. This is best done using vacuum type street cleaning equipment rather than brooms and water spray, which may move sediment deeper into the surface openings and contribute to clogging.

A benefit of pervious joint pavers is that they can be removed and replaced to perform subsurface utility repairs. This compares favorably to asphalt, which must be cut to access subsurface facilities and patched when finished. These patches often leave the streets uneven and less aesthetically appealing. Thus, if pervious joint pavers are used, it is recommended the City stock extra pavers for replacement, if any become damaged.

Underground Stormwater Storage (detention)

Maintenance Highlights:

- Inspect street inlets, storage pipe valves and orifices (annually in the fall)
- Remove floatables and accumulated sediments that become trapped within the storage device (twice annually, before and after wet season)
- Sediments and debris can be removed mechanically or by flushing.
- Confined Space safety procedures must be followed by workers entering an underground stormwater storage facility.

The primary maintenance concerns are removal of floatables and sediments that become trapped within the system; this should be done at least on an annual basis. This work can be performed by PW using its jet-vactor truck. In-house staff may need confined space training and certification to periodically enter the pipes as-needed or an on-call service provider can be retained. Routine street sweeping and storm drain infrastructure servicing plays a major role in reducing floatables and sediment loads to underground storage devices.

Hydrodynamic Separator Units

According to vendor literature, hydrodynamic separator units are self-operating, gravity-driven devices with no moving parts. They require only the hydraulic energy available within storm water flow. These units have large sumps capacities and only need to be cleaned out with a standard vactor truck one to four times a year.

A typical inspection visit is a half hour and a servicing visit is a half hour, which calculates to 2 hours annually for each unit.

RECOMMENDATIONS FOR MAINTENANCE

- 7.1 Catch Basin and Inlet/Outlet Servicing: continue at current level of service.
- 7.2 Minor Storm Drain Facility, Curb & Gutter & Street Repairs: continue at current level of service.
- 7.3 Wet Weather Maintenance Program: continue at current level of service.
- 7.4 Miscellaneous PW Storm Maintenance Activities: continue at current level of service.
- 7.5 Street Sweeping Program: continue at current level of service.
 - 7.5.a Residential Area Street Sweeping
 - 7.5.b Commercial Area Street Sweeping
 - 7.5.c Industrial Area Street Sweeping
- 7.6 PRW Maintenance Activities: continue at current level of service.

- 7.7 Install and Maintain New Full Trash Capture Devices: install and maintain.
- 7.8 Consider realignment of Storm Maintenance Districts to match watershed boundaries
- 7.9 Add Second Jet Vactor Crew for year-round catch basin, inlet/outlet servicing. The City is in the process of purchasing another jet-vactor truck. The existing hand-rodding crew can be replaced with a second jet vactor truck crew to increase annual production. With another jet-vactor truck in service, the crews can add pipeline cleaning as a routine element of preventative maintenance. Cleaning the lines would also facilitate recommended condition assessment inspections.
- 7.10 Sand Bags Program: Purchase either (1) seven small flat-bed trailers, or (2) one transportable forklift to facilitate the transport, drop-off, staging, and pick-up of sand bags. The current practice is hand loading and unloading of bags from a truck. This becomes time consuming when factoring in the replenishment of supplies and the pick-up of unused bags at the end of the winter. Additionally, putting the City of Berkeley logo on all bags would discourage the pick-up and use of free bags by private contractors, looking to save money on materials.
- 7.11 Concentrated Leaf & Debris Clearing (All Storm Day): Reestablish the extra weekend street sweeping assignments during the heavy leaf fall season, and refocus All Storm Day as a volunteer-oriented program supplemented by City forces. The All Storm Day event does not collect the tonnage of leaf fall and debris that was collected by the discontinued special seasonal street sweeping routes.
- 7.12 Street Sweeping Program: Coordinate with PW-Maintenance to evaluate and explore options for improving efficiencies. Options that could be considered are:
- Increase the residential street sweeping program to weekly instead of monthly.
 - Augment the monthly residential mechanical street sweeping with eight laborers; four laborers to work with each of two street sweepers simultaneously to hand sweep the leaves from the gutter to the travel lane to be picked up by the mechanical sweeper.
 - Consider the possibility of towing cars that are left parked on street during sweeping times; or purchase more maneuverable equipment that could be operated from the sidewalk to pick up leaves and debris between and under parked cars.
- 7.13 Develop Training Program and Maintenance Plan for Green Infrastructure Measures

CHAPTER 8: CODORNICES & POTTER WATERSHEDS HYDRAULIC MODELING FINDINGS

STRATEGY

At the initiation of the WMP process, the City allocated funding to develop hydraulic models for two watersheds. The Potter and Codornices Watersheds were selected because they represent the full range of the urban drainage spectrum in Berkeley. The Potter Watershed drains approximately 1/3 of the land area of the City through storm drain pipe infrastructure. The Codornices Watershed drains about 1/10 of the City through open watercourses and creek culverts.

Findings from these two watersheds could be extrapolated to the other watersheds, but it is preferable to continue hydraulic modeling of the remaining watersheds.

The Potter watershed is the largest in the City; it experiences localized flooding in many areas; and it contributes runoff to the Aquatic Park Lagoons. The Codornices Watershed is regionally significant as Codornices Creek is one of the least culverted creeks in the East Bay; and is one of the few with a salmonid population.

Balance Hydrologics, Inc. (Balance), a local water engineering firm, was retained to develop the two hydraulic models. The scope of work⁹ included developing baseline (existing watershed conditions) hydraulic and hydrologic models to determine expected runoff volumes and quantify the existing conveyance capacity of storm drain infrastructure and other drainage pathways (watercourses and creek culverts). Various potential retrofit scenarios were then input to the models to quantify the expected flood reduction benefits of these approaches. Retrofit scenarios in the scope of work included examination of: 1) stormwater storage BMPs (rainbarrels, cisterns, permeable pavements with subsurface gravel reservoir storage), 2) biofiltration BMPs (flow through planter boxes, rain gardens, and swales), 3) combined stormwater storage BMPs and biofiltration BMPs, and 4) retrofits to storm drain pipes (diversion pipes, enlargement, and pumps). Balance also developed cost estimates for the design, permitting, and construction of the various scenarios.

⁹ Balance modeling was limited to incorporating pipe sizes of 18" in diameter or greater.

POTTER WATERSHED FINDINGS

Potter Drainage Pathways

The storm drain pipe infrastructure consists of a main trunkline and a network of branches and laterals. The trunkline runs from the intersection of Adeline/Woolsey and MLK, Jr. Way to the Bay outfall.

Five branches feed into the trunk line from the north:

1. San Pablo Ave Branch
2. Russell-Mabel Branch
3. Sacramento Branch
4. Ellis-Grant Branch
5. Shattuck-Adeline-Ashby-MLK Branch

Three other branches east of Shattuck/Adeline feed either the trunk or lead into another branch:

1. Upper Woolsey Branch
2. Derby Branch
3. Parker-Dwight Branch

The remaining pipelines input into the model include lateral lines from the branches, as well as a network of storm drain pipelines west of San Pablo Ave and south of Dwight Way leading to Aquatic Park.

See Appendix C Maps: Potter Watershed Existing System Results (May 6, 2011).

Existing Conditions Results

From a 10-yr design storm, the Potter Watershed generates an estimated 236 acre feet (af)¹⁰ of runoff. Most pipelines including the trunkline are operating at or above capacity for a 10-year storm with about 34 af of flooding predicted throughout the watershed (Table 8-1). Maximum capacity discharged to the Bay is 446 cubic feet per second (cfs).

Trunk/Branch	Total Flooding (af)	% of Total Flooding	Max. Discharge (cfs)
Main Trunk (outfall to Bay)	-	-	445.8
Main Trunk (overflow into MYB ¹¹)	-	-	217.0
Main Trunk (inlet)	15.1	44.2%	403.8
San Pablo Branch	1.7	4.9%	73.1
Russell – Mabel Branch	0.0	0%	68.4
Sacramento Branch	0.0	0.1%	122.0
Ellis-Grant Branch	5.8	17%	120.4

¹⁰ An acre foot equates to one square acre of water one foot deep.

¹¹ MYB: Model Yacht Basin, Aquatic Park

Trunk/Branch	Total Flooding (af)	% of Total Flooding	Max. Discharge (cfs)
Shattuck – Adeline – Ashby – MLK Branch	2.3	6.7%	317.6
Upper Woolsey Branch	4.0	11.8%	129.3
Derby Branch	2.8	8.1%	76.8
Parker - Dwight Branch	2.4	7.2%	154.4
TOTALS	34.1	100.0%	

Table 8-1

The modeling identified locations of predicted overflows. Many of these locations were confirmed as chronic nuisance flooding sites by PW Maintenance staff and correspond well with City experiences during the storms of February 25, 2004 and the El Nino events of the 2005-06 rainy season. Localized flooding can be expected in varying degrees within the locations in Table 8-2.

Street Name	Cross Streets
San Pablo Avenue	between Ward and Murray
California Street	between Woolsey and Harmon
Woolsey Street	between California and Adeline; at Dana
Ashby Avenue	between California and King
Martin Luther King, Jr. Way	between Russell and Woolsey
Parker Street	between Seventh and Fourth
Fulton Street	at Derby
Ellsworth Street	between Blake and Parker
Telegraph Avenue	between Ashby and Woolsey; at Stuart
College Avenue	at Dwight

Table 8-2

Tidal effects from the Bay compound the Potter Watershed flooding problems as far upland as Adeline/Woolsey. This is due to the water surface of the Bay effectively reducing the discharge ability of the storm drain trunk line. Thus 10-year frequency storms in combination with high tides will cause flooding in the Potter watershed.

Options Analyzed

To provide desired level of flood protection, the storm drain trunk line must handle the 25-year design storm runoff and all other branches and laterals must handle the 10-year design storm runoff with minimal flooding. There are several approaches the City considered to achieve these goals.

Traditional Pipe Upsizing

One consideration for improving pipe line capacity is the traditional approach of upsizing the entire network of pipes such that each pipe is sized and shaped to efficiently convey

the appropriate design storm runoff. In this scenario, roughly 35,000 lineal feet of storm drain pipeline would be replaced with larger diameter pipes.

However, if all upstream pipes were upsized, then the main trunkline would need to be massively enlarged to accommodate the additional flow volumes. Most of the existing 9-foot diameter egg-shaped trunk would need to be replaced with a much larger box-shaped trunk, ranging from 7-feet x 20-feet (H x W) to 10-feet x 10-feet for an estimated cost of \$33M.

The upsizing of the remaining branch pipelines would cost an estimated \$19.75M. The total estimated cost of this approach (not including resolution of tidal effects, Aquatic Park pipeline replacement, or water quality protection measures) is \$52.75M.

It should be noted that regardless of what overall approach the City takes to reduce flooding, a significant amount of pipe upsizing will be necessary, including the main trunk and at site specific locations where existing pipes constrict flow.

Resolution of SF Bay Tidal Effects

Six options were developed to resolve the tidal effects. All options are listed in Table 8-3 with their description and their pros and cons. The two options the City is considering are Option 1: discharges stormwater directly to SF Bay (preferred option); and Option 5: discharges most stormwater directly to SF Bay and only discharges to Aquatic Park Lagoon on high flow levels (no additional stormwater into Aquatic Park).

	Option	Description	Pros	Cons
1	<p>Pressure pipe outflow to Bay for entire Q10 Capacity to Bay = 1,400 cfs Flow to Aquatic Park = 0 cfs \$17,238,000</p>	<p>1. Pressure pipe = single 11-ft diameter or twin 8-ft diameter; 1,525 ft total length 2. Rebuild existing outfall to Bay, add new outfall if twin pipe option is used 3. New large collector box with trash rack at upstream end</p>	<p>1. No stormwater flows from Potter Watershed to Aquatic Park. 2. Inclusion of trash rack would allow meeting trash TMDL for all Potter watershed.</p>	<p>1. Costly construction, including tunneling under I-80 and UPRR. 2. Lengthy permitting process of new outfall to Bay. 3. Very lengthy closure of I-80 on-ramp from Shellmound (~2 mos)</p>
2	<p>Existing outfall plus storage in combined Radio Tower Pond and Model Yacht Basin N/A (infeasible)</p>	<p>1. Maintain existing Potter trunk and outfall downstream of MYB 2. Construct diversion structure with trash rack and automated control gates to allow flow to MYB + ML only when excess storage needed 3. Increase trunk line size from above UPRR to new diversion structure</p>	<p>1. Potential major cost savings with reduced infrastructure 2. No new Bay outfall, much simpler permitting 3. Limited I-80 on-ramp closure</p>	<p>1. Infeasible, not enough storage in RTP + MYB 2. Stormwater still flows to Aquatic Park in large events</p>

	Option	Description	Pros	Cons
3	<p>Pump station with no storage to supplement existing outfall</p> <p>Capacity to Bay = 1,400 cfs Flow to Aquatic Park = 0 cfs</p> <p>\$39,000,000</p>	<ol style="list-style-type: none"> 1. Construct pump station to handle flow that cannot be conveyed by existing outfall (latter left in place) 2. Construct new force main outfall to Bay for pump station outflow 3. Provide trash rack at pump for all flow 	<ol style="list-style-type: none"> 1. No stormwater flows from Potter to Aquatic Park. 2. Inclusion of trash rack would allow meeting trash TMDL for all Potter watershed. 	<ol style="list-style-type: none"> 1. Costly construction, including tunneling under I-80 and UPRR. 2. Lengthy permitting process of new outfall to Bay. 3. Lengthy closure of I-80 on-ramp from Shellmound (~2 mos) 4. Relative high ongoing O&M costs
4	<p>Existing outfall plus storage in MYB+Main Lagoon</p> <p>Capacity to Bay = 400 cfs</p> <p>Flow to Aquatic Park = 1,000 cfs</p> <p>\$6,405,000</p>	<ol style="list-style-type: none"> 1. Maintain existing Potter trunk and outfall downstream of MYB 2. Construct new diversion structure with trash rack and automated control gates to allow flow to MYB + Main Lagoon only when excess storage needed 3. Increase trunk line size from above UPRR to New diversion structure 	<ol style="list-style-type: none"> 1. Potential major cost savings with reduced infrastructure 2. No new Bay outfall, much simpler permitting 3. No stormwater flows to Aquatic Park for small events (e.g. < 2-year storm) 4. Inclusion of trash rack would allow meeting trash TMDL for all Potter watershed. 5. Limited I-80 on-ramp closure 	<ol style="list-style-type: none"> 1. Stormwater still flows to Aquatic Park in large events, possibly more storm water in largest events depending on upstream system upgrades 2. Tunneling required under UPRR.
5	<p>Smaller pressure pipe plus storage in Main Lagoon</p> <p>Capacity to Bay = 1,000 cfs</p> <p>Flow to Aquatic Park = 400 cfs</p> <p>\$14,788,000</p>	<ol style="list-style-type: none"> 1. Maintain existing Potter trunk and outfall downstream of end Potter 2. Construct new 9-ft diameter pressure pipe directly to Bay to handle all initial discharge 3. Construct new diversion structure with trash rack at end of Potter, only flows above pressure pipe capacity flow down existing trunk 	<ol style="list-style-type: none"> 1. Almost no stormwater flows of any kind from Potter to Aquatic Park, could be none with green infrastructure in upper watershed 2. Inclusion of trash rack would allow meeting trash TMDL for all Potter watershed 3. With minor modification could have stormwater only go to RTP, not Main Lagoon 	<ol style="list-style-type: none"> 1. Costly construction, including tunneling under I-80 and UPRR. 2. Lengthy permitting process of new outfall to Bay. 3. Very lengthy closure of I-80 on-ramp from Shellmound (~2 mos)

Option	Description	Pros	Cons
6 Smaller pressure pipe plus smaller pump station Capacity to Bay = 1,400 cfs Flow to Aquatic Park = 0 cfs \$35,700,000	1. Maintain existing Potter trunk and outfall downstream of end Potter 2. Construct new 8-ft diameter pressure pipe directly to Bay to handle all initial discharge 3. Construct pump station to handle any larger flows 4. Construct force main from pump station to Bay routed inside existing trunk line	1. No stormwater flows of any kind from Potter to Aquatic Park. 2. Inclusion of trash rack would allow meeting trash TMDL for all Potter watershed.	1. Costly construction, including tunneling under I-80 and UPRR. 2. Lengthy permitting process of new outfall to Bay. 3. Lengthy closure of I-80 on-ramp from Shellmound (~2 mos) 4. Relatively high O&M 5. Capacity gained with pump station offset in part by lost capacity in existing trunk due to routing of force main.

Table 8-3

With the exception of Option #6, each of the options includes a new trunk line junction near the UPRR right-of-way that would be designed to accept discharges from a realignment existing storm drainpipes that currently drain into the park from Heinz, Grayson, Carleton, and Parker Streets.

Option 1: Pressure pipe outflow to Bay for entire Q10 – \$17.3M: This option includes 1,525-feet of either a single 11-foot diameter pipe or twin 8' diameter pipes, rebuilding the existing outfall to the Bay and potentially adding another (for the twin pipe option); and installing a collector box with a trash rack at the upstream end. No stormwater would be discharged to Aquatic Park.

Option 5: Smaller pressure pipe plus storage in Main Lagoon - \$14.8M: This option includes the construction of a new diversion structure with a trash rack at the end of Potter St. and a new 9-foot diameter pressure pipe from the diversion structure to the Bay. The existing lower Potter trunk and outfalls to the MYB would remain. Pressure pipe capacity to the Bay would be approximately 1000cfs with excess flows diverted to the existing lower trunk. Excess flows diverted to Aquatic Park can be further reduced by the installation of storage unit in the upper watershed.

Green Infrastructure

Green Infrastructure options were input into the model to determine the viability of reducing hydraulic loading to the storm drain pipe infrastructure using bio-retention measures and large volume storage units. The concept is to strategically locate surface-level bio-retention measures (rain gardens and swales) within the planter strip area of sidewalks, within red zone curb-extensions, and in street medians as feasible. Permeable paving can be used in sidewalk areas, parking lanes, and residential streets where site conditions limit the area available for bio-retention. These GI features would drain into large underground storage pipes, which would fill during storm events and

discharge metered flows into the existing storm drain pipelines through small orifices (Figures 8-1 and 8-2, Green Street Cross-Section & Plan View).

The assumed storage unit was represented in the model as a 6-foot diameter by 300-foot long pipe. Any configuration of GI and underground storage would need to approximate this volume to realize the level of flow-reduction benefits predicted by the modeling.

Modeling results indicate that the GI approach is much more effective in locations east of Adeline/Shattuck, and there are diminishing returns on investment beyond 54 units. However, 54 GI/Storage units in the upper watershed would result in incremental flood reductions throughout the watershed.

This cost estimate factors in site preparation, street demolition and disposal, materials and installation of the GI unit, and street replacement. Total estimated cost for 54 units is \$31.3M.

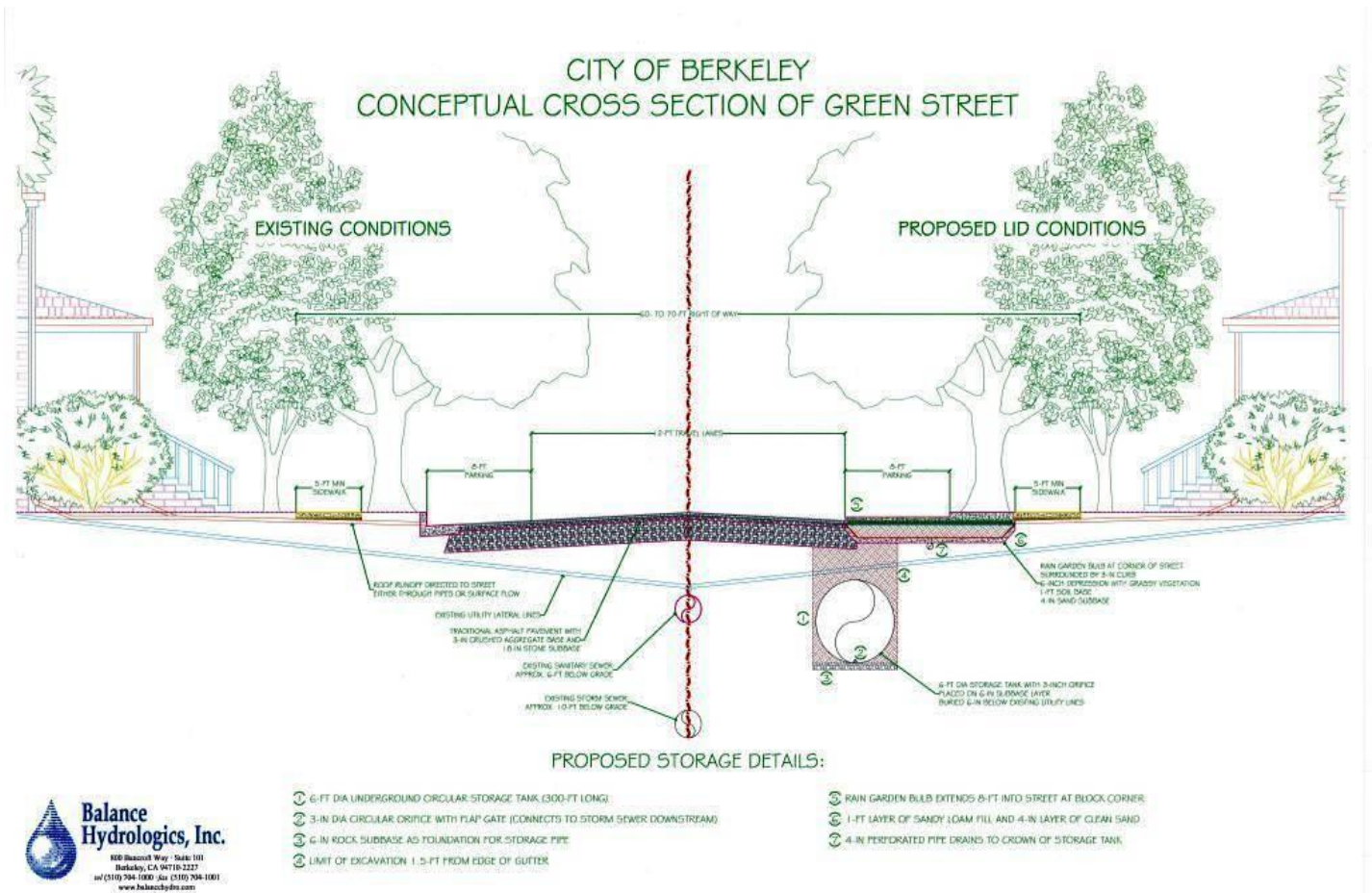


Figure 8-1, Conceptual Cross Section of Typical Green Infrastructure



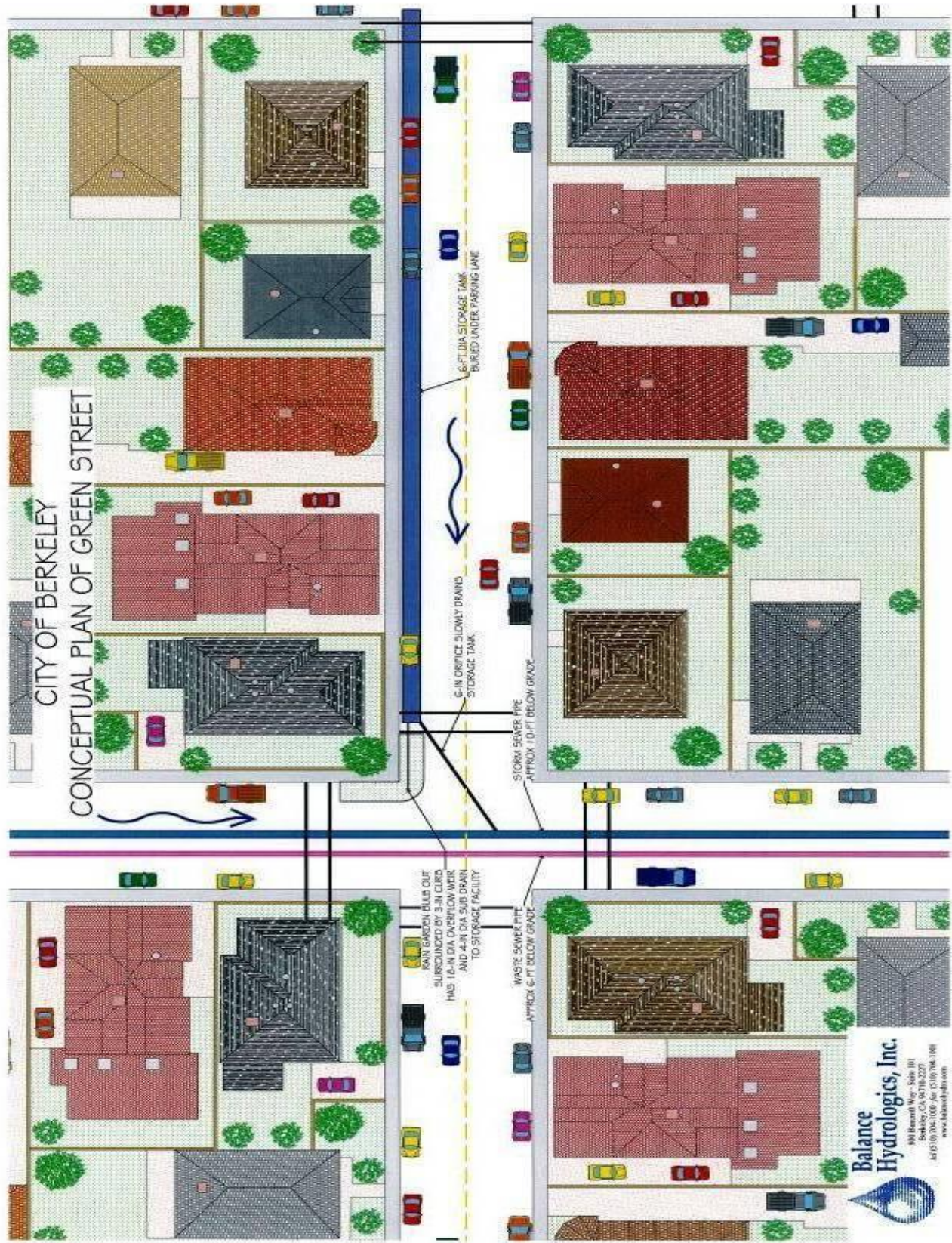


Figure 8-2, Conceptual Plan View of Typical Green Infrastructure

CODORNICES WATERSHED FINDINGS

Codornices Drainage Pathways

The Codornices Watershed includes land from both the City of Berkeley and the City of Albany. Codornices Creek is the primary drainage avenue, consisting of both open channels (approx. 15,500-feet in length) and culverted creek segments (approx. 11,450-feet in length). The creek discharges to the Bay just north of Buchanan St. in Albany. The creek represents the boundary between the cities of Berkeley and Albany from just west of Monterey Ave to Eastshore Highway.

In the upper watershed, there is a confluence of three branches of Codornices Creek at Codornices Park, immediately east of Euclid Street. Except for one other (mostly culverted) branch joining the creek at Josephine and Hopkins, Codornices Creek remains a single channel from Codornices Park to the Bay. The City operates several recreational parks and other open space areas where the channel is open; however, the majority of open channel is located on private properties¹². The City maintains creek culverts where the creek passes under the public right-of-way. The City also operates and maintains an additional 40,100 feet of storm drain pipelines within the watershed.

See Appendix C Maps: Codornices Watershed Existing Conditions Map (May 23, 2011)

Existing Conditions Results

Most open creek sections and creek culverts located upstream of Codornices Park appear to have adequate capacity for the 10-year storm. Downstream of this, hydraulic capacity conditions vary on a reach by reach basis with capacity constraints becoming more prevalent east of Henry Street. For the 10-year storm, roughly 42 acre feet of flooding is predicted at various locations. The existing flow capacity of the Eastshore Hwy creek culvert, where the creek exits the City, is 195 cfs.

Within the watershed, storm drain pipe infrastructure shares similar hydraulic capacity conditions as the creek. Most storm drain pipes are adequately sized for the 10-year design storm above Codornices Park. However, the Euclid line is at or above capacity, as are some sections of the Shasta Road line.

Within City limits, the area with the highest propensity to flood is along Second Street where the street essentially serves as a release point or floodway, for the undersized Interstate 80 Highway (I-80) creek culvert (owned by Caltrans). Approximately 75% of the 42 acre feet of predicted flooding escapes the creek corridor at Second Street. This model result is confirmed by chronic flooding experienced at this site.

¹² Balance Hydrologics was able to build the hydraulic model and calibrate it despite limited access to the creek due to private property constraints. Balance supplemented the City's GIS data with past information gathered for the City's Creek Task Force as well as with data from other previous work in the watershed. They maintain a flow gaging station under the BART tracks at Santa Fe Ave and also operate several rain gages in the watershed. The model can be further refined as additional data about the open channels and creek culvert conditions are obtained.

Localized flooding can be expected in varying degrees (including surface ponding at street sags) within the locations in Table 8-4.

Street Name	Cross Streets
Second Street	Creek corridor to Gilman
Rail Road tracks	Creek corridor to Gilman and to Albany
Gilman Street	between Sixth and Second
Codornices Creek	at Sixth, at most street crossings east of San Pablo, at Glen
Ninth Street	between Harrison and Creek Corridor
Monterey Ave	between Posen and Hopkins
Hopkins Street	at Carlotta
The Alameda	between Napa and Yolo
Sonoma Ave	between Fresno and Hopkins
Spruce Street	Eunice to Creek corridor
Euclid Ave	Cragmont to Codornices Park
Cragmont	Euclid to Regal
Various locations	LaLoma, Glendale, Campus Drive, Queens, Shasta Road

Table 8-4

Options Analyzed

Reducing peak runoff flows and volumes throughout the watershed will reduce bank erosion and in-stream habitat-scouring, as well as reduce flood hazards. From a flood management perspective, the Codornices Watershed's most severe problem is in the lower watershed, beginning at the railroad right-of-way.

Traditional Upsizing

Storm Drain Pipelines

The modeling identified the capacities and current hydraulic loads expected for each pipe segment greater than 18" in diameter. This approach alone offers no water quality benefits and may contribute to downstream flooding conditions and in-stream erosion. The cost to upsize these storm drain pipes such that there is no associated surface ponding is roughly \$4M.

Creek Culverts

Wholesale removal or enlargement of creek culverts have effects on the upstream and downstream reaches of the open creek, which would need to be further analyzed. This type of fundamental change to the creek corridor might also affect the Flood Insurance Rate Maps and potentially increase premiums for those covered by the National Flood Insurance Program. Currently, the FEMA designated 100-yr flood zone follows the creek corridor from the Bay to the intersection of Sonoma-Hopkins-Josephine Streets.

The upsizing of city-owned culverts operating at or above capacity at street crossings west of Euclid Street (Codornices Park) to Eighth Street is estimated to cost \$1.2M

Open Channel

The traditional approach to modifying a creek to provide flood control service is to remove meanders and contain flows in a widened trapezoidal channel (sized to convey the 50- or 100-yr storm) with minimal vegetation to reduce friction. This single objective approach is not desirable for protecting riparian ecosystems.

Restoring creek segments by sizing the active channel to transport the 2-year storm and providing a modified floodplain terrace is a strategy being planned and implemented between San Pablo Ave and the UPRR right-of-way. This approach is an option for the City in select locations, where the City owns the land and there is adequate space for restoration. The costs for this multi-objective approach can vary widely, however it is to grant funding, especially from state programs.

Lower Watershed Measures

At a 10-year design storm Codornices Creek overflows its banks at Second Street, where the street dead-ends at the creek corridor. The street is the low point in the surrounding landscape and was likely originally designed as a floodway. Roughly 31 acre feet of water escape the channel in this area, flowing towards Harrison and Gilman Streets.

Exacerbating the chronic flooding condition, are the sizing of the Caltrans creek culverts at San Pablo Avenue and under HWY I-80. The upstream San Pablo Ave creek culvert capacity is approximately 420 cfs, while the downstream capacity of the I-80 creek culvert is 195 cfs. The difference between the two creek culvert capacities requires the excess flow either be stored or re-routed to another drainage pathway to reduce or eliminate flooding. The modeling results indicate that localized flooding in the lower watershed cannot be completely eliminated without an additional capacity under I-80.

There are a number of measures the City studied to reduce the flooding in this area. These measures include:

- **Berm @ Second Street:** Constructing a low berm along the south side of the creek corridor between the Compressed Natural Gas Filling Station at the end of Second to Eastshore Highway. The berm elevations would contain higher volumes of flow within the creek corridor, forcing more flow through the I-80 culvert. The berm would be designed to keep Second Street as the breakout point for overflow. The berm would reduce the flood volume on Second Street from 28.98 af to 12.69 af¹³ for a 10-yr storm. Estimated cost: \$114,000.
- **Re-Route Excess Flows to Village Creek:** There is a by-pass structure and channel located on the north bank of the creek just upstream of Fifth Street. The

¹³ All modeling result scenarios assume prior installation of large volume GI/storage units in Codornices Park and Henry Street.

by-pass channel, which currently operates at less than 50% capacity during the 10-year storm, conveys flow to Village Creek in Albany. Village Creek discharges into Codornices Creek on the west side of I-80 between the highway and Golden Gate Fields Race Track. As a stand-alone option, the activation of the Village Creek by-pass would reduce flooding on Second Street from 28.98 af to 24.86 af. Because the by-pass is already in-place, there is no capital cost associated with this option. Coordination with and permission from the City of Albany and possibly the University of California would be needed.

- ***Berm and Re-Route Excess Flows to Village Creek:*** Incorporating both options provides further flood volume reductions. In this case the overflow volume on Second Street would be reduced from 28.98 to 7.24 af.
- ***Upsize Conveyance Capacity under Hwy I-80:*** The modeling results indicate that localized flooding in the lower watershed cannot be completely eliminated without an additional culvert under I-80. If the Caltrans Codornices Creek Culvert under I-80 cannot be expanded, remaining flows on Second Street may be routed to the Gilman trunk line as capacity permits. From an engineering and cost perspective, it would be easier and less expensive to install another pipeline to the Bay on Gilman Ave. Any option would require coordination and approvals by Caltrans

Green Infrastructure

Unlike Potter, the Codornices Watershed is quite narrow, with the greatest lengths of storm drain piping in the steepened hillside areas (east of Shattuck). Staff determined that the use of large volume under-street storage of runoff in the public right-of-way in this topography would be too risky. According to the California Geological Survey Hazard Study Map, the areas east of Shattuck Avenue in the Codornices Watershed are in seismic hazard zones for earthquake fault lines and landslides. However, there are opportunity areas in parklands in the upper watershed, which are appropriate for GI Storage. Retrofitting the City right-of-way with green infrastructure measures such as bioretention cells, hydrodynamic separator units, and permeable paving without large volume storage is feasible in most areas.

Park Storage

There are 10 city parks located in the Codornices Watershed. The Codornices Creek runs through (or under) portions of Glendale-LaLoma Park, Codornices Park, the Rose Garden, Live Oak Park, King School Park, and the Harrison Park. Glendale-LaLoma, and Live Oak Park have limited space available for storage. The larger sites, such as Codornices Park, King School Park, and Harrison Park, have the most potential to store large volumes of creek flow either at surface level or underground in cisterns while preserving existing recreational uses.

Both Codornices and King Parks have the space needed for subsurface level detention, where large storage pipes or cisterns can be installed underground and recreational features replaced at surface level. The Harrison Park site is appropriate for surface level detention, where the fields could be lowered to allow storm overflow from the channel to

pond in the fields, which are usually closed to the public during wet weather to minimize turf damage.

Right-of-Way Retrofits

Unlike Potter, GI features would not need to drain into large underground storage pipes because the subbasins draining into the creek are so small in the Codornices Watershed.

One particularly promising site for the use of GI storage similar to the Potter Watershed approach (large volume under-ground storage pipes metering flow) is at Henry Street between Eunice and Berryman. The topography is much shallower than areas to the east, the street is very wide, and there are existing inlets discharging directly to the creek. The concept is to collect stormwater runoff from the Euclid storm drain branch (above Codornices Park) and redirect down Eunice Street in a new 2.5' storm drain pipe. This line would discharge into storage barrels (equivalent to four 8'-diameter, 550' long pipes). These pipes would meter discharge to the creek. Rain gardens, swales, permeable paver as appropriate would treat the runoff prior to its discharge into the storage pipe. Estimated Cost: \$4.5 million.

DESCRIPTION OF CAPITAL IMPROVEMENTS FOR POTTER WATERSHED

1. Combination of Traditional Pipe Upsizing & Green Infrastructure: Hydraulic modeling results show that the City can effectively manage the 25-year storm for the main trunk line and the 10-year storm for all other pipes by using a combination of approaches. By striking the right balance of GI storage units (54) east of Adeline and retrofitting the trunk line from Adeline/Shattuck to the railroad tracks, the total length of storm drain pipe upsizing throughout the watershed can be reduced from 35,000' to 21,000'. This approach would also reduce the degree of upsizing needed for many of the pipe segments, which represents a significant cost savings. In addition to the main trunk line, remaining specific pipe segments recommended for replacement are identified in Balance's report, Appendix D. This report also identifies opportune locations for the proposed GI units, whose feasibility and performance are dependent on appropriate site conditions (such as topography and proximity to existing storm drain pipelines). Estimated cost is \$49.24M, not including the realignment of Aquatic Park storm drainpipes and resolution of tidal effects.
2. Tidal Effect Resolution: The preferred tailwater resolution option is *Option #5, Smaller Pressure Pipe and Storage in the Main Lagoon*. The pressure pipe would push 44% more flow through the pipe to the Bay than is currently possible. For a 10-yr storm, 70% of the runoff volume would discharge directly to the Bay, while the remaining would be temporarily stored in the Main Lagoon or (with minor modification) to the Radio Tower Pond. Only large storm events would require the use of Aquatic Park for storage, which may translate to its use only a few times a year. With the addition of a trash rack, no trash should enter the Lagoon or Bay through the modified pipeline. The installation of GI units in the upper watershed would remove additional non-point source pollutants and further reduce overflows into Aquatic Park. Estimated cost is \$14.8M.

3. **Aquatic Park Storm Drain Pipes:** This storm drain pipe infrastructure operates at or above capacity during the 10-yr storm and surcharges frequently within the park. A new alignment parallel with the UPPR railroad tracks feeding directly to the proposed trunk line improvements would reduce stormwater flows into the lagoon. The estimated cost to relocate and upsize select associated laterals is \$3.75M.

See Appendix C Maps Potter Watershed SWMM Nodes and Pipe Capacities – Traditional Q10 Retrofit Results (May 6, 2011).

See Appendix C Maps: Potter Watershed Green Retrofit System Results Map (April 27, 2011)

DESCRIPTION OF CAPITAL IMPROVEMENTS FOR CODORNICES WATERSHED

1. **Traditional Pipe Upsizing:** The model identified various storm drain pipeline segments operating above capacity for a 10-year design storm. The Shasta and Cragmont-Euclid branches in the upper watershed require approximately 3,400-feet of storm drain pipe upsizing to better convey the 10-yr design storm. Upsizing these storm drain pipelines will cost an estimated \$1.6M.
2. **Codornices Park Storage:** Modeling results indicate that large volume detention can reduce flow volumes and velocities within the creek corridor. This can be accomplished by offloading peak flows from the existing creek culverts within Codornices Park through the installation of 8 in-line storage pipes, each 5-feet in diameter (Figure 8-3). Three storage pipes 224-feet long would capture high flows from the North Fork culvert; while five storage pipes 95-feet long would capture high flows from the South Fork culvert. The proposed pipes would be located under existing basketball courts, lawn area, and pathways. These amenities would be replaced atop the buried pipes. Including the replacement cost of the basketball court and other recreational amenities, the estimated cost is \$1.725M.

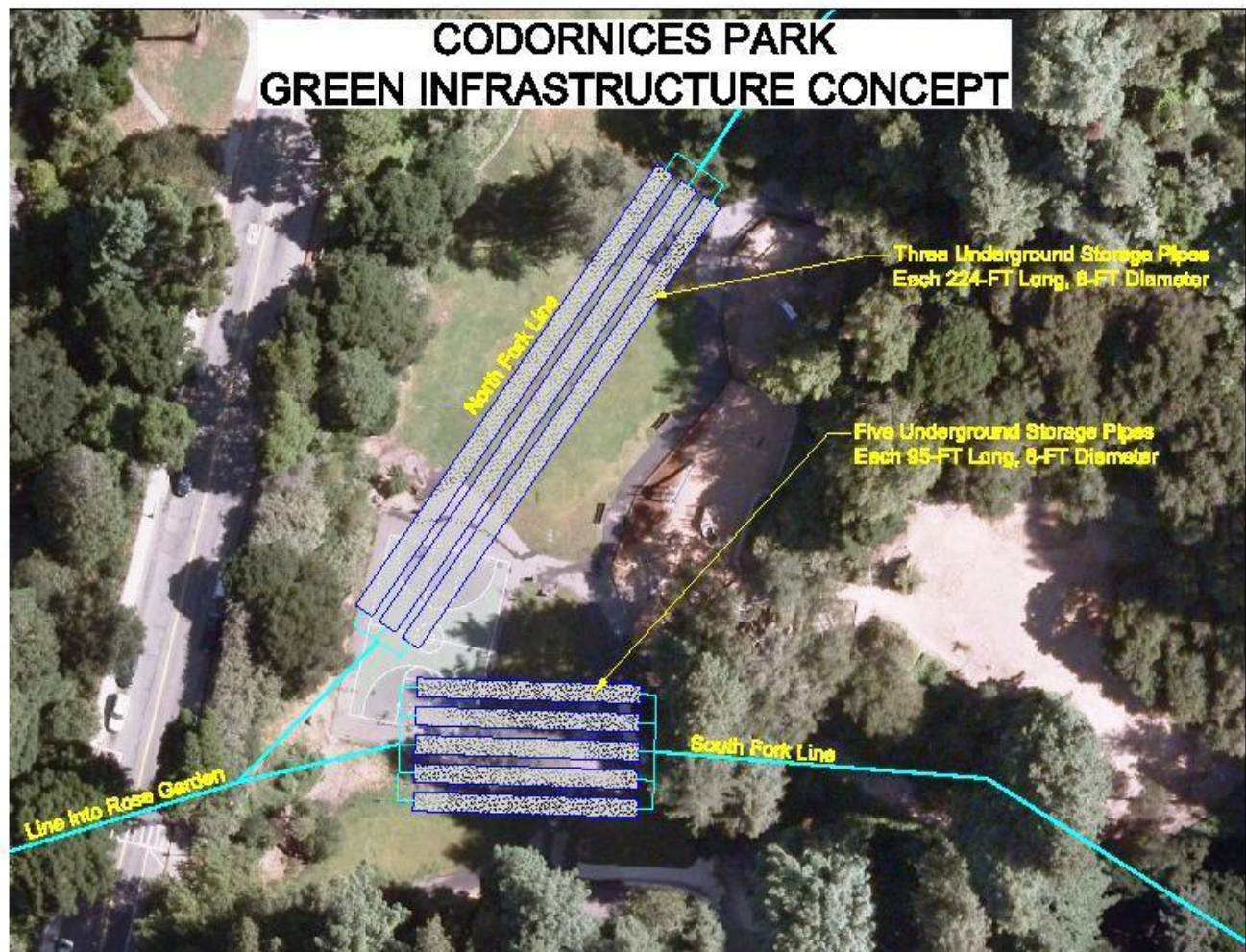


Figure 8-3, Conceptual Green Infrastructure Storage Units in Codornices Park

3. **New Eunice Pipeline with GI Storage under Henry:** This plan routes storm water collected by the Cragmont-Euclid storm drain pipeline branch into a new 30" diameter pipeline running down Eunice Street. This new storm drain pipe would turn south at Henry and discharge into four storage pipes (equivalent to 8' diameter by 550' long each) under Henry between Eunice and Berryman St. These pipes would discharge directly into the Codornices Creek culvert below Henry. Re-routing the stormwater at Eunice further relieves hydraulic loading on the open watercourse below Euclid. This approach in conjunction with the Codornices Park storage retrofits would decrease maximum discharge by 71 cfs. Estimated cost: \$4.5M.
4. **Green Infrastructure (No additional storage features):** Surface-level GI measures such as rain gardens, bioswales, permeable paving, and hydrodynamic separator units can be installed at opportunity sites throughout the watershed. Opportunity sites would be defined by site conditions (proximity to existing drainage inlets, slope constraints, and space available with minimal loss of on-street parking).

Promising GI sites or areas for further investigation include:

- Eunice Street, between Euclid and Shattuck (as component of new Eunice storm drain pipeline project)
- Euclid Ave, between Codornices Park and Rose Garden
- Josephine Street, at Hopkins
- Hopkins Street, between Colusa and Beverly
- Commercial Areas, such as Northbrae, Westbrae, and San Pablo Ave
- Tenth Street, at Codornices Creek
- Eighth Street, at Codornices Creek

Estimated Cost: unknown. Further analysis needed to determine best GI approach at opportunity sites.

See Appendix C Maps: Codornices Watershed Green Infrastructure Possibilities Map

5. **Berm at Second Street:** This plan installs a low berm around the downstream reach of the creek between 2nd Street and Eastshore Hwy Rd. This would force more flow into the Eastshore Hwy culvert without contributing to additional flooding on the north (City of Albany) side of the creek, downstream of the railroad right-of-way. The berm would be designed to have 2nd St. continue to be the release point for breakout flows from the channel. It would add overflow volumes to the railroad right-of-way drainage ditches, on both sides of the tracks, which are currently operating below full capacity during the 10-yr design storm. Estimated cost: \$114K

This berm would be compatible with the future long-term restoration concept for the creek corridor between the railroad tracks and Eastshore Highway.

6. **Village Creek By-Pass:** It is recommended that the City pursue an agreement with the City of Albany and the University of California to lower the weir elevation of the Village Creek By-Pass structure on Codornices Creek just upstream. Working in conjunction with the proposed berm at Second Street, this diversion structure could further reduce Second Street flooding. The resulting flow reductions on Codornices Creek would benefit downstream property-owners, such as private businesses and their customers, the City's transfer station and Compressed Natural Gas Filling Station facilities, the railroad companies, and Caltrans. Estimated cost: N/A (structure already in-place).

7. **Increase Conveyance Capacity Under Highway I-80:** It is strongly recommended that the City pursue an agreement with Caltrans to increase the capacity of the existing Codornices Creek culvert under I-80. The simple logic is that the existing capacity for Caltrans' upstream culvert at San Pablo Ave allows twice the flow as its I-80 culvert a ½ mile downstream. If upsizing or installing a new Codornices Creek culvert under I-80 is not feasible, the City should pursue an agreement with Caltrans that it increase the Gilman storm drain pipeline capacity under Hwy I-80 as necessary to accommodate breakout flows from Codornices Creek at Second

Street. Estimated Cost: Unknown (likely expenses would include legal fees and CIP cost to install storm drain pipe(s) from Codornices Watershed to Gilman Watershed).

8. **Channel and Floodplain Restoration:** It is recommended that the City continue to partner with the City of Albany and the University of California to restore the open watercourse and its associated floodplains from San Pablo Ave to the railroad tracks. Thus far, the creek reaches between Eighth Street and the railroad tracks have been restored.

In addition to the creek corridor from San Pablo to the railroad tracks, the City of Berkeley and Albany are working on a restoration plan for the reach between the railroad tracks and Eastshore Hwy Rd.

Estimated cost: unknown (more planning is required among the project partners).

See Appendix C Maps: Codornices Watershed Green Retrofit Results Map

RECOMMENDATIONS FOR CI PRIORITIES

8.1 Potter Watershed CI Priority List

Rank	Existing Shape & Diameter (in)	Circular Pipe Retrofit Diameter (in)	Length (ft)	CIP Cost	Project Description
1	NA	108 48	5,100	\$17,532,222	Install trunkline pressure pipe from RR to bay outfall, includes relocation of transit line
2	Egg, 108	108-120	2,460	\$4,333,160	Trunkline upsizing RR to San Pablo Ave
3	Egg, 108	108	2,260	\$3,817,710	Trunkline upsizing San Pablo to Sacramento
4	Box, Egg, Circular, 84-108	84-96	3,200	\$4,568,070	Trunkline upsizing Sacramento to Adeline
	TOTAL TRUNK		13,020	\$30,251,162	
5	NA	NA	NA	\$1,158,000	2 GI/Storage Units - Piedmont (Forest to Derby)
6	NA	NA	NA	\$1,158,000	2 GI/Storage Units - Piedmont (Durant to Channing)
7	NA	NA	NA	\$1,158,000	2 GI/Storage Units - College (Channing to Dwight)
7	Box, 20	36	514	\$243,360	SD pipe Upsizing (concurrent w/GI)
	Total #7			\$1,401,360	
9	NA	NA	NA	\$1,158,000	2 GI/Storage Units - Woolsey (Eton)
10	NA	NA	NA	\$1,158,000	2 GI/Storage Units - College (Parker to Derby)
11	Egg, 52-54	54	512	\$458,000	SD Pipe Upsizing, San Pablo (Russell to Ashby)
12	NA	NA	NA	\$1,158,000	2 GI/Storage Units - Ashby (Benevue)
13	NA	NA	NA	\$1,158,000	2 GI/Storage Units - Bancroft (Bowditch)
14	NA	NA	NA	\$1,158,000	2 GI/Storage Units - Bowditch (Channing-Haste)
15	NA	NA	NA	\$1,158,000	2 GI/Storage Units - Shattuck (Bancroft to Kittredge)
16	NA	NA	NA	\$1,158,000	2 GI/Storage Units - Derby (Telegraph to Regent)
17	Circular, 42-48	54	985	\$821,332	SD pipe upsizing, Sacto (Parker to Russell)
18	Egg, Circular, 108-15	96-24	171	\$592,000	SD pipe upsizing, Ashby (Prince to Sacto)
19	NA	NA	NA	\$1,158,000	2 GI/Storage Units - Piedmont (Forest to Derby)
19	Circular, 27	30	1,066	\$503,620	SD pipe upsizing, Derby (College to Regent)

Rank	Existing Shape & Diameter (in)	Circular Pipe Retrofit Diameter (in)	Length (ft)	CIP Cost	Project Description
	Total #19			\$1,661,620	
21	NA	NA	NA	\$1,158,000	2 GI/Storage Units - Webster (College)
22	NA	NA	NA	\$1,158,000	2 GI/Storage Units - Telegraph (Regent)
23	Circular, 45-48	48-54	1,530	\$1,286,090	SD pipe upsizing, Grant (Parker to Russell)
24	NA	NA	NA	\$1,158,000	2 GI/Storage Units - Ellsworth (Channing)
25	NA	NA	NA	\$1,158,000	2 GI/Storage Units - Shattuck (Channing)
26	Circular, 21	24	230	\$89,570	SD pipe upsizing, MLK (Bancroft) - BHS
27	Egg, 78	72	260	\$273,780	SD pipe upsizing, Adeline (Russell twd Ashby)
27	NA	NA	NA	\$1,158,000	2 GI/Storage Units, Adeline (Oregon)
27	NA	NA	NA	\$1,158,000	2 GI/Storage Units, Adeline (Ashby)
	Total # 27			\$2,589,780	
30	NA	NA	NA	\$1,158,000	2 GI/Storage Units - Shattuck (Blake)
31	NA	NA	NA	\$1,158,000	2 GI/Storage Units - Ellsworth (Dwight)
32	Egg, 54	48	1,280	\$993,720	SD pipe upsizing, Parker (Ellsworth to Shattuck)
33	NA	NA	NA	\$1,158,000	2 GI/Storage Units - Ashby (Telegraph)
34	NA	NA	NA	\$1,158,000	2 GI/Storage Units - Woolsey (Dana)
35	Egg, 45	42	1,175	\$777,400	SD pipe upsizing, Woolsey (Telegraph to Wheeler)
35	NA	NA	NA	\$1,158,000	2 GI/Storage Unit - Wheeler (Prince to Woolsey)
	Total #35			\$1,935,400	
37	NA	NA	NA	\$579,000	1 GI/Storage Units - Woolsey (Tremont)
38	NA	NA	NA	\$1,158,000	2 GI/Storage Unit - Dwight (Prospect)
38	Circular, 24	30	154	\$72,670	SD pipe upsizing, Prospect (Dwight)
	Total #38			\$1,230,670	
40	NA	NA	NA	\$1,737,000	3 GI/Storage Units - Derby (Warring)
40	Circular, 21	30	322	\$152,100	SD pipe upsizing, Derby (Warring)
	Total #40			\$1,889,100	
42	NA	NA	NA	\$1,158,000	2 GI/Storage Units - Stuart (College - Cherry)
42	Circular, 21	27	491	\$216,320	SD pipe upsizing, Collee (Stuart - Russell)
	Total #42			\$1,374,320	
44	NA	NA	NA	\$1,158,000	2GI/Storage Units - Telegraph (Stuart)

8.2 Codornices Watershed CI Priority List

Rank	Existing Shape & Diameter	Circular Pipe Retrofit Diameter (in)	Length (ft)	CIP Cost	Project Description
1	NA	NA	NA	\$1,730,000	GI/Storage at Codornices Park
1	Circular, 10	18	44	\$13,100	SD Retrofit, in Codornices Park
	Total #1			\$1,743,100	
3	NA	NA	NA	\$113,621	Second Street Berm
4	NA	NA	NA	\$0	Village By-Pass: City of Albany, UC-Berkeley
5	NA	NA	NA	\$4,194,183	GI/Storage at Henry
5	NA	30	3200	\$2,023,261	New SD pipeline, Eunice (Euclid - Henry)
	Total #5			\$6,217,444	

Rank	Existing Shape & Diameter	Circular Pipe Retrofit Diameter (in)	Length (ft)	CIP Cost	Project Description
7	Circular, 18	24	205	\$82,700	SD Retrofit, Hopkins (Monterey to Creek)
7	Circular, 15-24	24-30	1030	\$445,700	SD Retrofit, Monterey (Posen to Creek)
	Total #7			\$528,400	
9	Circular, 18	24	195	\$78,400	SD Retrofit, Carlotta (Hopkins to Creek)
10	Circular, 21	27	407	\$62,600	SD Retrofit, The Alameda (Napa to Hopkins/Creek)
11	Circular, 18	24	256	\$103,200	SD Retrofit, Spruce (Eunice to Creek)
12	Circular, 24	30	1507	\$677,000	SD Retrofit, Euclid (1114 Euclid to Eunice)
13	Circular, 18-24	24-30	1630	\$694,500	SD Retrofit, 982 Regal, Cragmont, Euclid (to 1114 Euclid)
14	Circular, 21	30	42	\$20,500	SD Retrofit, 1177-1179 Keith
15	Circular, 10	18	108	\$32,100	SD Retrofit, 2949-2934 Shasta

8.3 Estimated CIP Costs – All Watersheds

Estimated costs for CIP in all Watersheds (based on extrapolations from Codornices and Potter Watersheds Hydraulic Modeling findings and cost estimates): \$207.5M

- Potter: \$65M
- Schoolhouse: \$19.5M
- Gilman: \$10M
- Wildcat: \$10M
- Strawberry: \$45M
- Codornices: \$18M
- Cerrito: \$15M
- Marin: \$15M
- Temescal: \$10M

CHAPTER 9: WMP REVENUE SCENARIOS & IMPLEMENTATION LEVELS

This chapter provides an overview of the revenue sources currently used to support the City's WMP-Storm program and the activities that can be supported at this time with the available funding. Also discussed are compliance issues and service reductions that will be required if the City doesn't increase the level of funding to support the program.

There are several options the City can explore to address the funding shortfalls and avoid service reductions. These funding options and the program levels that can be implemented with each funding level range from performing the minimum levels of activities to remain in compliance with MRP to increasing the storm drain facility capacity, improving water quality and providing necessary rehabilitation. The 4 options are discussed in more detail below.

At the end of each preceding chapter recommendations are made for both existing and new activities that comprise the Watershed Management Plan. These recommendations are numbered by priority. Within each of the following funding levels, recommendations that would be implemented by that funding are listed under that level's Operations and Maintenance or CIP heading. As funding increases, additional recommendations can be implemented, and these **additional recommendations for each level are indicated by bold text**.

EXISTING PROGRAM REVENUES- \$2.8 Million

The City's annual expenses for WMP-Clean Storm activities are approximately \$2.8 million, not including capital improvement expenditures. Revenue supporting the program at this time includes the Clean Storm Fee, an annual allocation of approximately \$200,000 from UC Berkeley's long range development plan (LRDP) used for capital repairs, and a 1-time subsidy from the General Fund through FY 2013.

Clean Storm Water Fee

The City's annual WMP-Clean Storm program is funded by revenue generated by the Clean Stormwater Fee (CSF). The CSF generates \$1.9 million in annual revenue, a figure that has remained flat since 1991. Every owner of real property that contributes stormwater runoff from their property in the City of Berkeley and makes use of and is served by the City's storm drain infrastructure is required to pay the CSF. Each owner's burden on and benefit from the storm drain infrastructure is related to impervious surface area on the real property. Impervious surface area is land that cannot absorb water and thus contributes significantly more stormwater runoff to this infrastructure than if the land had been left undeveloped in its natural state.

The Clean Stormwater Fund, BMC 7.76, imposes fees on each real property solely for the purpose of raising revenue necessary to improve the quality of stormwater

discharged from the City-owned stormwater conveyance infrastructure. The annual fee for owners of parcels in all land use categories is calculated based on the formula: $[(\text{parcel size} \times \text{runoff factor})/(\text{RU})] \times [\text{rate per RU}]$. Runoff factors for various Land Use Categories are provided in the BMC, while the standard runoff rate (RU) is established by City Council resolution. The current RU is \$50.00.

Clean Stormwater Fund revenues can only be expended for clean stormwater activities and no other purpose. By definition of the ordinance, clean stormwater activities include programs required under the ACCWP and the MRP; operation and maintenance of the City's stormwater drainage infrastructure; capital improvements to repair, rehabilitate, or replace components of the stormwater drainage infrastructure; any other activities related to the foregoing; and the administration of the ordinance.

Any future increases to the CSF would require voter approval from property owners and compliance with Proposition 218 requirements.

Additional Funding Sources

The CSF and the funding from UC Berkeley equals approximately \$2.1 million. Nevertheless, the annual expenditures exceed program revenues by \$700,000. In order to address this recurring annual shortfall, beginning in FY 2011, the City significantly reduced expenses by cutting clean stormwater maintenance activities by 60 percent. With an aging system, reduced maintenance activities and little to no capital improvements, the City still needed to allocate a total of \$700,000 in General Funds to provide wet weather response and limited maintenance (\$500,000) and perform minimal capital improvements (\$200,000). This subsidy will end in FY 2013.

FUNDING LEVEL 1 – Clean Stormwater Fee Revenue + LRDP (\$2.1M)

The CSF for the average single family home is approximately \$50 per year. Existing revenues available to the WMP Clean Storm program limit the City's abilities to conduct proactive maintenance and condition assessments, undertake needed infrastructure repairs and meet updated MRP requirements. With the existing level of annual funding and the loss of the General Fund subsidy in 2014, the WMP- Clean Storm Program will need to decrease the service level of operations and maintenance. This also means the City can only address emergency capital repairs as they occur.

Discontinuation of the \$500,000 General Fund subsidy for maintenance in FY 2014 coincides with the MRP's unfunded mandate for Permittees to begin implementation of full trash capture measures. In FY 2014, the City must reach the 40% trash reduction goal. Under current revenues, the City cannot continue its present level of maintenance and achieve the full trash capture requirement. The 1-time installation cost for the trash capture devices is projected to be \$320,000 with ongoing maintenance estimated at \$100,000 per year. This will increase the City's expenses by \$320,000 in FY 2014 and \$100,000 annually in FY 2015 and forward.

Combined with the new costs to comply with the trash capture mandate (\$100,000) and the loss of the GF subsidy for maintenance (\$500,000) and capital improvements

(\$200,000), the City will need to reduce \$800,000 in ongoing costs in order to align expenses with the available annual revenues. This will reduce maintenance & operations further resulting in less frequent servicing of inlets, outlets, and catch basins. This will also reduce the City's overall effectiveness in preventing both stormwater pollution and localized flooding. Capital repairs will also be reduced to the \$200,000 in available funding from the LRDP.

Watershed planning and enforcement activities will be reduced to only activities that maintain the City's regulatory compliance, further development of the watershed-specific management plans, investigation of grant opportunities, and coordination of watershed issues will be minimal. No additional hydraulic modeling of the remaining watersheds will be completed and activities related to creeks and creek culverts will not be implemented.

The following WMP recommendations are activities that would be performed with the funding resulting from the Clean Storm Fee and the LRDP funds, \$2.1 million. They do not represent the implementation of any new recommendation and some will be reduced and or eliminated in FY 2014 without new revenue.

Operations & Maintenance

Chapter 1:

- 1.1 Inter-Departmental Coordination
- 1.2 WMP Public Meetings & Presentations (eliminated in 2014)
- 1.3 WWP Website (eliminated in 2014)

Chapter 2:

- 2.1 Global Climate Change Monitoring

Chapter 3:

- 3.1 San Pablo Stormwater Spine Project (Grant Funded)
- 3.2 LID/GI Coordination Opportunities with Other Public Works Programs (eliminated in 2014)

Chapter 4:

- 4.1 ACCWP Planning and Regulatory Compliance (Required compliance level)
- 4.2 New Development and Redevelopment Activities (Required compliance level)
- 4.3 Industrial/Commercial Discharge Inspections Activities (Required compliance level)
- 4.4 Private Property LID Promotion Activities (Required compliance level)

Chapter 5:

- 5.1 Floodplain Administration Duties (Limited but As Needed)
- 5.2 Watercourse Flooding Investigations (Limited but as needed)
- 5.3 Preservation and Restoration of Natural Watercourses Ordinance

Chapter 7:

- 7.1 Catch Basin and Inlet/Outlet Servicing (50% Service Level Drops in FY 2014)
- 7.2 Minor Storm Drain Facility Repairs (50% Service Level Drops in FY 2014)

- 7.3 Wet Weather Maintenance Program (50% Service Level Drops in FY 2014)
- 7.4 Misc. PW Storm Maintenance Activities
- 7.5 Street Sweeping Program (Funded by Refuse Fund)
- 7.6 PRW Maintenance Activities (Funded by Parks)
- 7.7 New Full Trash Capture Devices (New in 2014- Mandated Compliance)

Capital Improvements Program (CIP)

The City has budgeted roughly \$400,000 for capital improvements to the Clean Storm program in both FY 2012 and FY 2013. This includes an annual \$200,000 subsidy from the General Fund as well as \$200,000 received from the annual UC Berkeley allotment. Under this current funding scenario, the City can only address emergency repairs, but will be unable to implement any capital improvement recommendations of the WMP, including green infrastructure and other capacity improvements.

Funding Level 1 Recommendations:

Chapter 6:

6.1.a. Rehabilitation Program (Current- Limited to Funding Available)

FUNDING LEVEL 2 – Minimum Regulatory Compliance Level Clean Stormwater Fee (\$1.9M) & Special Tax (\$2.25M) *

The Minimum Regulatory Compliance Level maintains the existing CSF rates and adds a Special Tax that would generate an additional \$2.2 million beginning in FY 2013 with an annual Consumer Price Index increase. At this level of funding, maintenance is restored to FY 2010 levels, allows the City to begin immediate implementation of WMP recommendations, not currently performed and maintains compliance including the MRP's required full trash capture mandate by 2014. With both the CSF and the Special tax, the average single family residence will pay about \$104 per year.

Watershed Planning and Enforcement

Under this scenario, the City will continue all of its Watershed Planning and Enforcement activities and development of additional watershed-specific management plans, as findings from new data gathering efforts are analyzed.

Hydraulic modeling of the remaining watersheds could begin in 2013 and be completed by 2015 (Strawberry, Schoolhouse, and Gilman – first batch; Marin, Cerrito, Wildcat, and Temescal – second batch), so that the existing conditions and green infrastructure retrofit plans can be determined and prioritized.

* Within each of these funding levels, recommendations that would be implemented by that funding are listed under that level's Operations and Maintenance or CIP heading. As funding increases, additional recommendations can be implemented, and these **additional recommendations for each level are indicated by bold text.**

Pursuit of other Citywide WMP recommendations (such as interdepartmental coordination with the Parks, Recreation & Waterfront and Planning departments and divisional coordination with Public Works Streets and Sanitary Sewers) would be initiated. Coordination with other stakeholders, east of railroad tracks (City of Albany, CalTrans, EBMUD, Target, and UPRR) would also begin in pursuit of mutually beneficial long-term flood management strategy.

Storm Drain Infrastructure Management

FEMA Flood Plain Administration duties and investigation of watercourse flooding would continue and direct management of creek reaches on City property would continue. A combination of in-house and consultant-based CCTV inspection activities will conduct proactive condition assessments on 1/5 of city-owned creek culverts every year, starting in 2013. The goal would be to complete investigation of all city-owned creek culverts every five years. The program would begin piloting a volunteer GPS monitoring/assessment program of watercourses in 2012, starting with Codornices Creek. This activity will help identify potential creek and habitat enhancement opportunities on City-owned lands, and generate additional information for watershed characterization and planning.

The City will use a portion of program revenue as a source of matching funds often required for state or federal grant programs.

Approval of a special tax requires voter approval.

Funding Level 2 Recommendations:

Operations & Maintenance

Chapter 1:

- 1.1 Inter-Departmental Coordination
- 1.2 WMP Public Meetings & Presentations
- 1.3 WMP Website

Chapter 2:

- 2.1 Global Climate Change Monitoring

Chapter 3:

- 3.1 San Pablo Stormwater Spine Project (Grant Funded)
- 3.2 LID/GI Coordination Opportunities with Other Public Works Programs (Limited)
- 3.3 Technical Guidance of LID BMPs**

Chapter 4:

- 4.1 ACCWP Planning and Regulatory Compliance
- 4.2 New Development and Redevelopment Activities
- 4.3 Industrial/Commercial Discharge Inspections Activities
- 4.4 Illicit Discharge Control Activities
- 4.5 Private Property LID Promotion Activities**
- 4.6 Trash Assessment Protocols**

Chapter 5:

- 5.1 Floodplain Administration Duties (Limited but As Needed)
- 5.2 Watercourse Flooding Investigations (Limited but as needed)
- 5.3 Preservation and Restoration of Natural Watercourses Ordinance
- 5.4 Creek Culvert Condition Assessment Program (Limited)**

Chapter 7:

- 7.7 New Full Trash Capture Devices
- 7.1 Catch Basin and Inlet/Outlet Servicing (Service Level Drops in FY 2013)
- 7.2 Minor Storm Drain Facility Repairs (Service Level Drops in FY 2013)
- 7.3 Wet Weather Maintenance Program
- 7.4 Misc. PW Storm Maintenance Activities
- 7.5 Street Sweeping Program (Funded by 820)
- 7.6 PRW Maintenance Activities (Not Funded by 831)

Capital Improvements Program

Under this scenario, the annual Clean Storm CIP budget increases to \$2 million, beginning in 2013. This budget will be used to address needed storm drain infrastructure repairs (\$1 million) and to implement WMP recommended projects (\$1 million). Site-specific repairs to the storm drain infrastructure should offer immediate local drainage improvements; however the costs of the WMP-recommended projects will require the City to set-aside a portion of CIP funds each year until enough revenue is amassed to take on a big-ticket project, such as the lower trunk line of the Potter Watershed.

Funding Level 2 Recommendations:

Chapter 6:

- 6.1.a. Rehabilitation Program (Limited to Funding Available)
- 6.1.b. CI Program (Based on 8.1 Potter Watershed CI Priority List and 8.2 – Codornices Watershed CI Priority List) (Limited to Funding Availability)

FUNDING LEVEL 3 – Limited Green Infrastructure Level Clean Stormwater Fee (\$1.9M) & Bond Measure (\$30M) Special Tax (\$2.7M)

The Limited Green Infrastructure Level maintains the existing CSF and adds a \$30 million bond that would allow for immediate planning and construction of portions of the Codornices and Potter watersheds priority list. This level also includes a Special Tax with an annual Consumer Price Index increase generating \$2.7 million annually for maintenance, rehabilitation of creek culverts and storm drains. At this level of funding, the City would perform all of the necessary maintenance, maintain regulatory compliance and with the addition of staff resources, design and implement the capital improvements at an accelerated rate. This level of funding provides for immediate capital improvements in portions of the watershed, but the remainder of the necessary capital improvements

will take a much longer time than supported by Funding Level 4. The average annual cost to the single family residence is \$174 (this includes both the special tax and debt service on the bond).

A General Obligation Bond and the special tax both require voter approval.

Operations & Maintenance

Funding Level 3 Recommendations:

Chapter 1:

- 1.1 Inter-Departmental Coordination
- 1.2 WMP Public Meetings & Presentations
- 1.3 MWP Website
- 1.4 Potter & Codornices Watershed – Public Meetings**
- 1.5 Partnership Opportunities**
- 1.6 Other Watersheds –Goals/Modeling/Priorities**

Chapter 2:

- 2.1 Global Climate Change Monitoring

Chapter 3:

- 3.1 San Pablo Stormwater Spine Project (Grant Funded)
- 3.2 LID/GI Coordination Opportunities with Other Public Works Programs
- 3.3 Technical Guidance of LID BMPs
- 3.4 Investigate “In-Lieu” Pilot Program for LID**

Chapter 4:

- 4.1 ACCWP Planning and Regulatory Compliance
- 4.2 New Development and Redevelopment Activities
- 4.3 Industrial/Commercial Discharge Inspections Activities
- 4.4 Illicit Discharge Control Activities
- 4.5 Private Property LID Promotion Activities
- 4.6 Trash Assessment Protocols

Chapter 5:

- 5.1 Floodplain Administration Duties (Limited but As Needed)
- 5.2 Watercourse Flooding Investigations (Limited but As needed)
- 5.3 Preservation and Restoration of Natural Watercourses Ordinance
- 5.4 Creek Culvert Condition Assessment Program (Limited)
- 5.6 Creek Restoration**
- 5.7 Volunteer PGS Creek Assessment Program**
- 5.8 Creek Guidance Materials**

Chapter 6:

- 6.2 Hydraulic Modeling (Balance of Watersheds)**
- 6.3 CCTV Inspection Program**

Chapter 7:

- 7.7 New Full Trash Capture Devices
- 7.8 Realignment of Storm Drain Cleaning District (Investigation)**
- 7.9 Investigate and Analyze Second Jet Vactor Truck**
- 7.10 Investigate and Analyze Sand Bag Program Improvements**
- 7.11 Investigate and Analyze Concentrated Leaf & Debris Clearing – Implement Improvements as Appropriate**
- 7.12 Investigate and Analyze Street Sweeping Program – Report on Findings**
- 7.13 Training Program and Maintenance Plan for GI**
- 7.1 Catch Basin and Inlet/Outlet Servicing (Service Level Drops in FY 2013)
- 7.2 Minor Storm Drain Facility Repairs (Service Level Drops in FY 2013)
- 7.3 Wet Weather Maintenance Program
- 7.4 Misc. PW Storm Maintenance Activities
- 7.5 Street Sweeping Program (Funded by 820)
- 7.6 PRW Maintenance Activities (Not Funded by 831)

Capital Improvements Program

In this scenario, funding from the bond is immediately available to begin implementing the CIP with no reserves needed. Design activities would start in 2013. This includes design of Green Infrastructure projects for the Potter and Codornices Watersheds, with construction activities beginning in 2014. At the same time design and permitting processes would begin for projects addressing the trunkline retrofits for the Potter Watershed; and the Second Street flooding issues in the Codornices Watershed. Once outside permits are obtained, project construction can begin. The outside agency permitting process is estimated to take 18 to 24 months. Creek Culvert and Storm Drain Rehabilitation Program projects would be funded at the \$2M level.

Funding Level 3 Recommendations:

Chapter 5:

- 5.5 Creek Rehabilitation Program (Combined and Prioritized with 6.1.a)**

Chapter 6:

- 6.1.a. Rehabilitation Program (Based on Funding)
- 6.1.b CI Program (Based on 8.1 Potter Watershed CI Priority List and 8.2 – Codornices Watershed CI Priority List)**

FUNDING LEVEL 4 – Complete Green Infrastructure Level Clean Stormwater Fee (\$1.9M) & Special Tax (\$7.7M)

The Complete Green Infrastructure Level maintains the existing CSF and adds a Special Tax that will generate \$7.7 million annually with an annual Consumer Price Index increase. Combined with the CSF, this funding level would generate \$9.6 million annually and would keep the City in regulatory compliance, maintains watershed planning and enforcement and adds additional staff resources to take a proactive approach to

designing and constructing capital improvements. This Funding Level allows for a phased approach to capital improvements throughout the watersheds and in comparison to Funding Level 3, allows for completion of all improvements in a more timely manner. The average single family residence would pay about \$238 per year.

Operations & Maintenance

Funding Level 4 Recommendations:

Chapter 1:

- 1.1 Inter-Departmental Coordination
- 1.2 WMP Public Meetings & Presentations
- 1.3 WMP Website
- 1.4 Potter & Codornices Watershed – Public Meetings**
- 1.5. Partnership Opportunities**
- 1.6 Other Watersheds – Goals/Modeling/Priorities**

Chapter 2:

- 2.1 Global Climate Change Monitoring

Chapter 3:

- 3.1 San Pablo Stormwater Spine Project (Grant Funded)
- 3.2 LID/GI Coordination Opportunities with Other Public Works Programs
- 3.3 Technical Guidance of LID BMPs
- 3.4 Investigate “In-Lieu” Pilot Program for LID**

Chapter 4:

- 4.1 ACCWP Planning and Regulatory Compliance
- 4.2 New Development and Redevelopment Activities
- 4.3 Industrial/Commercial Discharge Inspections Activities
- 4.4 Illicit Discharge Control Activities
- 4.5 Private Property LID Promotion Activities
- 4.6 Trash Assessment Protocols

Chapter 5:

- 5.1 Floodplain Administration Duties (Limited but As Needed)
- 5.2 Watercourse Flooding Investigations (Limited but As needed)
- 5.3 Preservation and Restoration of Natural Watercourses Ordinance
- 5.4 Creek Culvert Condition Assessment Program (Limited)
- 5.6 Creek Restoration**
- 5.7 Volunteer PGS Creek Assessment Program**
- 5.8 Creek Guidance Materials**

Chapter 6:

- 6.2 Hydraulic Modeling (Balance of Watersheds)**
- 6.3 CCTV Inspection Program**

Chapter 7:

- 7.7 New Full Trash Capture Devices
- 7.8 Realignment of Storm Drain Cleaning District (Investigation)**
- 7.9 Investigate and Analyze Second Jet Vactor Truck**
- 7.10 Investigate and Analyze Sand Bag Program Improvements**
- 7.11 Investigate and Analyze Concentrated Leaf & Debris Clearing – Implement Improvements as Appropriate**
- 7.12 Investigate and Analyze Street Sweeping Program – Report on Findings**
- 7.13 Training Program and Maintenance Plan for GI**
 - 7.1 Catch Basin and Inlet/Outlet Servicing (Service Level Drops In FY 2013)
 - 7.2 Minor Storm Drain Facility Repairs (Service Level Drops in FY 2013)
 - 7.3 Wet Weather Maintenance Program
 - 7.4 Misc. PW Storm Maintenance Activities
 - 7.5 Street Sweeping Program (Funded by 820)
 - 7.6 PRW Maintenance Activities (Not Funded by 831)

Capital Improvements Program

In 2013, in-house planning and design capacity will accelerate CIP implementation. The annual budget for CIP will be stable at about \$5.5 million. As with the Scenario 2 the City will use \$1 million per year to address immediate needed repairs, starting in 2013. However, with the Sustainable Green Infrastructure Level, \$4.5 million per year can be accrued to undertake big-ticket projects in phases. With the increased revenue to build a sizable CIP set aside, the City will be able to implement projects much faster than under the Minimum Regulatory Compliance Level. Thus, the water quality, flood management and environmental benefits will be realized sooner.

In 2013, staff will begin designing Potter and Codornices tailwater improvements, while setting aside \$4.5 million each year for future repairs. In 2014, with the CIP reserve from 2013 and \$4.5 million of new revenue in FY 2014, the City will use the \$9 million to begin construction of Potter Watershed trunkline retrofits. Staff will also begin designing the next phase of trunkline improvements or the Codornices priority project for 2016 implementation with the CIP reserve from 2015 and new revenue in 2016. During this time, green infrastructure planning and design will start for Codornices Park and for sites east of Shattuck in the Codornices and Potter Watersheds respectively.

Funding Level 4 Recommendations:

Chapter 5:

5.5 Creek Rehabilitation Program (Combined and Prioritized with 6.1.a)

Chapter 6:

- 6.1.a. Rehabilitation Program (Based on Funding)
- 6.1.b CI Program (Based on 8.1 Potter Watershed CI Priority List and 8.2 – Codornices Watershed CI Priority List)**

APPENDICES

A: Existing City Plans and Polices Related to Watershed Management

B: Public Meeting – January 10, 2010

B –1: Agenda

B – 2: Presentation

B – 3: Public Comments

MAPS:

C – 1: City of Berkeley Drainage Map

C – 2: Storm Maintenance Districts Map

C – 3: Potter Watershed Existing System Results Map

C – 4: Codornices Watershed Existing Conditions Map

C – 5: Potter Watershed SWMM Nodes and Pipe Capacities – Traditional Q10 Retrofit Results Map

C – 6: Potter Watershed Green Retrofit System Results

C – 7: Codornices Watershed Green Infrastructure Possibilities Map

C – 8: Codornices Watershed Green Retrofit Results Map

D: Draft Potter and Codornices Watersheds Hydrology and Hydraulics Report (DRAFT
– July 26, 2011)

E: Acronyms & Abbreviations

F: Bibliography

Appendix B

Early Implementation Projects Table

Appendix B
Early Implementation Projects
City of Berkeley
2019 Green Infrastructure Plan

Project Name and Location	Project Description	Planning or Implementation Status	Green Infrastructure Measures Included
Rose-Hopkins Bioswale: Intersection of Rose St, Hopkins St, and Curtis St., Berkeley, CA	Remove concrete traffic island and replace with a bioswale and make required drainage modifications.	Construction Complete	Bioswale, drainage improvements.
Bus Pad Renovation at NW Corner Shattuck Ave at University Ave, Berkeley, CA	Remove existing impermeable bus pad and replace with flow through concrete pavers.	Construction Complete	Permeable pavers with <5mm gap openings to capture trash and promote infiltration.
Hearst Ave. Complete Streets: Hearst Ave. between Shattuck Ave. and Gayley Rd, Berkeley, CA	A bioretention planter was installed at Hearst and Oxford along with bike lane and pedestrian crossing improvements.	Construction Complete	Bioretention planter.
BART Plaza Transit Area Improvement Project: Shattuck Avenue between Allston Way and Center St, Berkeley, CA	Reconstruct City-owned BART Plaza, replace existing bus shelters and BART station entry structures, new lighting, landscaping, etc. 4 bioretention planters installed on the Plaza along Shattuck collect and treat runoff from Shattuck.	Construction Complete	4 Bioretention planters.
Bioswale and underground flow detention facility at Woolsey St between Adeline St and Tremont St, Berkeley, CA	Install underground flow detention facility, bioswale to treat local runoff, and improve existing treewells to promote tree health.	Construction planned for 2019.	Bioswale, improve flow attenuation.
San Pablo Avenue Storm Water Spine: 1198 San Pablo Ave, Berkeley, CA.	S.F. Estuary Institute/Caltrans/Berkeley project to install bioswale in front of fast food restaurant.	Construction planned for 2019.	Bioswale.

Appendix C. General Guidelines for GI Projects

These General Guidelines have been developed to guide the City of Berkeley in designing a project that has a unified, complete design that implements the range of functions associated with GI projects, and in providing for appropriate coordination of projects and project elements. The guidelines apply to projects that incorporate GI into an existing roadway segment or a previously developed public parcel and are **not** Regulated Projects as defined in Provision C.3.b of the MRP. The guidelines are organized as follows.

Section C.1	Functions Associated with GI
Section C.2	Guidelines for GI Retrofits of Existing Streets
Section C.3	Guidelines for GI Retrofits of Public Parcels
Section C.4	Guidelines for Coordination of Projects
Attachment C-1	Hydraulic Sizing Criteria
Attachment C-2	Worksheet for Calculating the Combination Flow and Volume Method
Attachment C-3	Mean Annual Precipitation Map of Alameda County
Attachment C-4	Standard Specifications and Typical Designs
Attachment C-5	Capital Improvement Projects Sign-Off Form

C.1 Functions Associated with GI

The functions associated with GI retrofits of existing streets and GI retrofits of public parcels are identified below.

C.1.1 Functions Associated with GI Retrofits of Existing Streets

The following functions are associated with GI retrofits of existing streets:

- Street use for stormwater management, including treatment;
- Safe pedestrian travel;
- Consistency with and support of neighborhood functionality;
- Compatibility with underground infrastructure;
- Use as public space for bicycle, transit, and vehicle movement/parking; and
- Use as locations for urban forestry.

C.1.2 Functions Associated with GI Retrofits of Public Parcels

Existing facilities on public parcels may be retrofitted with GI. Although there are potentially a wide range of public uses that could occur on various parcels, key issues are associated with the outdoor use of public parcels for landscaping and parking. The following functions are associated with GI retrofits of public parcels:

- Site use for stormwater management and landscaping
- Circulation and parking within the site

C.2 Guidelines for GI Retrofits of Existing Streets

Streets must perform the range of functions described in Section C.1.1. The following are general guidelines for designing and constructing GI facilities within the right-of-way of existing streets, to address the full range of functions. Additional design guidance for GI facilities, which are also referred to as low impact development (LID) stormwater treatment facilities, is provided in Chapters 5 and 6 of the Alameda Countywide Clean Water Program's C.3 Technical Guidance, which may be downloaded at, www.cleanwaterprogram.org (click Businesses, then Development).

C.2.1 Guidelines Addressing Street Use for Stormwater Management

The GI guidelines to support street functionality for stormwater management are organized around the following objectives:

- Convey stormwater to GI facilities;
- Identify the appropriate GI typical designs for the project site;
- Apply appropriate hydraulic sizing criteria; and
- Convey stormwater away from transportation facilities.

Convey Stormwater to GI Facilities

GI retrofits of existing streets must be designed to convey stormwater runoff from the roadway surface to the proposed GI facilities. Key issues include working with the street profile, working with the existing drainage system, and considering conveyance facilities where needed.

Work with the Existing Street Profile

Modifying the profile of an existing street is costly. Therefore, the designs of GI street retrofits should generally maintain the existing street profile. The street profile affects how stormwater runoff flows off of a street, and is considered in the design of GI facilities. The most common street profile is crowned, although some streets may be reverse crowned, or may drain to one side, as illustrated in Figures C-1 through C-3. Occasionally, a street may have a flat profile, such as the example shown in Figure C-4, as could be used for a pervious pavement street. Unless pervious pavement is used for the full width of the street, GI facilities would be located downslope from the roadway surface. In a crowned street, this may allow for GI facilities on both sides of the street. In a reverse crowned street, GI facilities may be considered in the median; and in a side-sloping street, GI facilities would be located on the downslope side.

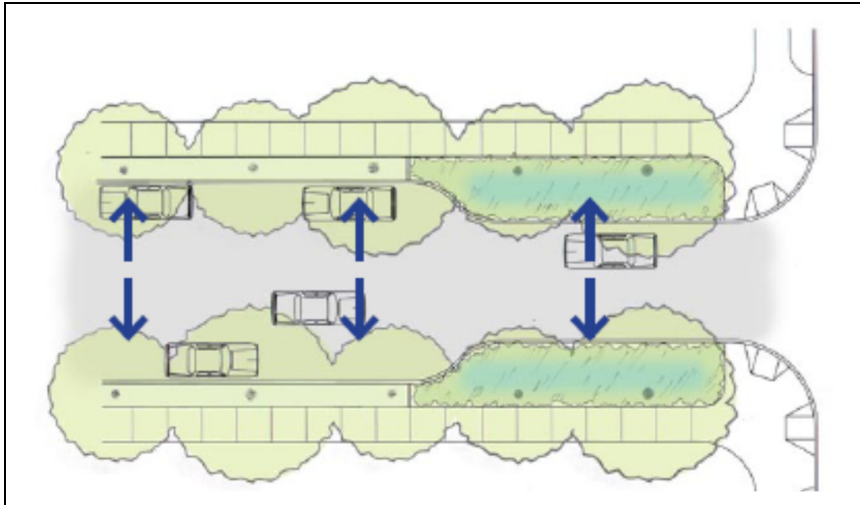


Figure C-1. Crowned Street Profile. A crowned street is designed so that the highest elevation is in the middle of the street, such that stormwater runoff drains to the sides of the street. GI facilities may be located on either side of the street.

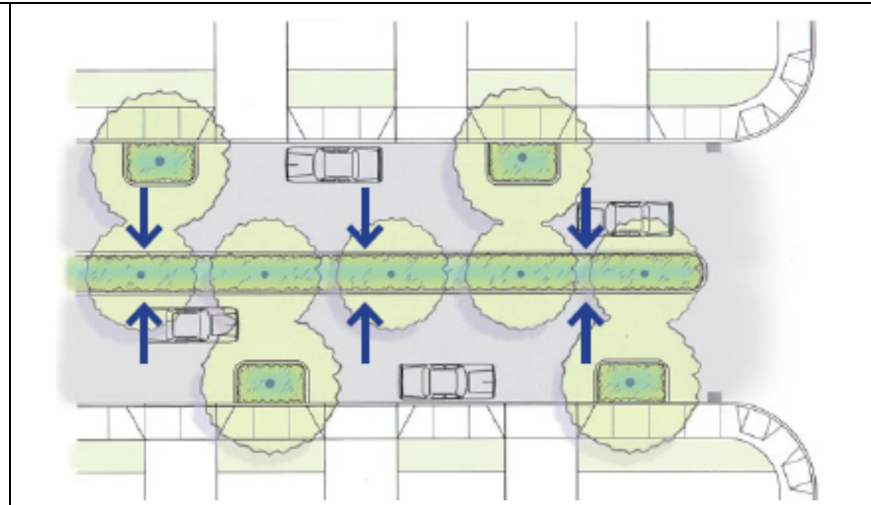


Figure C-2. Reverse Crowned Street Profile. A reversed crowned street is the opposite of a crowned street and directs runoff to the center line of the street. GI facilities may be considered in the median.

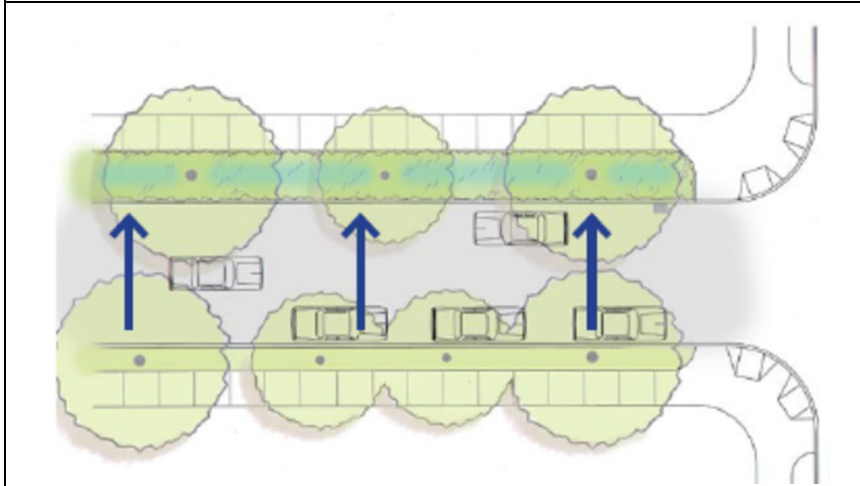


Figure C-3. Side Shed Street Profile. Side shed streets are designed to shed all water to one side of the street. GI facilities would be located on the downslope side.

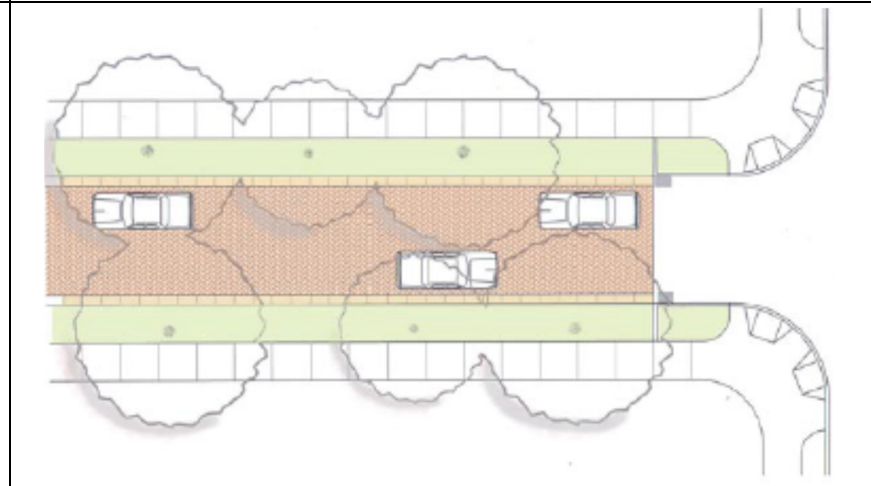


Figure C-4. Flat Street Profile. Flat streets are designed to drain through pervious paving. While these facilities do not have a marked slope, they may be graded slightly so that they drain to the sides or center of the street when there is too much water.

Source: San Mateo Countywide Water Pollution Prevention Program/Nevue Ngan

Work with the Existing Drainage Facilities

If an underdrain will be included in the GI facility design, a street retrofit site should have an existing storm drain line or creek, to which the underdrain may be connected. If there is no existing storm drain line, subject to municipal approval, in lieu of an underdrain, sites with poorly draining soils may potentially be designed with an oversized reservoir layer of rock below the GI facility. The rock layer would be sized to hold the amount of runoff identified in Section 6, Hydraulic Sizing Requirements. This approach was used in the City of Burlingame's Donnelly Street green street project (Figure C-5), because there was no available storm drain line.

Figure C-5. Donnelly Street Green Street Project. The Donnelly Street Green Street Project includes a rain garden, pictured at right, which captures runoff from the adjacent commercial buildings and parking lot. The rain garden was designed with no underdrain and an enlarged subsurface layer of rock, which serves as a reservoir and allows runoff to slowly infiltrate to the underlying soil. The system was designed for onsite management of flows that exceed the 30-year storm. An overflow to the curb is provided for a 50- to 100-year event scenario.

Source: City of Burlingame



Consider Conveyance Facilities

In some cases, a street retrofit project may be located near an appropriate site for a larger stormwater facility than can be accommodated in the typical street right-of-way. For example, a street retrofit project may be designed to convey stormwater runoff to a bioretention facility that will be constructed on an adjacent park or greenway. This approach is illustrated by the City of El Cerrito's Ohlone Greenway Natural Area and Rain Garden project's incorporation of a rain garden (Figure C-6) that captures and treats stormwater runoff from an adjacent segment of Fairmont Boulevard. Various methods may be considered for conveying runoff to nearby GI facilities, including trench drains (Figure C-7) and vegetated swales or vegetated channels (Figure C-8).

Figure C-6. Ohlone Greenway Natural Area and Rain Garden.

This rain garden captures and treats runoff from an adjacent segment of Fairmont Boulevard. In this instance, the rain garden location provided an opportunity to convey and treat stormwater outside the street right-of-way.

Source: PlaceWorks

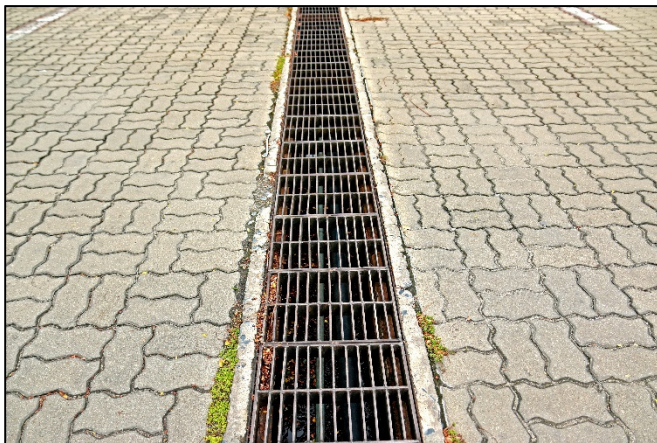


Figure C-7. Trench Drain. A trench drain can be used to convey runoff to GI facilities.



Figure C-8. Pervious Drainage Channel. Pervious, unlined drainage channels can be designed to convey runoff to GI facilities.

Identify the Appropriate Typical Design for Street Project Site

Refer to Attachment C-4 of this appendix to identify appropriate typical design drawings for the project. Typical designs have been developed for various conditions that may occur at a project site. GI projects may also utilize design guidance provided in Chapter 6 of the C.3 Technical Guidance manual for other types of low impact development storm water treatment facilities, subject to municipal staff approval.

Apply the Appropriate Hydraulic Sizing Criteria

Refer to Attachment C-1 for guidance on identifying and using the appropriate hydraulic sizing criteria for the proposed project.

Convey Stormwater away from Transportation Facilities

To manage the risk of flooding, adequate drainage facilities must be provided for all segments of roadway, in accordance with the City of Berkeley's storm drainage design standards, including design criteria, standards, policies, and procedures for storm drainage improvements. All storm drainage facilities must be designed in accordance with the applicable standards and accepted engineering principles, as directed by Public Works Department.

C.2.2 Guidelines Addressing Pedestrian Travel within Street Right of Way

To help reduce pollution from automobiles, the City of Berkeley has goals to improve and expand transportation choices, including the pedestrian mode of travel. As part of meeting these goals, the design of GI retrofits of existing streets should incorporate measures that seek to enhance the safety and attractiveness for pedestrians. The following measures may be considered:

- Incorporate into project intersections curb extensions, also referred to as bulbouts, which reduce the street width at intersections and shorten the length of street crossings for pedestrians, while also providing space for GI facilities (see Figure C-9).
- Provide attractive landscaping designs that enhance the sense of place for pedestrians and may potentially include amenities such as shade trees and seating areas.
- Locate the GI facility between the sidewalk and vehicle travel lanes, in order to enhance pedestrian safety by providing protected sidewalks.



Figure C-9. Curb Extension. In addition to reducing the street width and shortening the length of street crossings for pedestrians, curb extensions, or “bulbouts,” such as this example in Albany, also provide space for GI facilities.

Source: bluegreenbldg.com

C.2.3 Guidelines Addressing Street Use for Bicycle, Transit, and Vehicle Movement/Parking

Complete streets balance the needs of pedestrian, bicycle, automobile, and public transit modes of travel. To meet the goal of improving and expanding transportation choices, described in Section C.2.2, in addition to pedestrian transportation, GI retrofits of existing streets must also be designed to accommodate bicycles, motor vehicles, and, where appropriate, public transit. The design and construction of each GI project should incorporate appropriate measures to enhance transportation safety and help improve the attractiveness of alternative modes of travel. The following measures may be considered:

Bicycle-Friendly Measures

- Include bicycle lanes in GI retrofits of existing streets.
- Provide a protected bicycle lane by locating a GI facility or other landscaped area, or a lane of parking, between a bicycle lane and lanes of motor vehicle travel.
- Include bicycle racks in GI street retrofit projects.

Public Transit-Friendly Measures

- Enhance the comfort of public transit users by providing shelter, shade, and greenscape at bus stops and other public transit stops.
- Integrate GI into transit facilities, such as boarding bulbs and islands, or rooftops of transit shelters.
- Provide bicycle racks at public transit stops.

Motor Vehicle-Friendly Measures

- Implement GI with geometric changes that reduce vehicle speed and/or improve visibility. This may include "road diet" projects that reduce the number of lanes of travel, or traffic calming projects that incorporate areas of landscaping, such as traffic islands, as visual cues to help slow down traffic.
- Provide visual cues to help slow down traffic and alert drivers to the presence of GI facilities, to help prevent motor vehicles from driving into a stormwater facility. Visual cues may include curbs and landscaping that is readily visible to drivers.

C.2.4 Guidelines Addressing Urban Forestry in Public Right of Way

Increasing the planting of street trees in the City of Berkeley is anticipated to benefit local water quality, air quality, energy efficiency, and property values. GI projects should incorporate measures to preserve existing street trees and promote the planting of new street trees. The following measures should be incorporated, as appropriate:

- Prioritize the preservation of existing mature trees.
- Replace any mature trees that are removed by the project.
- Maximize the planting of new trees in accordance with City standards.
- The planting of trees within a GI facility should follow guidance, including the identification of appropriate species, provided in Appendix B of the ACCWP C.3 Technical Guidance, which may be downloaded at www.cleanwaterprogram.org (click Businesses, then Development).

C.3 Guidelines for GI Retrofits of Public Parcels

Public parcels must perform the range of functions described in Section C.1. The following guidelines provide general guidelines for GI retrofitting of public parcels, to address the full range of functions. Additional design guidance for GI facilities, which are also referred to as low impact development (LID) storm water treatment facilities, is provided in Chapters 5 and 6 of the ACCWP C.3 Technical Guidance, which may be downloaded at, www.cleanwaterprogram.org (click Businesses, then Development).

C.3.1 Guidelines to Address Parking Lot Use for Landscaping and Stormwater Management

Parking lots often contain excess parking spots and oversized parking spaces and drive aisles. GI retrofits of public parcels should consider options to reduce any unnecessary parking areas, in order to provide space for landscaping, stormwater management, and pedestrian walkways. The following measures may be considered:

Consider Specifying Pervious Paving Pervious paving may be used in parking lot designs. Where pervious paving is underlain with pervious soil or pervious storage material sufficient to hold the Municipal Stormwater Regional Permit Provision C.3.d volume of rainfall runoff, it is not considered impervious and can function as a self-treating area. Please see Section 6.6 of the C.3 Technical Guidance for further design guidance for pervious pavement installations.

Convey Stormwater to GI Facilities

GI retrofits of existing sites must be designed to convey stormwater runoff from impervious surfaces (roofs and/or parking lots) to the proposed GI facilities. Key issues include working with the existing drainage system, and considering conveyance facilities where needed.

Work with the Existing Drainage System

If an underdrain will be included in the GI facility design, the site should have access to an existing storm drain line, to which the underdrain may be connected. If there is no existing storm drain line, subject to municipal approval, in lieu of an underdrain, sites with poorly draining soils may potentially be designed with an oversized reservoir layer of rock below the GI facility. The rock layer would be sized to hold the amount of runoff identified in Section 6, Hydraulic Sizing Requirements. This approach was used in the City of Burlingame's Donnelly Street green street project (Figure C-5), because there was no available storm drain line.

Consider Conveyance Facilities

Various methods may be considered for conveying runoff from impervious surfaces to GI facilities, including trench drains (Figure C-7) and vegetated swales or vegetated channels (Figure C-8). In parking lots that include speed bumps, consider using speed bumps to help direct stormwater runoff to GI facilities.

Identify the Appropriate Typical Design for the Project Site

Refer to Attachment C-4, included in this appendix, to identify appropriate typical design drawings for the project. Typical designs have been developed for various conditions that may occur at a project site. GI projects may also utilize design guidance provided in Chapter 6 of the C.3 Technical Guidance manual for other types of low impact development storm water treatment facilities, subject to municipal staff approval.

Apply the Hydraulic Sizing Criteria Identified in Provisions C.3.c and C.3.d

Refer to Attachment C-1 for guidance on using the appropriate hydraulic sizing criteria in MRP Provisions C.3.c and C.3.d as applicable to design GI projects that are not regulated by Provision C.3.b ("non-Regulated Projects).

Prioritize Tree Preservation and Planting

In order to benefit local water quality, air quality, energy efficiency, and property values, GI projects on public parcels should incorporate measures to preserve existing street trees and promote the planting of new trees. The following measures should be incorporated, as appropriate:

- Prioritize the preservation of existing mature trees.
- Replace any mature trees that are removed by the project.
- Maximize the planting of new trees in accordance with City Standards.

- Incorporate trees in landscaped areas within parking lots – which serves to shade vehicles and paved surfaces, improve air and water quality, intercept stormwater in the tree canopy, and take up stormwater through the root system.
- The planting of trees within a GI facility should follow guidance, including the identification of appropriate species, provided in Appendix B of the ACCWP C.3 Technical Guidance, which may be downloaded at www.cleanwaterprogram.org (click Businesses, then Development).

C.3.2 Guidelines to Address Parking Lot Use for Vehicular Parking

GI retrofits of public parcels should provide for adequate motor vehicle and bicycle parking for the proposed public use. The following measures may be considered:

- Include bicycle parking facilities.
- Provide pedestrian walkways within parking lots, including bridged walkways across GI facilities.
- Provide safe pedestrian access to and directional signage for adjacent public transit stops.
- Consider other improvements to enhance existing pedestrian circulation and safety.
- Depending on the type of use, larger public parcel retrofits should consider providing bicycle storage, changing rooms, and preferred parking for carpooling

C.4 Guidelines for Coordination of Projects

Installing GI components at a project prior to the completion of that project, or the construction of an adjacent project, has the potential to degrade the functioning of the GI facility. Street improvement or other infrastructure projects, the development of public parcels, and other public and private projects should therefore include coordination of construction schedules to minimize impacts to GI.

The following measures shall be implemented in all GI projects to protect investments in GI:

1. GI facilities shall not be used as temporary sediment basins during construction.
2. Erosion control plans shall include protections for GI; erosion control plans are subject to applicable requirements.
3. Installed GI facilities shall be protected from construction runoff and kept offline until the contributing drainage area is stabilized.

Contractors are encouraged to construct GI facilities at the end of a project, to help protect the facilities from construction-related impacts.

Attachment C-1: Hydraulic Sizing Criteria

This provides guidance on the following topics:

- Hydraulic sizing criteria in MRP Provisions C.3.c and C.3.d as applicable to GI projects that are not regulated by Provision C.3.b ("non-Regulated Projects)
- Alternate sizing approach for constrained street projects

C1.1 Hydraulic Sizing Criteria in MRP Provisions C.3.c and C.3.d

Provision C.3.c requires the use of low impact development (LID) stormwater controls. To meet the MRP definition of LID, bioretention facilities must have a surface area no smaller than what is required to accommodate a 5 inches/hour stormwater runoff surface loading rate, and infiltrate runoff through biotreatment soil media at a minimum of 5 inches per hour.

Provision C.3.d of the MRP includes volume-based, flow-based, and the combination volume- and flow-based hydraulic sizing criteria. Bioretention areas may be sized using a simplified flow-based hydraulic sizing method, known as the "4 percent method," in which the surface area of the bioretention area is 4 percent of the effective impervious surface area that is treated. However, by using a combination volume- and flow-based hydraulic sizing approach, it may be possible to provide a bioretention area that is less than 4 percent of the effective impervious surface area, which can help reduce costs. Step-by-step instructions for using the 4 percent method and the volume-based sizing criteria are provided in Section 5.1 of the C.3 Technical Guidance. Guidance for using the combination flow and volume criteria from Section 5.1 of the C.3 Technical Guidance document are copied below. The worksheet for using this method is provided in Attachment C-2.

The implementation of LID stormwater treatment facilities designed in accordance with Provisions C.3.c and C.3.d of the MRP will provide hydromodification management benefits by infiltrating and detaining stormwater runoff.

Step-by-Step Guidance for Combination Flow and Volume Method

To apply the combination flow and volume approach, use the following steps, which may be performed using the combination flow and volume sizing criteria Excel worksheet provided in Attachment C-2 of this appendix.

1. Mean Annual Precipitation

- Determine the mean annual precipitation (MAP) for the project site using the Mean Annual Precipitation Map of Alameda County (Attachment C-3). Use the Oakland Airport unit basin storage volume values from Table C1-1 (below) if the

project location's mean annual precipitation is 16.4 inches or greater and the San Jose values if it is less than 16.4 inches.

- In order to account for the difference between MAP of the project site and the two rainfall locations shown, calculate the **MAP adjustment factor** by dividing the project MAP by the MAP for the applicable rain gauge, as shown below: MAP adjustment factor = (project location mean annual precipitation

$$\text{Map adjustment factor} = \frac{(\text{project location mean annual precipitation})}{(18.35 \text{ or } 14.4, \text{ as appropriate})}$$

2. Effective Impervious Area for the Drainage Management Area

- Based on the topography of the site and configuration of buildings, divide the site into drainage management areas (DMAs), each of which will drain to a treatment measure. Implement the steps below for each DMA with a volume-based treatment measure.
- Minimize the amount of landscaping or pervious pavement that will contribute runoff to the treatment measures. Refer to Sections 4.1 and 4.2 of the C.3 Stormwater Technical Guidance to design areas of landscaping or pervious pavement as "self-treating areas" or "self-retaining areas," so that they do not contribute runoff to the LID treatment measure and may be excluded from the DMAs for the treatment measures.
- For each DMA in which the area that will contribute runoff to the treatment measure includes pervious surfaces (landscaping or properly designed pervious paving), multiply the area of pervious surface by a factor of 0.1.
- For applicable DMAs, add the product obtained in the previous step to the area of impervious surface, to obtain the "**effective impervious area.**" (For DMAs that are 100% impervious, use the entire DMA area.)

3. Unit Basin Storage Volume

- The effective impervious area of a DMA has a runoff coefficient of 1.0. Refer to Table C1-1 to obtain the **unit basin storage volume** that corresponds to your rain gauge area. For example, using the Oakland Airport gauge, the unit basin storage volume would be 0.67 inches. Adjust the unit basin storage volume for the site by multiplying the unit basin storage volume value by the MAP adjustment factor calculated in Step 1.
- Calculate the **required capture volume** by multiplying the effective impervious area of the DMA calculated in Step 2 by the adjusted unit basin storage volume. Due to the mixed units that result, such as acre-inches, it is recommended that the resulting volume be converted to cubic feet for use during design. For example, say you determined the adjusted unit basin storage volume to be 0.5 inches, and the effective impervious area draining to the bioretention facility is 7,000 square feet. Then the required capture volume would be:

$$\text{Required capture volume} = 0.5 \text{ inches} \times \left(\frac{1 \text{ foot}}{12 \text{ inches}} \right) \times 7,000 \text{ feet}^2 = 292 \text{ cubic feet}$$

Table C1-1. Unit Basin Storage Volume (Inches) for 80 Percent Capture with 48-Hour Drawdown Time		
		Unit Basin Storage Volume for Effective Impervious Area of Drainage Management Area
Location	Mean Annual Precipitation (inches)	Coefficient of 1.00
Oakland Airport	18.35	0.67
San Jose	14.4	0.56
Source: CASQA 2003, cited in Table 6-2 of the C.3 Technical Guidance.		

4. Depth of Infiltration Trench or Pervious Paving Base Layer

- Assume that the rain event that generates the required capture volume of runoff determined in Step 3 occurs at a constant rainfall intensity of 0.2 inches/hour from the start of the storm (i.e., assume a rectangular hydrograph). Calculate the **duration of the rain event** by dividing the unit basin storage volume by the intensity. In other words, determine the amount of time required for the unit basin storage volume to be achieved at a rate of 0.2 inches/hour. For example, if the unit basin storage volume is 0.5 inches, the rain event duration is $0.5 \text{ inches} \div 0.2 \text{ inches/hour} = 2.5 \text{ hours}$.

5. Preliminary Estimate of the Surface Area the Facility

- Make a **preliminary estimate of the surface area** of the bioretention facility by multiplying the DMA's impervious area (or effective impervious surface if applicable) by the 4 percent method sizing factor of 0.04. For example, a drainage area of 7,000 square feet of impervious surface $\times 0.04 = 280$ square feet of bioretention treatment area.
- Assume a bioretention area that is about 25% smaller than the bioretention area calculated with the 4 percent method. Using the example above, $280 - (0.25 \times 280) = 210$ square feet.
- Calculate the volume of runoff that filters through the biotreatment soil** at a rate of 5 inches per hour (the design surface loading rate for bioretention facilities), for the duration of the rain event calculated in Step 4. For example, for a bioretention treatment area of 210 square feet, with an infiltration rate of 5 inches per hour for a duration of 2.5 hours, the volume of treated runoff = $210 \text{ square feet} \times 5 \text{ inches/hour} \times (1 \text{ foot}/12 \text{ inches}) \times 2.5 \text{ hours} = 219 \text{ cubic feet}$. (Note: when calculating ponding depth, the mulch layer is not included in the calculation.)

6. Initial Adjustment of Depth of Surface Ponding Area

- Calculate the portion of the required capture volume **remaining after treatment is accomplished by filtering** through the treatment soil. The result is the amount that must be stored in the ponding area above the reduced bioretention area assumed in Step 6. For example, the amount remaining to be stored comparing Step 3 and Step 5 is $292 \text{ cubic feet} - 219 \text{ cubic feet} = 73 \text{ cubic feet}$. If this volume

is stored over a surface area of 210 square feet, the **average ponding depth** would be 73 cubic feet ÷ 210 square feet = 0.35 feet or 4.2 inches.

- Check to see if the **average ponding depth is between 6 and 12 inches**, which is the recommended allowance for ponding in a bioretention facility or flow-through planter.

7. Optimize the Size of the Treatment Measure

- If the ponding depth is greater than 12 inches, a larger surface area will be required. (In the above example, the optimal size of the bioretention area is 190 square feet with a ponding depth of 6 inches.) In order to build conservatism into this sizing method, the Countywide Program recommends that municipalities not approve the design of any bioretention areas or rain gardens that have a surface area that is less than 3 percent of the effective impervious area within the DMA.

Please note that Appendix C of the C.3 Stormwater Technical Guidance includes an example of sizing bioretention areas using the combination flow- and volume-based method.

C1.2 Alternate Sizing Approach for Constrained Street Projects

Provision C.3.j.i.(2)(g) of the MRP allows the jurisdictions subject to the MRP (MRP Permittees) to develop an alternate sizing approach for street projects that are not subject to Provision C.3.b.ii. (non-Regulated Projects) in which project constraints preclude fully meeting the C.3.d sizing requirements. This approach, developed by the Bay Area Stormwater Management Agencies Association (BASMAA), is described as follows.

The Guidance for Sizing Green Infrastructure Facilities in Street Projects, provided by BASMAA and included as Attachment C-6, states that bioretention facilities in street projects should be sized as large as feasible and meet the Provision C.3.d sizing criteria where possible. It further states that bioretention facilities in street projects smaller than what would be required to meet the Provision C.3.d criteria may be appropriate in some circumstances, and provides guidance that may be applied to those circumstances.

Attachment C-2: Worksheet for Calculating the Combination Flow and Volume Method

The worksheet for calculating the combination flow and volume method is provided on the following page.

Worksheet for Calculating the Combination Flow and Volume Method

Instructions: After completing Section 1, make a copy of this Excel file for each Drainage Management Area within the project. Enter information specific to the project and DMA in the cells shaded in yellow. Cells shaded in light blue contain formulas and values that will be automatically calculated.

1.0 Project Information

- 1-1 Project Name:
- 1-2 City application ID:
- 1-3 Site Address or APN:
- 1-4 Tract or Parcel Map No:
- 1-5 Site Mean Annual Precip. (MAP)¹ Inches
- 1-6 Applicable Rain Gauge²

The calculations presented here are based on the combination flow and volume hydraulic sizing method provided in the Clean Water Program Alameda County C.3 Technical Guidance, Version 4.0. The steps presented below are explained in Chapter 5, Section 5.1 of the guidance manual, applicable portions of which are included in this file, in the tab called "Guidance from Chapter 5".

Refer to the Mean Annual Precipitation Map in Appendix D of the C.3 Technical Guidance to determine the MAP, in inches, for the site.

[Click here for map](#)

Enter "Oakland Airport" if the site MAP is 16.4 inches or greater. Enter "San Jose" if the site MAP is less than 16.4 inches.

MAP adjustment factor is automatically calculated as:

(The "Site Mean Annual Precipitation (MAP)" is divided by the MAP for the applicable rain gauge, shown in Table 5.2, below.)

2.0 Calculate Percentage of Impervious Surface for Drainage Management Area (DMA)

- 2-1 Name of DMA:
- For items 2-2 and 2-3, enter the areas in square feet for each type of surface within the DMA.

Type of Surface	Area of surface type within DMA (Sq. Ft)	Adjust Pervious Surface	Effective Impervious Area
2-2 Impervious surface	<input type="text"/>	1.0	<input type="text"/>
2-3 Pervious service	<input type="text"/>	0.1	<input type="text"/>
Total DMA Area (square feet) =			<input type="text"/>

2-4 Total Effective Impervious Area (EIA) Square feet

3.0 Calculate Unit Basin Storage Volume in Inches

Applicable Rain Gauge	Mean Annual Precipitation (in)	Unit Basin Storage Volume (in) for Applicable Runoff Coefficients
		Coefficient of 1.00
Oakland Airport	18.35	0.67
San Jose	14.4	0.56

3-1 Unit basin storage volume from Table 5.2: Inches
 (The coefficient for this method is 1.00, due to the conversion of any landscaping to effective impervious area)

3-2 Adjusted unit basin storage volume: Inches
 (The unit basin storage volume is adjusted by applying the MAP adjustment factor.)

3-3 Required Capture Volume (in cubic feet): Cubic feet
 (The adjusted unit basin sizing volume [inches] is multiplied by the size of the DMA and converted to feet)

4.0 Calculate the Duration of the Rain Event

- 4-1 Rainfall intensity 0.2 Inches per hour
- 4-2 Divide Item 3-2 by Item 4-1 Hours of Rain Event Duration

5.0 Preliminary Estimate of Surface Area of Treatment Measure

- 5-1 4% of DMA impervious surface Square feet
- 5-2 Area 25% smaller than item 5-1 Square feet
- 5-3 Volume of treated runoff for area in Item 5-2 Cubic feet (Item 5-2 * 5 inches per hour * 1/12 * Item 4-2)

6.0 Initial Adjustment of Depth of Surface Ponding Area

- 6-1 Subtract Item 5-3 from Item 3-3 Cubic feet (Amount of runoff to be stored in ponding area)
- 6-2 Divide Item 6-1 by Item 5-2 Feet (Depth of stored runoff in surface ponding area)
- 6-3 Convert Item 6-2 from ft to inches Inches (Depth of stored runoff in surface ponding area)
- 6-4 If ponding depth in Item 6-3 meets your target depth, skip to Item 8-1. If not, continue to Step 7-1.

7.0 Optimize Size of Treatment Measure

- 7-1 Enter an area larger or smaller than Item 5-2 Sq.ft. (enter larger area if you need less ponding depth; smaller for more depth.)
- 7-2 Volume of treated runoff for area in Item 7-1 Cubic feet (Item 7-1 * 5 inches per hour * 1/12 * Item 4-2)
- 7-3 Subtract Item 7-2 from Item 3-3 Cubic feet (Amount of runoff to be stored in ponding area)
- 7-4 Divide Item 7-3 by Item 7-1 Feet (Depth of stored runoff in surface ponding area)
- 7-5 Convert Item 7-4 from feet to inches Inches (Depth of stored runoff in surface ponding area)
- 7-6 If the ponding depth in Item 7-5 meets target, stop here. If not, repeat Steps 7-1 through 7-5 until you obtain target depth.

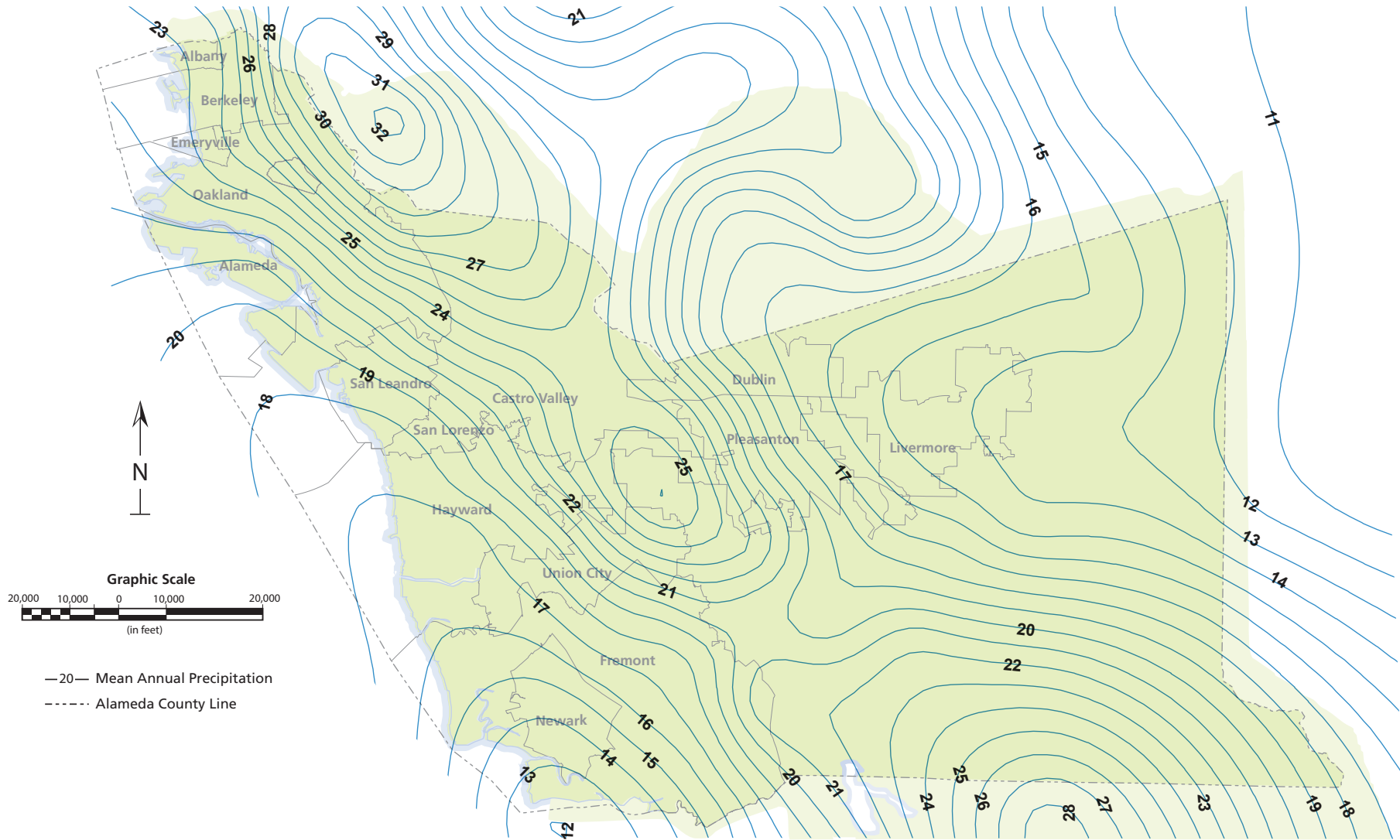
8.0 Surface Area of Treatment Measure for DMA

- 8-1 Final surface area of treatment* Square feet (Either Item 5-2 or final amount in Item 7-1)

*Note: Check with the local jurisdiction as to its policy regarding the minimum biotreatment surface area allowed.

Attachment C-3: Mean Annual Precipitation Map

The Mean Annual Precipitation Map for Alameda County is provided on the following page.



This map is Attachment 6 of the Alameda County Hydrology & Hydraulics Manual and may be downloaded as a GIS file from the Alameda County Flood Control District website.

(District 2011)



Mean Annual Precipitation

Attachment C-4: Standard Specifications and Typical Designs

Standard specifications and typical design drawings for GI projects are provided on the following pages.

PURPOSE:

PROVISION C.3 OF THE MUNICIPAL REGIONAL STORMWATER NPDES PERMIT (MRP) REQUIRES TREATMENT OF IMPERVIOUS SURFACES USING GREEN INFRASTRUCTURE FOR BOTH PUBLIC AND PRIVATE DEVELOPMENT PROJECTS. BIORETENTION AREAS ARE EXPECTED TO BE THE MOST COMMON GREEN INFRASTRUCTURE APPLICATION IN PUBLIC RIGHT-OF-WAY (ROW). THE PURPOSE OF THE BIORETENTION AREA IS TO IMPROVE WATER QUALITY BY FILTRATION THROUGH THE BIOTREATMENT SOIL AND TO CONTROL RUNOFF PEAK FLOW RATES AND VOLUMES THROUGH STORAGE AND INFILTRATION.

NOTES & GUIDELINES:

1. THE ENGINEER SHALL ADAPT PLAN AND SECTION DRAWINGS TO ADDRESS SITE-SPECIFIC CONDITIONS.
2. BIORETENTION AREA SHALL BE SIZED TO MEET THE REQUIREMENTS OF MRP PROVISION C.3 SIZING.
3. 48 HOUR MAXIMUM FACILITY DRAWDOWN TIME (TIME FOR MAXIMUM SURFACE PONDING TO DRAIN THROUGH THE BIOTREATMENT SOIL AFTER THE END OF A STORM). REFER TO C.3 TECHNICAL GUIDANCE MANUAL (ACCWP) FOR DRAINAGE CONSIDERATIONS.
4. A STORAGE LAYER OF CALTRANS STANDARD CLASS II PERMEABLE MATERIAL IS REQUIRED UNDER THE BIOTREATMENT SOIL. REFER TO C.3 TECHNICAL GUIDANCE MANUAL (ACCWP) FOR SPECIFICATIONS.
5. CHECK DAMS SHALL BE USED TO TERRACE FACILITIES TO PROVIDE SUFFICIENT PONDING FOR SLOPED INSTALLATIONS. ENGINEER SHALL SPECIFY CHECK DAM HEIGHT AND SPACING. REFER TO DETAIL **GI-7** FOR GUIDANCE ON CHECK DAM DESIGN.
6. DEPENDING ON THE DEPTH OF THE BIORETENTION AREA, ADDITIONAL STRUCTURAL CONSIDERATIONS MAY BE REQUIRED TO ADDRESS HORIZONTAL LOADING. REFER TO DETAIL **GI-5** FOR GUIDANCE ON EDGE TREATMENTS.
7. WHEN FACILITY CONSTRUCTION IMPACTS EXISTING SIDEWALK, ALL SAW CUTS SHALL ADHERE TO LOCAL JURISDICTION STANDARDS. SAW CUTS SHALL BE ALONG SCORE LINES OR ALONG CONSTRUCTION JOINTS, AS DETERMINED BY THE CITY ENGINEER, AND ANY DISTURBED SIDEWALK FLAGS SHALL BE REPLACED IN THEIR ENTIRETY.
8. BIORETENTION AREAS IN PUBLIC RIGHT OF WAY SHALL BE DESIGNED WITH AN EMERGENCY OVERFLOW. IN THE EVENT THE BIORETENTION AREA OVERFLOW DRAIN IS OBSTRUCTED OR CLOGGED, THE INUNDATION AREA SHALL BE CONTAINED WITHIN THE STREET AND SHALL NOT BE WITHIN ADJACENT PRIVATE PROPERTIES.
9. BIORETENTION AREA VEGETATION SHALL BE SPECIFIED BY LANDSCAPE DESIGN PROFESSIONAL. SEE C.3 TECHNICAL GUIDANCE MANUAL (ACCWP) FOR PLANT LIST AND VEGETATION GUIDANCE.
10. THE ENGINEER SHALL EVALUATE THE NEED FOR EROSION PROTECTION AT ALL INLET LOCATIONS. ALL COBBLES USED FOR ENERGY DISSIPATION SHALL BE GROUTED. ENGINEER TO CONSIDER MAINTENANCE REQUIREMENTS TO FACILITATE EASY SEDIMENT REMOVAL AND ADEQUATE VECTOR CONTROL.
11. THE PROJECT PLANS SHALL SHOW ALL EXISTING UTILITIES AND INDICATE POTENTIAL UTILITY CROSSINGS OR CONFLICTS.
12. CHECK WITH LOCAL JURISDICTION FOR UTILITY CROSSING PROVISIONS.
13. MINIMUM UTILITY SETBACKS AND PROTECTION MEASURES SHALL CONFORM TO CURRENT LOCAL JURISDICTION STANDARDS AND OTHER UTILITY PROVIDER REQUIREMENTS.
14. VERTICAL SIDEWALLS EXTENDING INTO EXISTING STORM DRAIN PIPE TRENCH BACKFILL SHALL BE DESIGNED WITH A CONCRETE BACKFILL ACCEPTABLE TO THE CITY ENGINEER.
15. OVERFLOW RISER MUST BE FORMED SUCH THAT IT IS A MINIMUM OF 6" ABOVE THE BOTTOM OF THE SYSTEM INLET, OR AS DESIGNED. PLACE STRUCTURE ADJACENT TO PEDESTRIAN EDGE TO ALLOW FOR MONITORING ACCESS.
16. DETAILS WERE ADAPTED FROM SFPUC GREEN INFRASTRUCTURE TYPICAL DETAILS AND SPECIFICATIONS.
17. DETAILS WERE DEVELOPED BY GEOSYNTEC CONSULTANTS.

ENGINEER CHECKLIST (SHALL SPECIFY, AS APPLICABLE):

- BIORETENTION AREA WIDTH AND LENGTH
- DEPTH OF PONDING
- AMOUNT OF FREEBOARD PROVIDED
- DEPTH OF BIOTREATMENT SOIL (18" MIN)
- UNDERDRAIN SPECIFICATIONS AND LOCATION (IF FACILITY IS LINED PLACE UNDERDRAIN AT BOTTOM OF FACILITY)
- BIORETENTION SURFACE ELEVATION (TOP OF BIOTREATMENT SOIL) AT UPSLOPE AND DOWNSLOPE ENDS OF FACILITY
- CONTROL POINTS AT EVERY BIORETENTION WALL CORNER AND POINT OF TANGENCY
- DIMENSIONS AND DISTANCE TO EVERY INLET, OUTLET, CHECK DAM, SIDEWALK NOTCH, ETC.
- ELEVATIONS OF EVERY INLET, OVERFLOW RISER, STRUCTURE RIM AND INVERT CHECK DAM, BIORETENTION AREA WALL CORNER, AND SIDEWALK NOTCH
- TYPE AND DESIGN OF BIORETENTION AREA COMPONENTS (E.G., EDGE TREATMENTS, INLETS/GUTTER MODIFICATIONS, UTILITY CROSSINGS, LINER, AND PLANTING DETAILS)
- DEPTH AND TYPE OF MULCH (NON-FLOATING; ORGANICALLY-DERIVED; NOT BARK OR GORILLA HAIR; 3" MIN)

RELATED TECHNICAL GUIDANCE	SOURCE
BIORETENTION: - BIOTREATMENT SOIL MIX - CALTRANS CLASS II PERM LAYER STORAGE - PERFORATED UNDERDRAIN - NON-FLOATING MULCH	C.3 TECHNICAL GUIDANCE MANUAL (ACCWP)

NOT FOR CONSTRUCTION

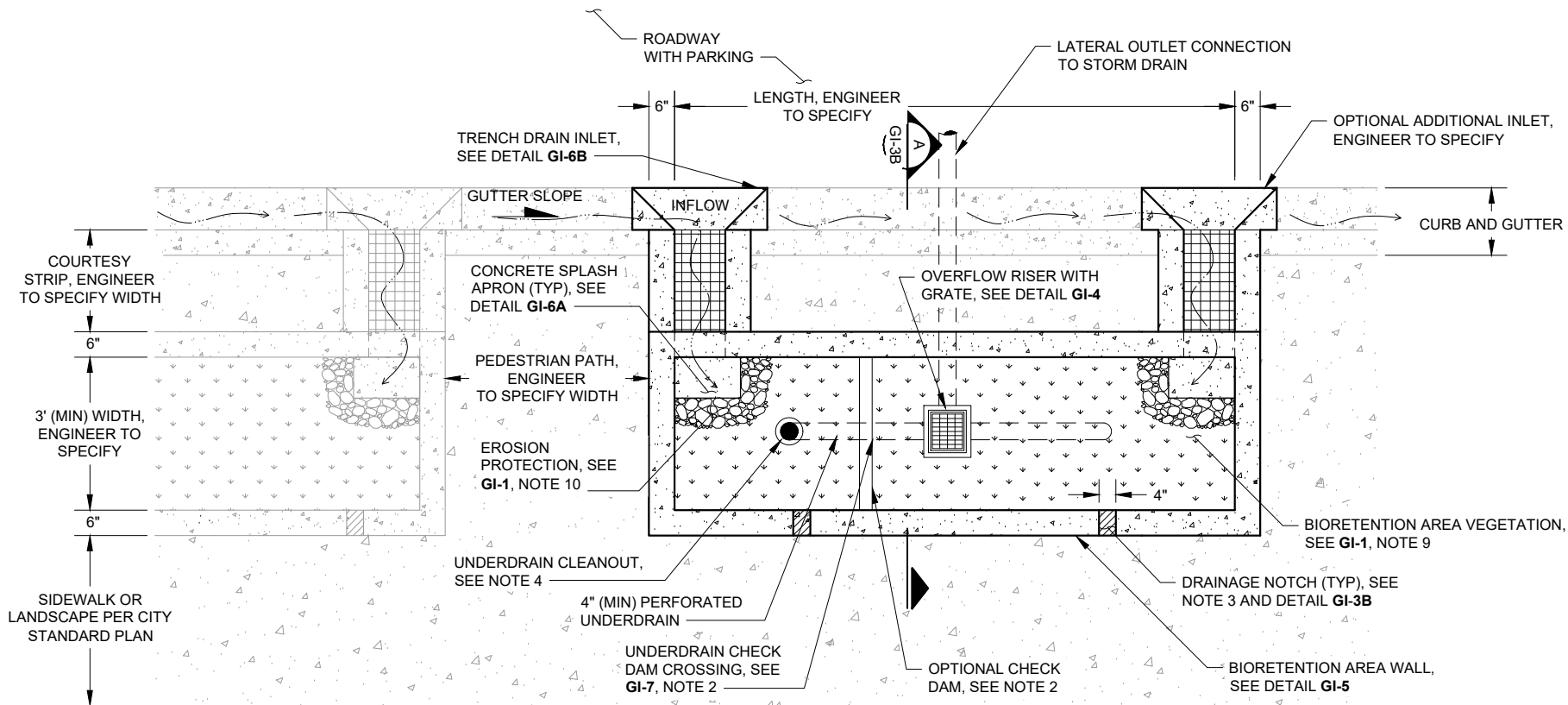
BIORETENTION AREA: NOTES



GREEN INFRASTRUCTURE
 EXAMPLE DETAILS
 ALAMEDA COUNTYWIDE CLEAN
 WATER PROGRAM

SCALE: NOT TO SCALE
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 CHECKED BY: A. R.

GI-1



NOTES:

1. REFER TO GI-1 NOTES FOR GUIDELINES AND CHECKLIST.
2. CHECK DAMS SHALL BE SPACED TO PROVIDE PONDING PER SITE SPECIFIC DESIGN (SEE DETAIL GI-7).
3. LAY OUT DRAINAGE NOTCHES AS APPLICABLE TO PREVENT PONDING BEHIND BIORETENTION AREA WALL WITH 5' MAXIMUM SPACING BETWEEN NOTCHES.
4. PROVIDE ONE UNDERDRAIN CLEANOUT PER BIORETENTION AREA (MIN). CLEANOUT REQUIRED AT UPSTREAM END AND PIPE ANGLE POINTS EXCEEDING 45 DEGREES. LONGITUDINAL SLOPE OF PIPE SHALL BE 0.5% (MIN).

NOT FOR CONSTRUCTION

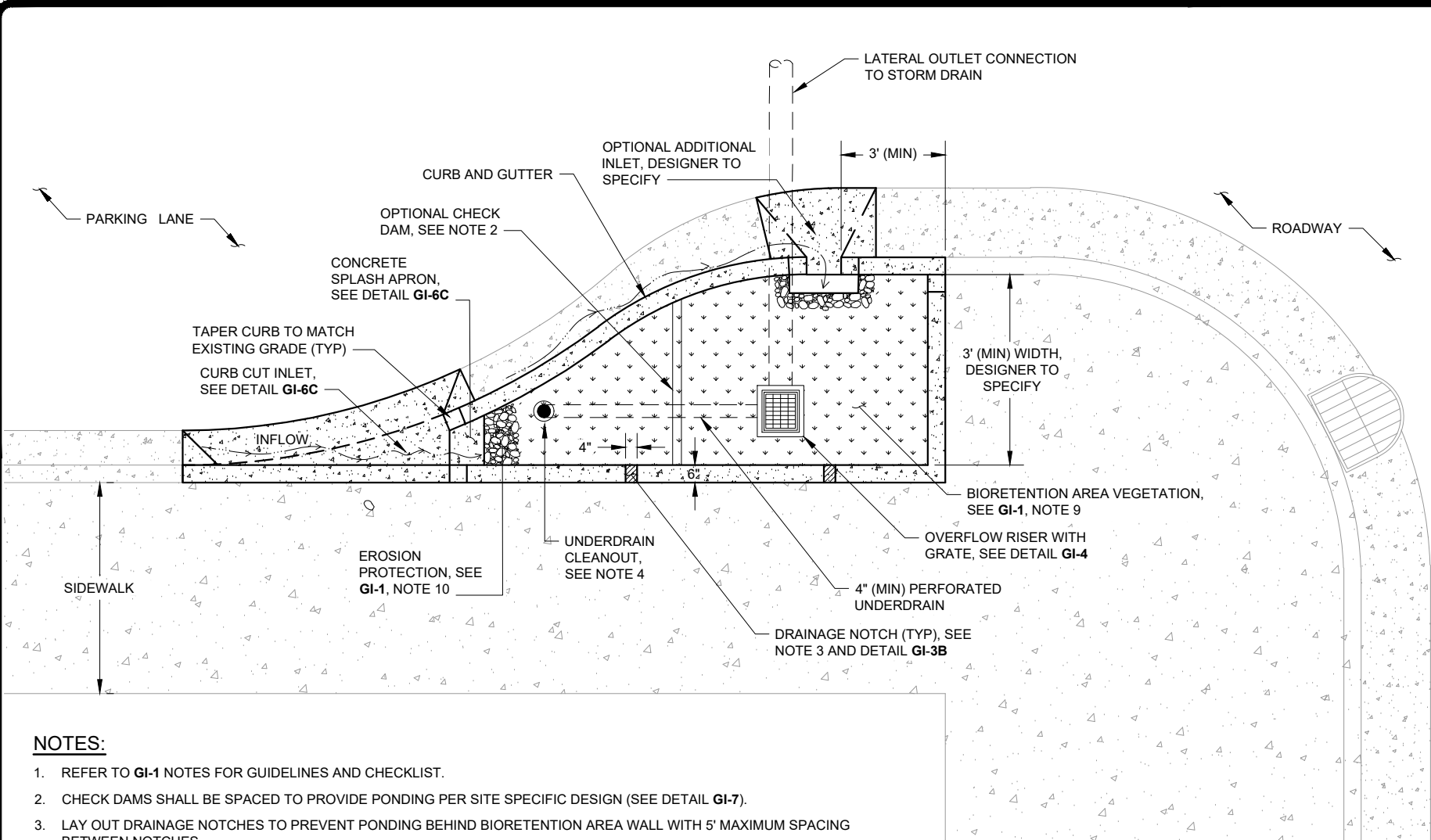
BIORETENTION AREA: PLAN VIEW WITH STREET PARKING



GREEN INFRASTRUCTURE
EXAMPLE DETAILS
ALAMEDA COUNTYWIDE CLEAN
WATER PROGRAM

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GI-2A



NOTES:

1. REFER TO GI-1 NOTES FOR GUIDELINES AND CHECKLIST.
2. CHECK DAMS SHALL BE SPACED TO PROVIDE PONDING PER SITE SPECIFIC DESIGN (SEE DETAIL GI-7).
3. LAY OUT DRAINAGE NOTCHES TO PREVENT PONDING BEHIND BIORETENTION AREA WALL WITH 5' MAXIMUM SPACING BETWEEN NOTCHES.
4. PROVIDE ONE UNDERDRAIN CLEANOUT PER BIORETENTION AREA (MIN). CLEANOUT REQUIRED AT UPSTREAM END AND PIPE ANGLE POINTS EXCEEDING 45 DEGREES. LONGITUDINAL SLOPE OF PIPE SHALL BE 0.5% (MIN).

NOT FOR CONSTRUCTION

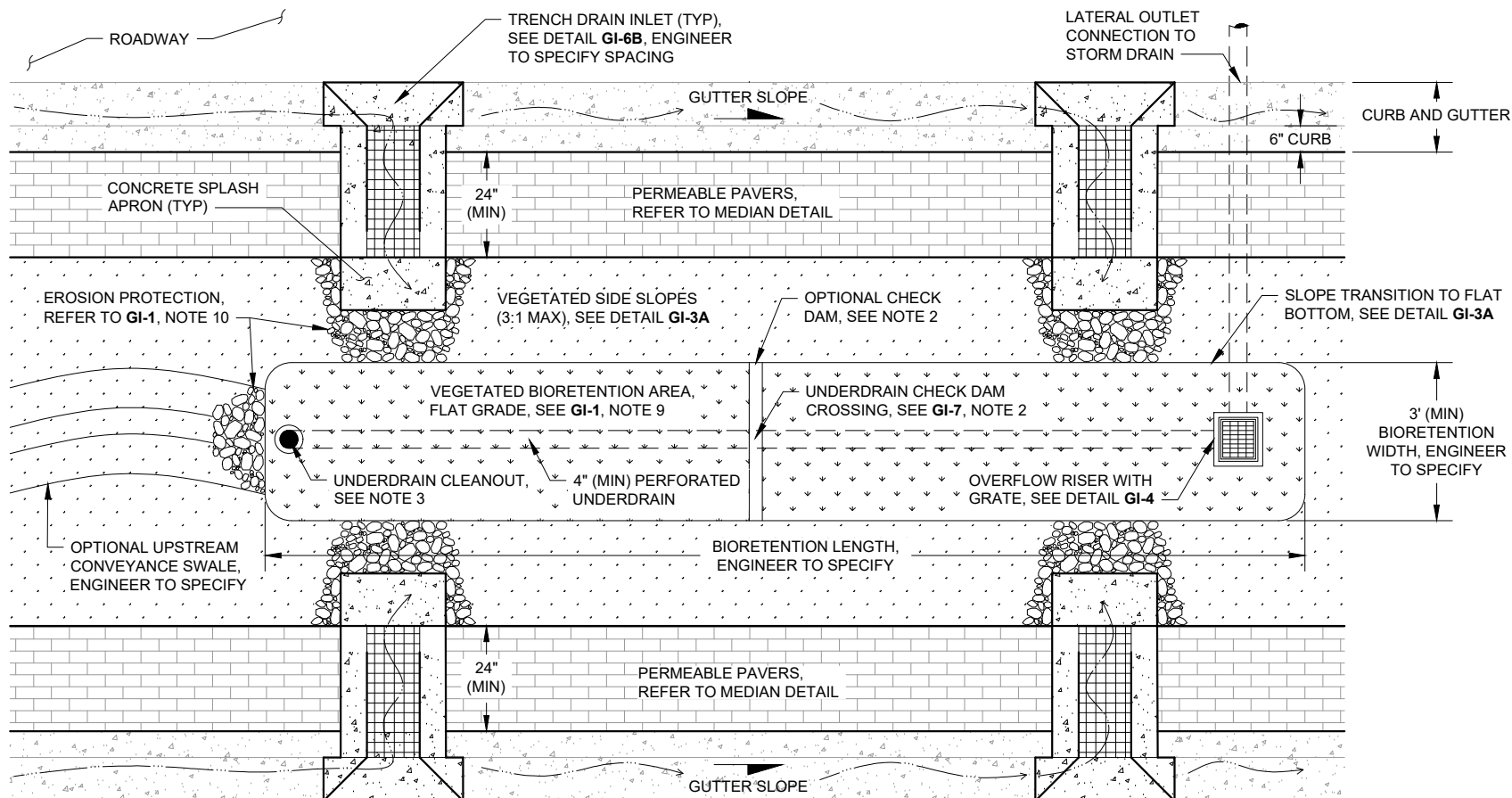
BIORETENTION AREA: BULBOUT PLAN VIEW



GREEN INFRASTRUCTURE
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ALAMEDA COUNTYWIDE CLEAN
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GI-2B



NOTES:

1. REFER TO **GI-1** NOTES FOR GUIDELINES AND CHECKLIST.
2. CHECK DAMS SHALL BE SPACED TO PROVIDE PONDING PER SITE SPECIFIC DESIGN (SEE DETAIL **GI-7**).
3. PROVIDE ONE UNDERDRAIN CLEANOUT PER BIORETENTION AREA (MIN). CLEANOUT REQUIRED AT UPSTREAM END AND PIPE ANGLE POINTS EXCEEDING 45 DEGREES. LONGITUDINAL SLOPE OF PIPE SHALL BE 0.5% (MIN).
4. DESIGNERS TO REFERENCE AASHTO ROADSIDE SAFETY DESIGN REQUIREMENTS AND CONSIDER USE OF MEDIAN BIORETENTION AREAS IN RELATION TO STREET CLASSIFICATION AND STREET SPEEDS.
5. A STORAGE VOLUME SAFETY FACTOR OF 1.5 SHALL BE INCLUDED IN THE DESIGN OF MEDIAN BIORETENTION AREAS TO PREVENT FLOODING.
6. SLOPED SIDES (**GI-3A**) DEPICTED IN PLAN VIEW ABOVE, REFER TO **GI-3B** IF VERTICAL SIDE WALLS ARE USED.

NOT FOR CONSTRUCTION



**GREEN INFRASTRUCTURE
EXAMPLE DETAILS**
ALAMEDA COUNTYWIDE CLEAN
WATER PROGRAM

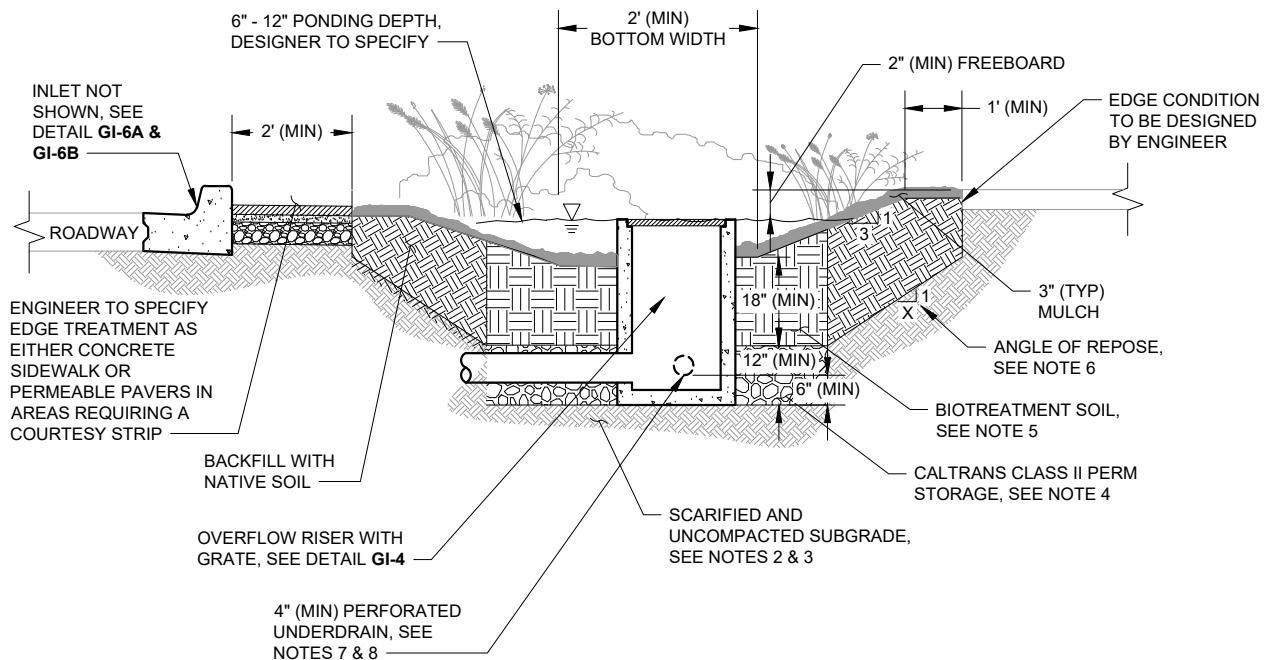
BIORETENTION AREA: STREET MEDIAN

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CHECKED BY: A. R.

GI-2C

NOTES:

1. REFER TO **GI-1** NOTES FOR GUIDELINES AND CHECKLIST.
2. AVOID UNNECESSARY COMPACTION OF EXISTING SUBGRADE BELOW AREA.
3. SCARIFY SUBGRADE TO A DEPTH OF 3" (MIN) IMMEDIATELY PRIOR TO PLACEMENT OF CALTRANS CLASS 2 PERMEABLE MATERIAL STORAGE LAYER AND BIOTREATMENT SOIL MATERIALS.
4. AGGREGATE STORAGE LAYER COMPRISED OF 12" MIN CALTRANS CLASS 2 PERMEABLE MATERIAL.
5. REFER TO C.3 TECHNICAL GUIDANCE MANUAL (ACCWP) FOR BIOTREATMENT SOIL MIX SPECIFICATIONS. INSTALL BIOTREATMENT SOIL AT 85% COMPACTION FOLLOWING BASMAA INSTALLATION GUIDANCE.
6. ANGLE OF REPOSE VARIES PER GEOTECHNICAL ENGINEER RECOMMENDATIONS.
7. UNDERDRAIN AND CLEAN OUT PIPE (1 MIN PER FACILITY) REQUIRED, REFER TO C.3 TECHNICAL GUIDANCE MANUAL (ACCWP) FOR DESIGN CONSIDERATIONS. UNDERDRAINS SHOULD BE ELEVATED 6" (MIN) WITHIN THE CALTRANS CLASS 2 PERMEABLE MATERIAL STORAGE LAYER TO PROMOTE INFILTRATION. IN FACILITIES WITH AN IMPERMEABLE LINER, THE UNDERDRAIN SHOULD BE PLACED AT THE BOTTOM OF THE CALTRANS CLASS 2 PERMEABLE MATERIAL STORAGE LAYER. PERFORATED/SLOT DRAINS SHOULD BE DOWNWARD FACING TO FACILITATE BETTER STORAGE IN THE GRAVEL LAYER.
8. THE UNDERDRAIN IN ALL FACILITIES LOCATED IN THE PUBLIC RIGHT-OF-WAY SHALL BE VIDEO RECORDED AND PROVIDED TO THE CITY FOR REVIEW PRIOR TO PROJECT ACCEPTANCE.
9. REFER TO LOCAL JURISDICTION STANDARDS FOR CURB AND SIDEWALK DETAILS.



NOT FOR CONSTRUCTION

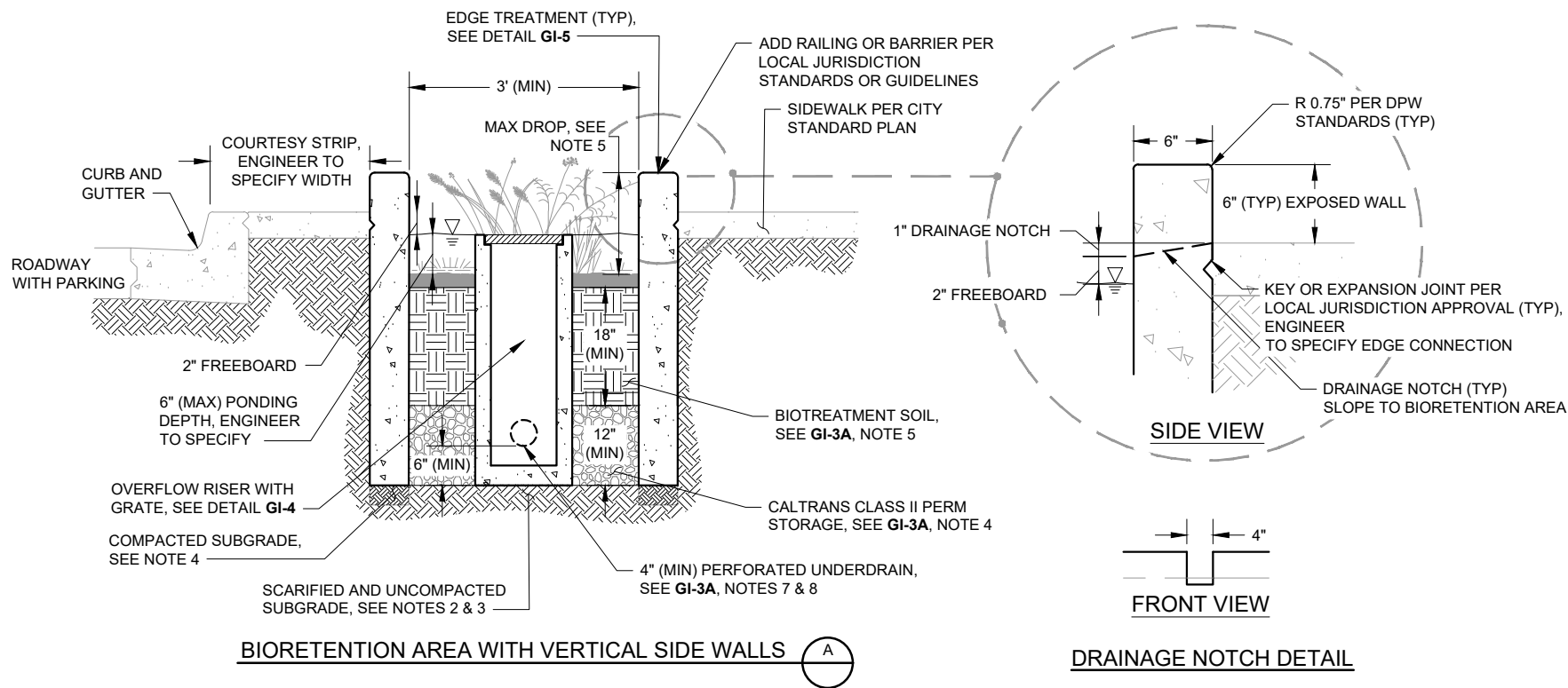
BIORETENTION AREA: SLOPED SIDES CROSS SECTION



**GREEN INFRASTRUCTURE
EXAMPLE DETAILS**
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GI-3A



BIORETENTION AREA WITH VERTICAL SIDE WALLS (A)

DRAINAGE NOTCH DETAIL

NOT FOR CONSTRUCTION

NOTES:

1. REFER TO GI-1 NOTES FOR GUIDELINES AND CHECKLIST.
2. AVOID UNNECESSARY COMPACTION OF EXISTING SUBGRADE BELOW BIORETENTION AREA.
3. SCARIFY SUBGRADE TO A DEPTH OF 3" (MIN) IMMEDIATELY PRIOR TO PLACEMENT OF AGGREGATE STORAGE AND BIOTREATMENT SOIL MATERIAL.
4. FOR STRUCTURAL SUPPORT, SUBGRADE UNDER WALLS ONLY COMPACTED PER ENGINEER SPECIFICATIONS.
5. MAXIMUM DROP, PER LOCAL BUILDING CODE, FROM TOP OF CURB TO TOP OF BIOTREATMENT SOIL SHALL INCLUDE CONSIDERATIONS FOR BIOTREATMENT SOIL SETTLEMENT. THE DROP IS THE SUM OF PONDING DEPTH (6" TYP), FREEBOARD (2" TYP), AND CURB HEIGHT (6" TYP).
6. REFER TO LOCAL JURISDICTION STANDARDS FOR CURB AND SIDEWALK DETAILS.

BIORETENTION AREA: VERTICAL SIDE WALL CROSS SECTION



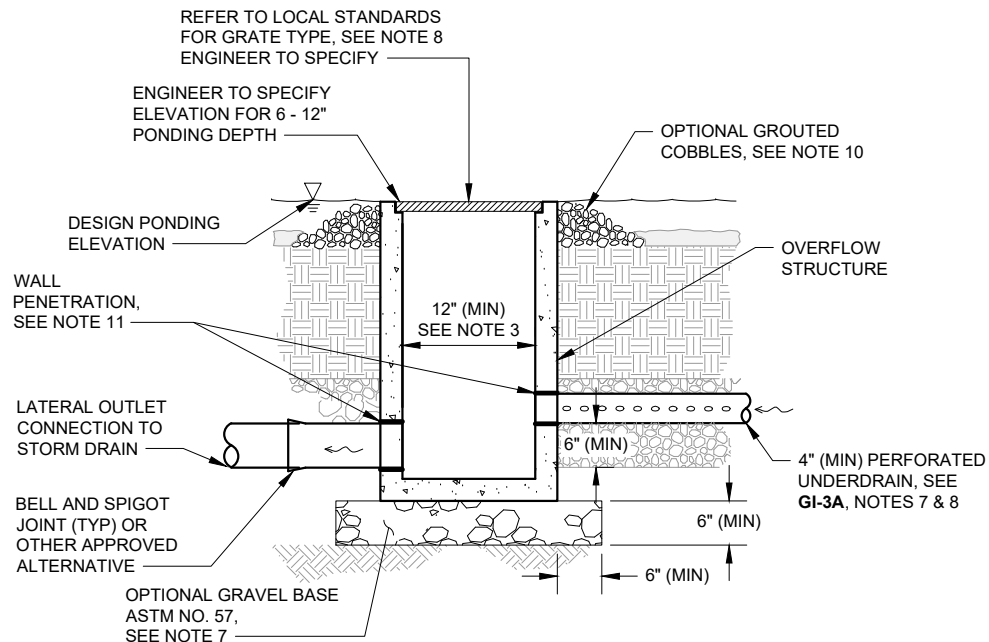
GREEN INFRASTRUCTURE
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GI-3B

NOTES:

1. REFER TO **GI-1** NOTES FOR GUIDELINES AND CHECKLIST.
2. ALL MATERIAL AND WORKMANSHIP FOR OVERFLOW STRUCTURES SHALL CONFORM TO LOCAL JURISDICTION STANDARDS.
3. DESIGN OVERFLOW WEIR AND OUTLET PIPE TO CONVEY 10-YR, 24-HR STORM FLOW OR DESIGN INLET TO DIVERT FLOWS LARGER THAN THE DESIGN STORM DIRECTLY TO THE STORM DRAIN. LOCATE ALL OVERFLOW PIPES AT AN ELEVATION HIGHER THAN THE STORM SEWER HYDRAULIC GRADE LINE TO PREVENT BACKFLOW INTO THE BIORETENTION FACILITY.
4. STORM DRAIN OUTLET PIPES SHALL BE SIZED TO MEET HYDRAULIC REQUIREMENTS WITH APPROPRIATE COVER DEPTH AND PIPE MATERIAL.
5. PERFORATED UNDERDRAINS WITH CLEANOUT PIPES ARE REQUIRED. PERFORATED/SLOT DRAINS SHOULD BE DOWNWARD FACING TO FACILITATE BETTER STORAGE IN THE GRAVEL LAYER.
6. MAINTENANCE ACCESS IS REQUIRED FOR ALL OUTLET STRUCTURES AND CLEANOUT FACILITIES. 12" (MIN) CLEARANCE WITHIN OVERFLOW STRUCTURE SHALL BE PROVIDED FOR MAINTENANCE ACCESS.
7. ENGINEER SHALL REFER TO LOCAL JURISDICTION STANDARDS AND/OR ASSESS NEED FOR GRAVEL BASE. ENGINEER SHALL EVALUATE BUOYANCY OF STRUCTURES FOR SITE SPECIFIC APPLICATION AND SPECIFY THICKENED OR EXTENDED BASE / ANTI-FLOATATION COLLAR, AS NECESSARY.
8. SIZE OF GRATE SHALL MATCH SIZE OF RISER SPECIFIED IN PLANS, SHALL BE REMOVABLE TO PROVIDE MAINTENANCE ACCESS, AND SHALL BE BOLTED IN PLACE OR OUTFITTED WITH APPROVED TAMPER-RESISTANT LOCKING MECHANISM. MAXIMUM GRATE OPENING SHALL BE 2".
9. IF INTERIOR DEPTH OF OVERFLOW STRUCTURE EXCEEDS 5', A PERMANENT BOLTED LADDER AND MINIMUM CLEAR SPACE OF 30" BY 30" SHALL BE PROVIDED FOR MAINTENANCE ACCESS.
10. MINIMUM DIAMETER OF OPTIONAL GROUDED COBBLES SHALL BE LARGER THAN MAXIMUM GRATE OPENING.
11. GROUT ALL PENETRATIONS, CRACKS, SEAMS, AND JOINTS WITH CLASS "C" MORTAR.



NOT FOR CONSTRUCTION

BIORETENTION COMPONENTS: OUTLET DETAIL



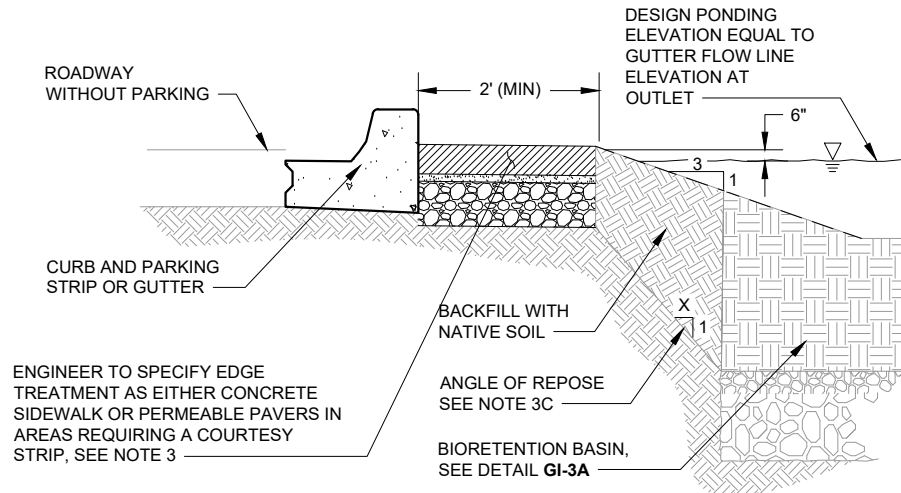
GREEN INFRASTRUCTURE
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GI-4

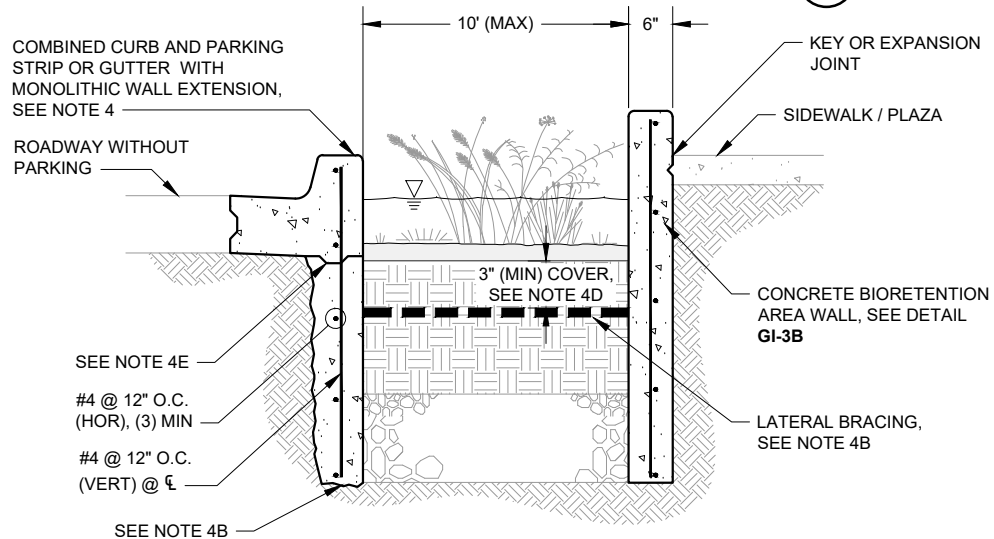
NOTES:

1. REFER TO GI-1 NOTES FOR GUIDELINES AND CHECKLIST.
2. THE ENGINEER SHALL ADAPT EDGE TREATMENT DESIGN TO ADDRESS SITE SPECIFIC CONSTRAINTS TO EFFECTIVELY STABILIZE ADJACENT PAVEMENT AND MINIMIZE LATERAL MOVEMENT OF WATER.
3. STANDARD CURB EDGE (WHEN SPACE AVAILABLE):
 - A. REFER TO LOCAL JURISDICTION STANDARDS FOR CURB AND SIDEWALK DETAILS.
 - B. ANGLE OF REPOSE VARIES PER GEOTECHNICAL ENGINEERS RECOMMENDATIONS.
4. VERTICAL SIDE WALLS (WHEN SPACE LIMITED):
 - A. ALL BIORETENTION AREA WALLS SHALL EXTEND TO BOTTOM OF AGGREGATE STORAGE LAYER OR DEEPER. MINIMUM DEPTHS SHALL BE DESIGNED TO PREVENT LATERAL SEEPAGE INTO THE ADJACENT PAVEMENT SECTION.
 - B. FOOTING AND/OR LATERAL BRACING SHALL BE DESIGNED BY THE ENGINEER TO WITHSTAND ANTICIPATED LOADING ASSUMING NO REACTIVE FORCES FROM THE UNCOMPACTED BIOTREATMENT SOIL.
 - C. BIORETENTION AREA WALLS EXTENDING MORE THAN 36" BELOW ADJACENT LOAD-BEARING SURFACE, OR WHEN LOCATED ADJACENT TO PAVERS, SHALL HAVE FOOTING OR LATERAL BRACING. FOOTING OR LATERAL BRACING MAY BE EXCLUDED ONLY IF THE ENGINEER DEMONSTRATES THAT THE PROPOSED WALL DESIGN MEETS LOADING REQUIREMENTS. WALL SHALL NOT ENCRANCH INTO TREATMENT AREA.
 - D. CONTRACTOR TO PROVIDE 3" MINIMUM COVER OVER ALL LATERAL BRACING FOR PLANT ESTABLISHMENT.
 - E. ALL CONSTRUCTION COLD JOINTS SHALL INCORPORATE EPOXY, DOWEL/TIE BAR, KEYWAY, OR WATER STOP.



STANDARD CURB EDGE AT BIORETENTION BASIN

1



EXTENDED BIORETENTION AREA WALL WITH LATERAL BRACING

2

NOT FOR CONSTRUCTION

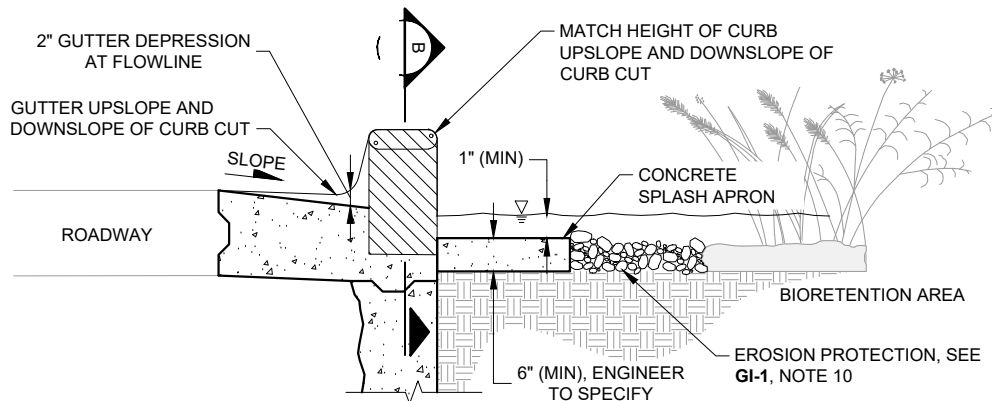
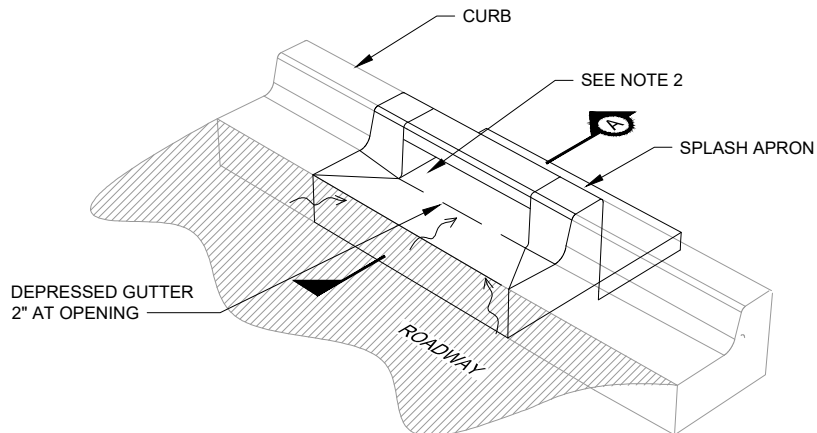


BIORETENTION COMPONENTS: EDGE TREATMENT DETAIL

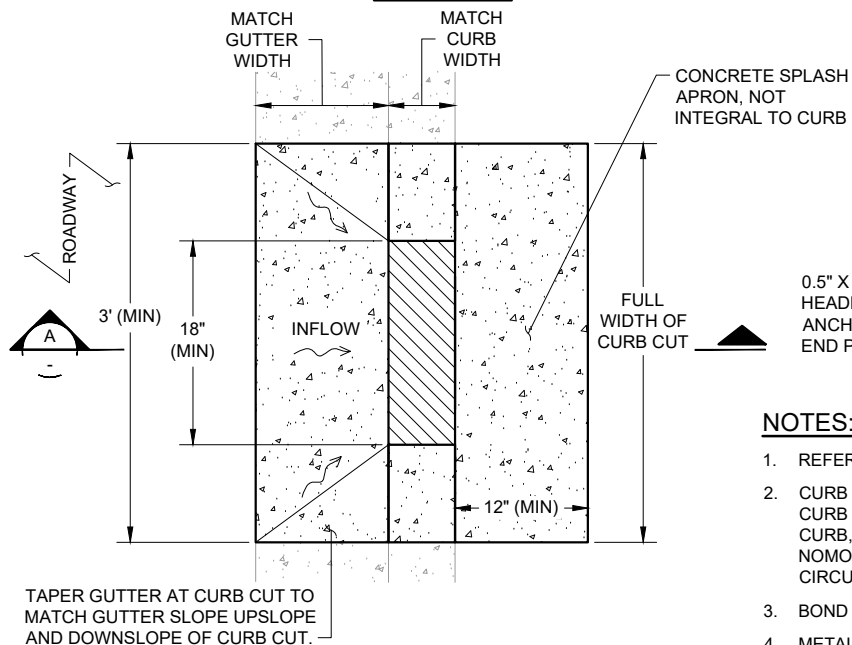
GREEN INFRASTRUCTURE
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GI-5



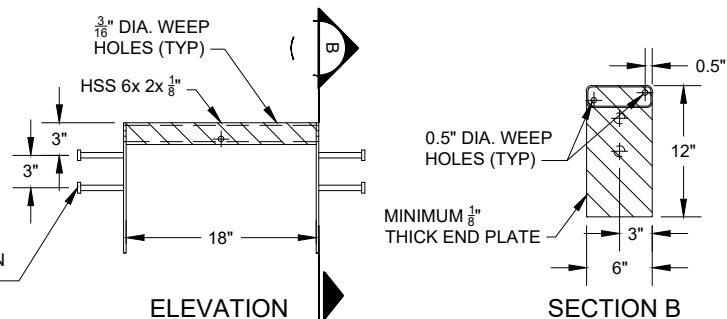
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PLAN

SECTION A

METAL INLET ASSEMBLY



NOTES:

1. REFER TO GI-1 NOTES FOR GUIDELINES AND CHECKLIST.
2. CURB CUT INLETS SHALL BE ADEQUATELY SIZED, SPACED, AND SLOPED TO MEET HYDRAULIC REQUIREMENTS. THE CURB CUT OPENING WIDTH SHALL BE SIZED BASED ON THE CATCHMENT AREA, LONGITUDINAL SLOPE ALONG THE CURB, AND THE CROSS SLOPE OF THE GUTTER OR ADJACENT PAVEMENT AT THE INLET. SEE SIZING EQUATIONS AND NOMOGRAPHS FOR CURB OPENING INLETS IN THE U.S. DEPARTMENT OF TRANSPORTATION HYDRAULIC ENGINEERING CIRCULAR NO. 27.
3. BOND NEW CURB AND GUTTER TO EXISTING CURB AND GUTTER WITH EPOXY AND DOWEL CONNECTION.
4. METAL INLET ASSEMBLY SHALL BE HOT-DIP GALVANIZED IN ACCORDANCE WITH ASTM A-123.

NOT FOR CONSTRUCTION

BIORETENTION COMPONENTS: GUTTER CURB CUT INLET DETAIL



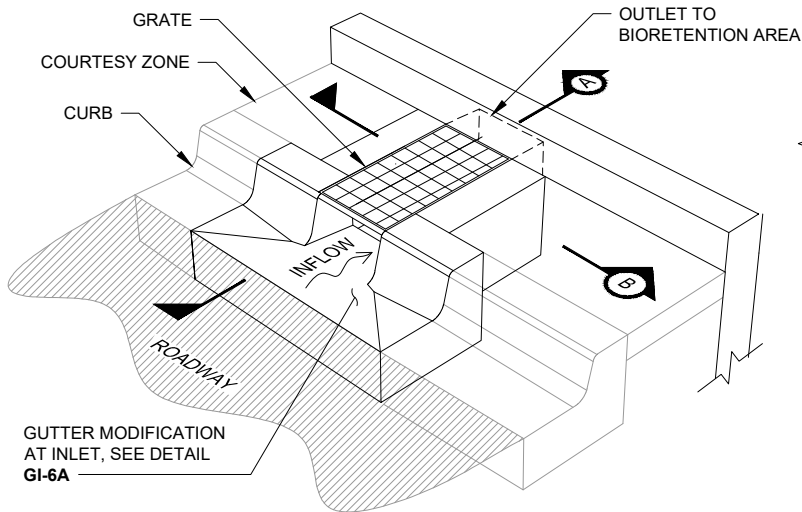
GREEN INFRASTRUCTURE
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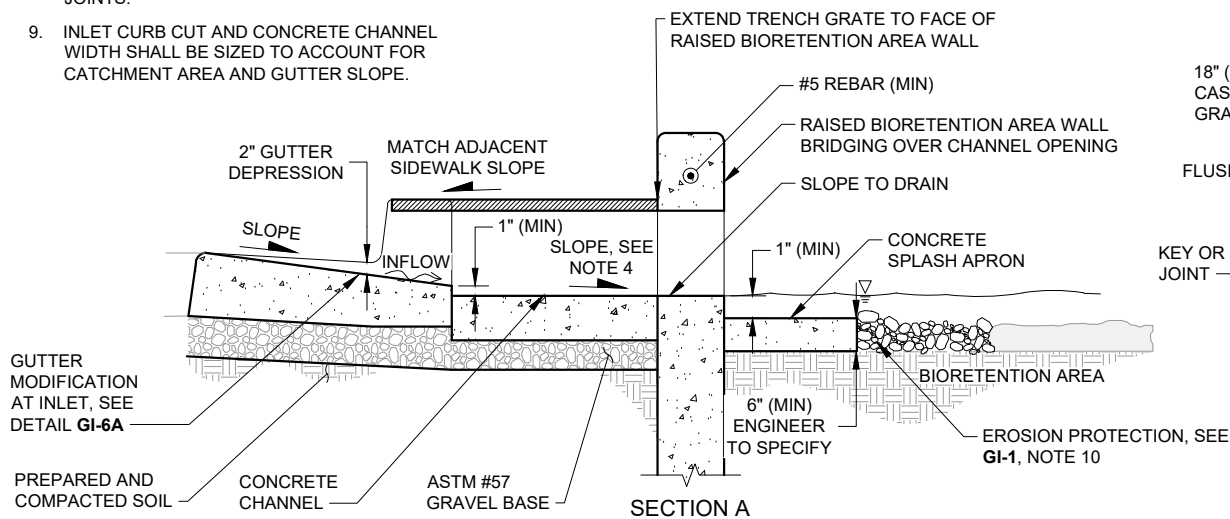
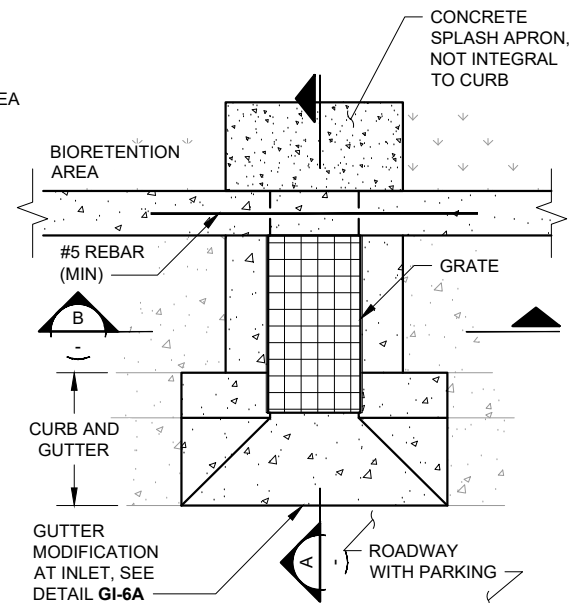
GI-6A

NOTES:

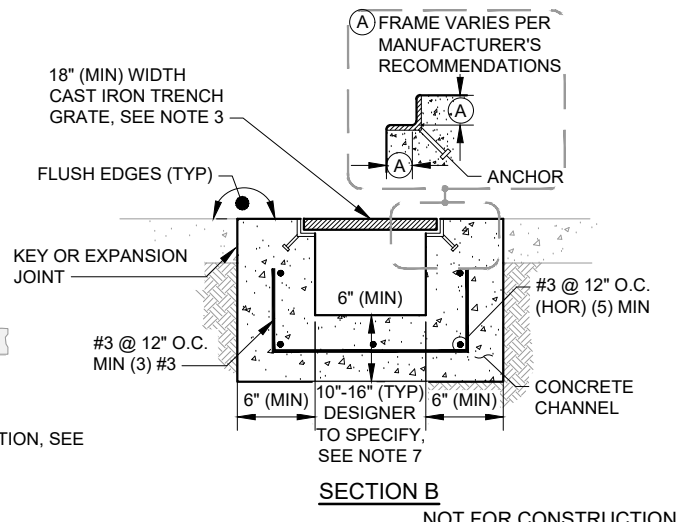
1. REFER TO GI-1 NOTES FOR GUIDELINES AND CHECKLIST.
2. ALL MATERIAL AND WORKMANSHIP FOR TRENCH DRAIN ASSEMBLY SHALL CONFORM TO LOCAL JURISDICTION STANDARDS.
3. TRENCH DRAIN INLETS SHALL BE ADEQUATELY SIZED, SPACED, AND SLOPED TO MEET HYDRAULIC REQUIREMENTS. SEE NOTE 2 DETAIL GI-6A FOR REFERENCE.
4. SLOPE TO PROVIDE AT LEAST 1" DROP OVER LENGTH OF CHANNEL OR A MINIMUM OF 2%, WHICHEVER IS LARGER.
5. ALL TRENCH GRATES SHALL BE REMOVABLE, RATED PER THE ANTICIPATED LOADING, AND BOLTED IN PLACE OR OUTFITTED WITH APPROVED TAMPER-RESISTANT LOCKING MECHANISM, FLUSH OR RECESSED IN GRATE.
6. BOND NEW CURB AND GUTTER TO EXISTING CURB AND GUTTER WITH EPOXY AND DOWEL CONNECTION.
7. HORIZONTAL CONTROL JOINTS SHALL BE PROVIDED EVERY 10' (LINEAR), OR PER MANUFACTURER'S RECOMMENDATIONS.
8. APPLY EPOXY BONDING AGENT AT ALL TRENCH DRAIN CONSTRUCTION COLD JOINTS.
9. INLET CURB CUT AND CONCRETE CHANNEL WIDTH SHALL BE SIZED TO ACCOUNT FOR CATCHMENT AREA AND GUTTER SLOPE.



ISOMETRIC



SECTION A



SECTION B

NOT FOR CONSTRUCTION

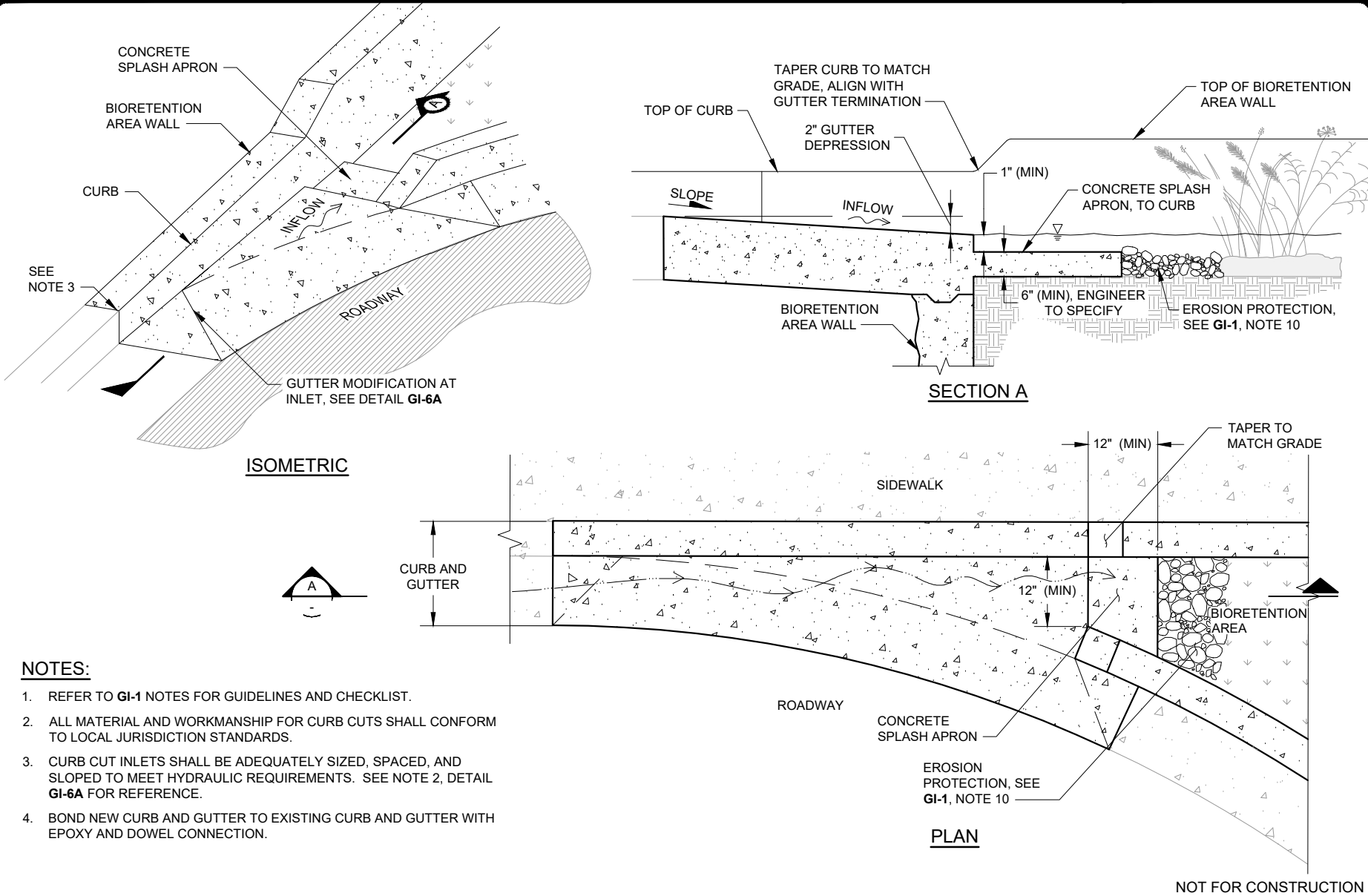
BIORETENTION COMPONENTS: TRENCH DRAIN CURB CUT INLET DETAIL



GREEN INFRASTRUCTURE
EXAMPLE DETAILS
ALAMEDA COUNTYWIDE CLEAN
WATER PROGRAM

SCALE: NOT TO SCALE
DATE: MAY 11, 2018 REVISED: JUNE 11, 2019
DRAWN BY: K. K. REVISED BY: E.F.
CHECKED BY: A. R.

GI-6B



NOTES:

1. REFER TO GI-1 NOTES FOR GUIDELINES AND CHECKLIST.
2. ALL MATERIAL AND WORKMANSHIP FOR CURB CUTS SHALL CONFORM TO LOCAL JURISDICTION STANDARDS.
3. CURB CUT INLETS SHALL BE ADEQUATELY SIZED, SPACED, AND SLOPED TO MEET HYDRAULIC REQUIREMENTS. SEE NOTE 2, DETAIL GI-6A FOR REFERENCE.
4. BOND NEW CURB AND GUTTER TO EXISTING CURB AND GUTTER WITH EPOXY AND DOWEL CONNECTION.

NOT FOR CONSTRUCTION

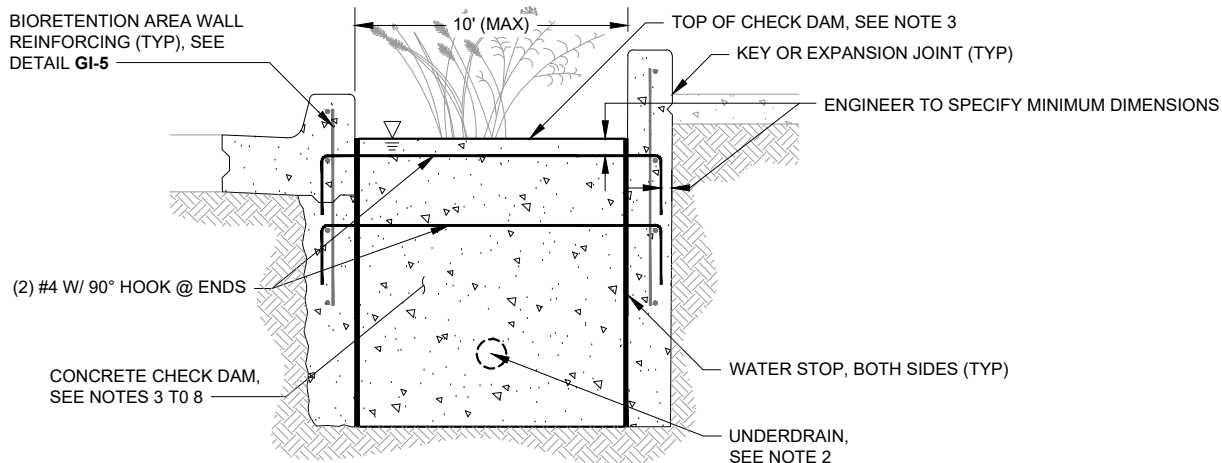
BIORETENTION COMPONENTS: CURB CUT AT BULBOUT INLET DETAIL



GREEN INFRASTRUCTURE
EXAMPLE DETAILS
ALAMEDA COUNTYWIDE CLEAN
WATER PROGRAM

SCALE: NOT TO SCALE	
DATE: MAY 11, 2018	REVISED: JUNE 11, 2019
DRAWN BY: K. K.	REVISED BY: E. F.
CHECKED BY: A. R.	

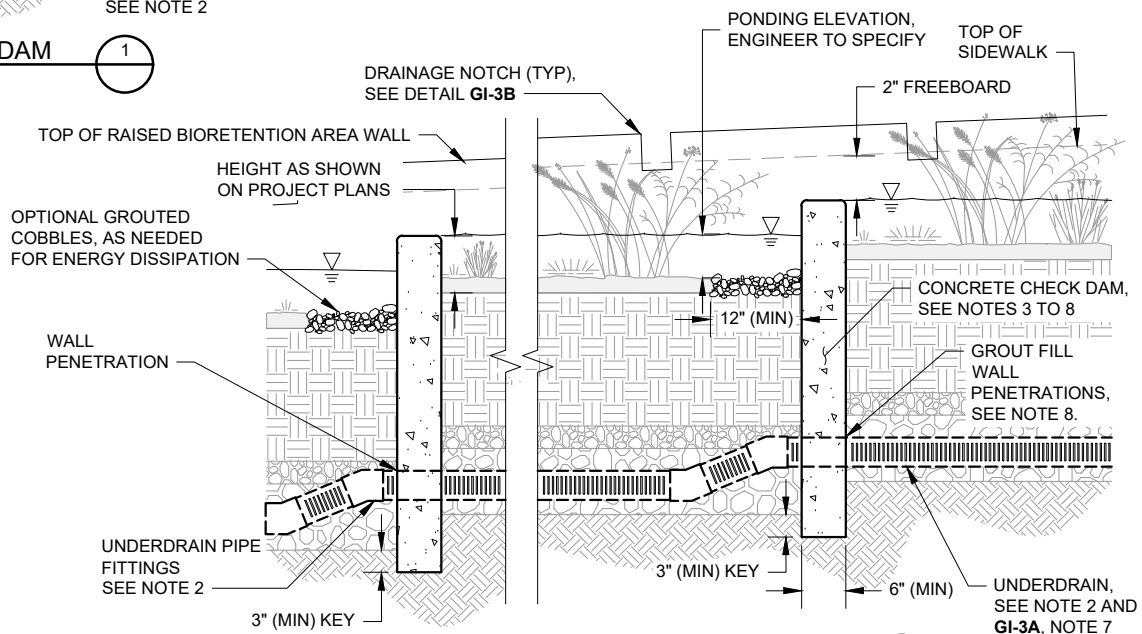
GI-6C



SECTION - CONCRETE CHECK DAM (1)

NOTES:

1. REFER TO GI-1 NOTES FOR GUIDELINES AND CHECKLIST.
2. UNDERDRAIN TO PASS THROUGH CHECK DAM IN NON-PERFORATED PIPE. PIPE FITTINGS SHALL BE USED TO ACCOMMODATE CHANGES IN GRADE, AS NEEDED.
3. HEIGHT AND SPACING OF CHECK DAMS SHALL BE ESTABLISHED BASED ON THE PONDING DEPTH REQUIRED TO MEET PROJECT HYDROLOGIC PERFORMANCE GOALS AND THE MAXIMUM DESIRED DROP FROM THE SURROUNDING GRADE TO THE FACILITY BOTTOM.
4. ALL MATERIAL AND WORKMANSHIP FOR CHECK DAM ASSEMBLY SHALL CONFORM TO LOCAL JURISDICTION STANDARD SPECIFICATIONS.
5. CONCRETE CHECK DAM SHALL BE CONTINUOUS (NO JOINTS) AND REINFORCED WITH #4 BAR, PLACED AT 18" ON CENTER, EACH WAY.
6. CONCRETE CHECK DAM SHALL BE DESIGNED BY THE ENGINEER AND MEET STRUCTURAL REQUIREMENTS FOR LATERAL BRACING WHEN USED AS LATERAL BRACING.
7. TOP OF CHECK DAM TO BE LEVEL WITH CREST ELEVATION MATCHING PONDING ELEVATION UNLESS NOTCH SIZED TO CONVEY DESIGN FLOWS PROVIDED.
8. GROUT ALL PENETRATIONS, CRACKS, SEAMS, AND JOINTS WITH CLASS "C" MORTAR.



PROFILE - CONCRETE CHECK DAM (2)

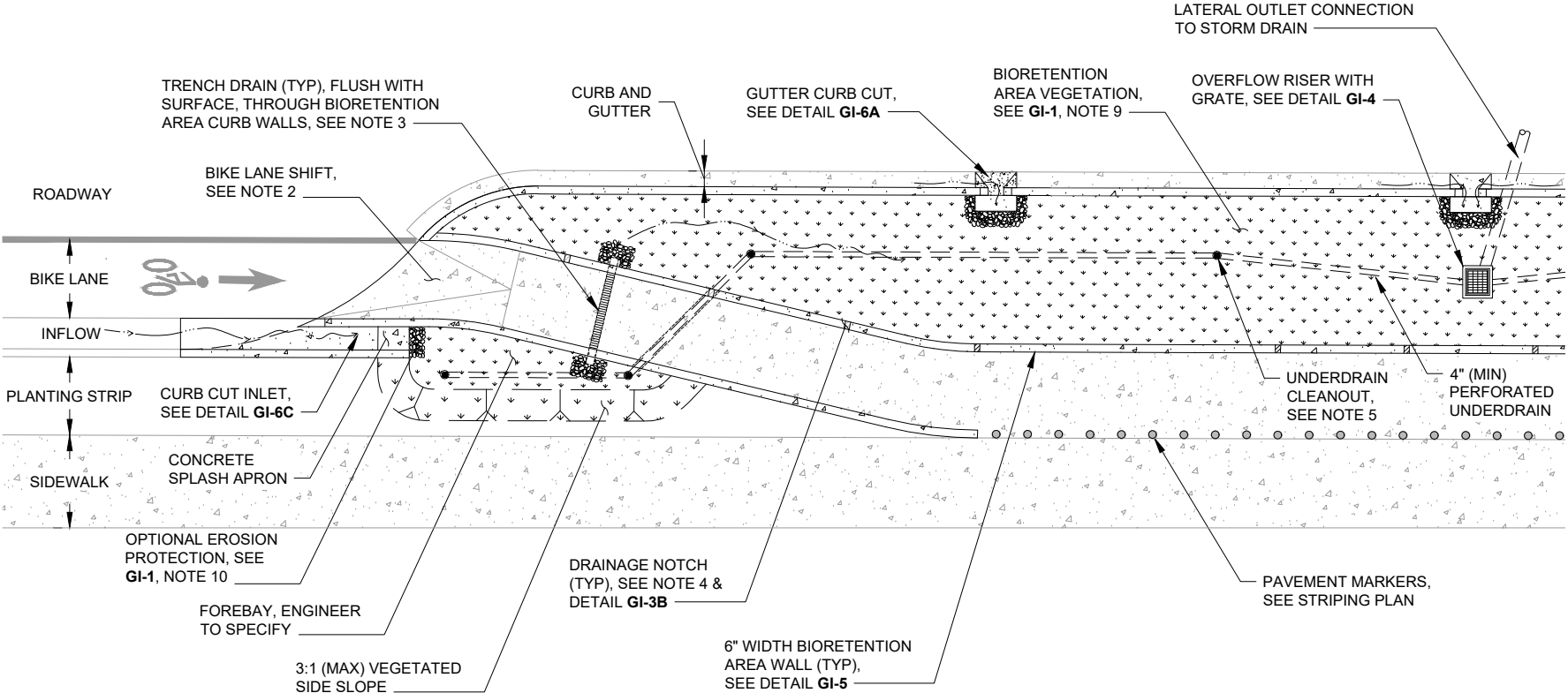
NOT FOR CONSTRUCTION

BIORETENTION COMPONENTS: CHECK DAM DETAIL

GREEN INFRASTRUCTURE
EXAMPLE DETAILS
ALAMEDA COUNTYWIDE CLEAN
WATER PROGRAM

SCALE: NOT TO SCALE
DATE: MAY 11, 2018 REVISED: JUNE 11, 2019
DRAWN BY: K. K. REVISED BY: E. F.
CHECKED BY: A. R.

GI-7



NOTES:

1. REFER TO GI-1 NOTES FOR GUIDELINES AND CHECKLIST.
2. RAMP BIKE LANE UP ONTO BULBOUT AND SHIFT LANE OVER. MAXIMUM 1:5 HORIZONTAL TRANSITION RATE. TRANSITION GEOMETRY SHALL CONFORM TO LOCAL JURISDICTION STANDARDS.
3. HYDRAULIC CONNECTION OF SEPARATED BIORETENTION AREAS PROVIDED BY TRENCH DRAINS. ENGINEER TO SPECIFY, FOLLOWING FLOW AND STRUCTURAL REQUIREMENTS.
4. LAY OUT DRAINAGE NOTCHES AS APPLICABLE TO PREVENT PONDING BEHIND BIORETENTION AREA WALL WITH 5' MAXIMUM SPACING BETWEEN NOTCHES.
5. PROVIDE ONE UNDERDRAIN CLEANOUT PER BIORETENTION AREA (MIN). CLEANOUT REQUIRED AT UPSTREAM END AND PIPE ANGLE POINTS EXCEEDING 45 DEGREES. LONGITUDINAL SLOPE OF PIPE SHALL BE 0.5% (MIN). PIPE SLEEVES REQUIRED FOR UNDERDRAINS TRANSITIONING BETWEEN BIORETENTION AREAS.
6. DRAWING GI-XX MODIFIED FROM THE BASMAA URBAN GREENING BAY AREA TYPICAL GI DETAILS FIGURE C-1.4.

NOT FOR CONSTRUCTION

BIORETENTION AREA: WITH BIKE LANE PLAN VIEW



**GREEN INFRASTRUCTURE
EXAMPLE DETAILS**
ALAMEDA COUNTYWIDE CLEAN
WATER PROGRAM

SCALE: NOT TO SCALE	
DATE: MAY 11, 2018	REVISED: JUNE 11, 2019
DRAWN BY: K. K.	REVISED BY: E. F.
CHECKED BY: A. R.	

GI-8

Attachment C-5: Capital Improvement Projects Sign-off Form

The Clean Water Program's Capital Improvement Projects Sign-off Form is provided on the following page.

How to Use the

C.3 Stormwater Compliance Sign-off Form for Capital Improvement Program (CIP) Projects

Introduction

The attached checklist is for Alameda Countywide Clean Water Program (Clean Water Program) member agencies to document that capital improvement program (CIP) projects either are exempt or have complied with the requirements for C.3 Regulated Projects, as defined in Provision C.3.b of the Municipal Regional Stormwater Permit (MRP), issued by the San Francisco Bay Regional Water Quality Control Board on November 19, 2015.

Step-by-Step Instructions

1. Fill out the project information at the top of the form (Project Name, Address, etc.)
2. Review the project description and the square footage of impervious surfaces that will be created and/or replaced by the project to determine whether the project may meet any of the conditions identified in the form, under the heading, "Project is NOT a C.3 Regulated Project and the Review of GI Potential Is Documented." If the project meets any of those conditions, check the appropriate box (or boxes).
 - ▶ If one or more boxes are checked, the project is NOT a C.3 Regulated Project. Continue to Step 3.
 - ▶ If no boxes are checked, the project IS a C.3 Regulated Project. Skip to Step 4.
3. Refer to the Clean Water Program's Worksheet for Identifying GI Potential in Municipal CIP Projects¹ (or your agency's equivalent worksheet or form) to evaluate the project for the potential to include green infrastructure (GI). In the C.3 Stormwater Compliance Sign-off Form for CIP Projects, under the subheading, "Green Infrastructure Potential Review," check the box to indicate the name of the worksheet or form that was used for this review, and indicate the date on which the worksheet or form was completed.
 - ▶ Skip to Step 5.
4. Refer to the project's stormwater control plan, construction documents, and/or other project documentation, such as a completed Stormwater Requirements Checklist², to determine whether the requirements for C.3 Regulated Projects have been met. If all requirements have been met, including the hydromodification management (HM) requirements in Provision C.3.g (if applicable) and the documentation of operation and maintenance responsibility as required by Provision C.3.h.ii.(1), check the box to indicate the name of the applicable document(s), and write the date of the document(s).
 - ▶ Continue to Step 5.
5. Sign and date the completed C.3 Stormwater Compliance Sign-off Form for CIP Projects.

¹ The worksheet is available on the New Development Subcommittee's members only website at: <https://cleanwaterprogram.org/index.php/committees/new-development-committee.html>.

² The checklist is available on the Clean Water Program's public website at: <https://cleanwaterprogram.org/>. Click on "Resources," then "Development," and scroll down to "Stormwater Requirements Checklist."



C.3 Stormwater Compliance Sign-off Form for Capital Improvement Program (CIP) Projects

This form references Provision C.3 of the Municipal Regional Stormwater Permit (MRP), issued by the San Francisco Bay Regional Water Quality Control Board on November 19, 2015.

Project Name: _____

Project Address: _____ APN: _____

Contact Person: _____

Contact Phone: _____ Contact Email: _____

Project is NOT a C.3 “Regulated Project” and the Review of “GI Potential” Is Documented.

C.3 “Regulated Project” Review

The project is NOT a C.3 “Regulated Project” based on the Regulated Project definitions in Provision C.3.b as indicated below. Please check the applicable box(es):

- Project would create and/or replace less than 5,000 square feet of impervious area.
 - Project would create and/or replace less than 10,000 square feet of impervious area **AND** project does not include auto service/maintenance facilities, restaurants, uncovered parking areas (stand-alone or as part of a larger project), or structures with rooftop parking.
 - Project is a Road Project **AND** project would construct less than 10,000 square feet of new contiguous impervious area when the following are excluded from the calculation:³
 - Sidewalks built as part of new streets or roads that direct stormwater runoff to adjacent vegetated areas.
 - Bicycle lanes built as part of new streets or roads that are not hydraulically connected to the new streets or roads and that direct stormwater runoff to adjacent impervious areas.
 - Impervious trails that are:
 - A. less than 10 feet wide and more than 50 feet away from the top of a creek bank.
- OR
- B. designed to direct stormwater runoff to adjacent vegetated areas or other non-erodible permeable areas (preferably away from creeks or towards the outboard side of levees).
 - Sidewalks, bicycle lanes, or trails constructed with permeable surfaces (pervious concrete, porous asphalt, unit pavers, or granular materials).
 - Caltrans highway projects and associated facilities.
 - Project consists of interior remodel.
 - Project consists of routine maintenance and repairs (e.g., roof replacement, replacement of exterior wall surface, and/or pavement resurfacing) within the existing footprint.

³ When calculating the impervious area of a Road Project, include all roadway surfaces related to creation of additional traffic lanes (including, for example, passing lanes and turning pockets). Shoulders and widened portion of existing lanes may be excluded from the calculation.

“Green Infrastructure (GI) Potential” Review

Capital improvement program (CIP) projects that are NOT C.3 Regulated Projects must be reviewed to determine whether they have green infrastructure (GI) potential, as required in Provision C.3.j.ii.(2). When conducting these reviews, agencies should follow the Bay Area Municipal Stormwater Management Agencies Association’s (BASMAA) Guidance for Identifying GI Potential in Municipal CIP Projects. One way to follow this guidance is to use the Clean Water Program’s Worksheet for Identifying GI Potential in Municipal CIP Projects. These documents can be downloaded from www.cleanwaterprogram.com (click “Resources,” then “Development”). Please attach documentation to demonstrate that the project was reviewed for GI potential.

The non-C.3 Regulated Project has been reviewed for GI potential as shown in the following document(s):

- Worksheet for Identifying GI Potential in Municipal CIP Projects, dated: _____
- Other documentation (describe): _____

Project IS a C.3 “Regulated Project” — Compliance Documented.

The C.3 Regulated Project has met all requirements for C.3 Regulated Projects as shown in the following documents:

- Stormwater Control Plan, dated: _____
- Construction Documents, dated: _____
- Other documentation (describe): _____

Signature

Date

Name

Title

Appendix D

MWH Evaluation of Stormwater Program Funding Options

MEMORANDUM



To: Timothy Burroughs, Chief Resilience Officer, City of Berkeley

Date: February 10, 2016

From: Loren Labovitch, MWH Global

Coauthors Matthew Freiberg, Daniel Cheng, Mark Hildebrand

Subject: Berkeley Stormwater Financing Memo

1. Introduction

In 2015 MWH formed a platform partnership with the 100 Resilient Cities Initiative (100RC), sponsored by the Rockefeller Foundation. As part of this partnership, MWH and its management consulting subsidiary, Hawksley Consulting, is assisting the City of Berkeley (City) with developing resilience around its Stormwater Program. A portion of this work involves the identification of funding options for the City's Stormwater Program.

Problem Statement - Berkeley's Stormwater Program, like many such programs in California, has become increasingly expensive as NPDES permits require increasingly restrictive pollutant discharge limits. These new limits are requiring most stormwater utilities to invest in infrastructure and provide higher service levels. The City's ability to satisfy these new regulatory requirements is undermined by regular budgetary shortfalls in the City's Clean Stormwater Fund. The financial constraints have made meeting basic operation and maintenance (O&M) requirements and regulatory standards challenging, as well as impacting the City's ability to manage and address flooding, water pollution, road and trail washout, and other infrastructure upkeep.¹ Often funding only comes on the heels of an emergency or a mandate which forces a community to take action. In the City of Berkeley, the issue of managing a sustainable stormwater program is complicated by slowly growing revenues and increasing regulatory demands.

The current financial state of the City's Stormwater Program is placing Berkeley in a precarious position for meeting its regulatory requirements and achieving its overall resiliency goals. Deferred maintenance of stormwater infrastructure makes the city vulnerable to flooding and could lead to degradation of water quality.

As such, the City's Stormwater Program is faced with the challenge of either continuing to defer maintenance and risk noncompliance with new regulations, creating a new source of funding, or

¹ Personal communication with Timothy Burroughs, City of Berkeley Chief Resilience Officer on 9/30/15



“doing more with less”. This memorandum provides a financial snapshot of the City’s Stormwater Program and explores available options for securing additional funding in the future.

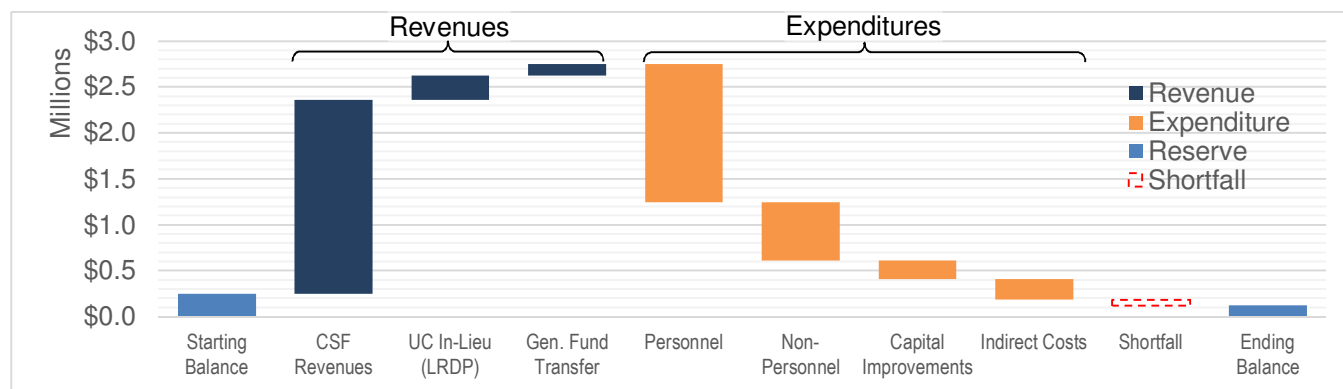
2. Current Stormwater Program Funding

The City’s storm drain system and watersheds are managed by the Department of Public Works. Maintenance of the 78 miles of Stormwater system infrastructure is managed by the Streets and Utilities Division. Any capital improvements are delivered by the Engineering Division’s Stormwater and Creeks/Watershed Management unit². The City’s Clean Stormwater Fund (CSF), which provides funding for the maintenance and improvement of the City’s storm water drainage system, is currently funded from three sources³:

1. **Clean Stormwater Fund Revenues** – Fees are assessed to property owners that contribute to stormwater runoff. The fee is currently set at a flat \$34 annual rate (collected annually on property tax bills), as adopted by voters in 1996 through a Proposition 218 (Prop. 218) process.
2. **UC Long Range Development Plan** – The University of California at Berkeley currently contributes approximately \$250,000 as part of its Long Range Development Plan (LRDP).
3. **General Fund Transfer** – In the past the City has provided a \$700,000 annual transfer from its General Fund to support the Stormwater Program. This practice ended in FY 2013, but the City has proposed plans to reinstate \$130,000 annually starting in FY 2016⁴.

Figure 1 shows the CSF cash flow in FY 2016. The Clean Stormwater Fund revenues are balanced through FY 2017 to support basic storm drain maintenance; however, multiple years of annual revenue shortfalls will result in a negative program balance in FY 2018⁴.

Figure 1: City of Berkeley Clean Stormwater Fund Balance (FY 2016)⁴



² Proposed Biennial Budget (FY 2016-2017), City of Berkeley

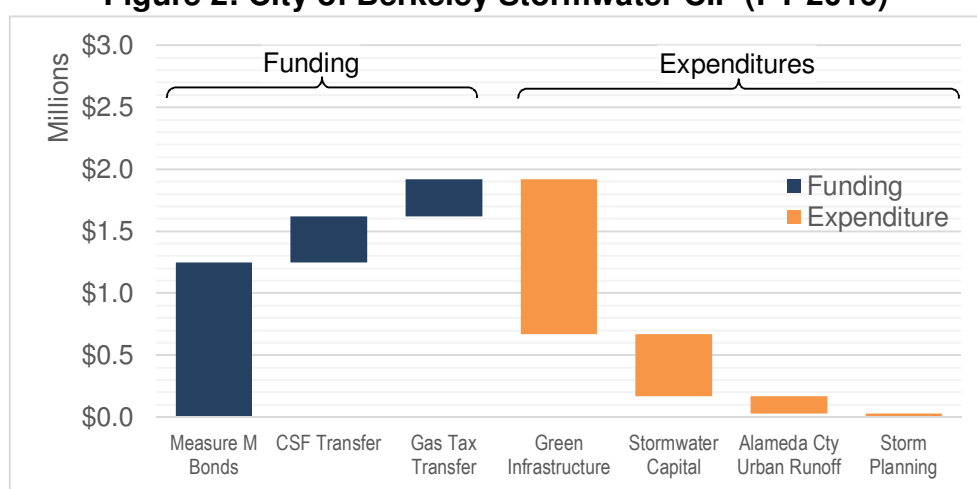
³ Proposed Capital Improvement Program (FY 2016-2017), City of Berkeley

⁴ Proposed Biennial Budget (FY 2016-2017), City of Berkeley



As shown in Figure 1, only a fraction of the CSF is used to fund the City's Stormwater Capital Improvement Program (CIP)⁵. Currently the CIP is largely funded by proceeds from Measure M bonds, as well as a surplus gas tax transfer from the Streets Program. Figure 2 shows the FY 2016 sources of funding and spending for the Stormwater CIP. It should be noted that Measure M funding will be exhausted in 2019. Measure M, passed during the 2012 voting cycle is currently in effect, and includes funding for green infrastructure projects that provide stormwater management benefits. While the City has been able to implement some green infrastructure projects using Measure M funding, the majority of the funding has been utilized by the Streets Program to address much-needed pavement condition improvement needs.

Figure 2: City of Berkeley Stormwater CIP (FY 2016)⁶



The City's current Watershed Management Plan⁷ (WMP) was adopted by City Council in 2012. The WMP establishes an integrated and sustainable strategy for managing urban water resources and addresses water quality, flooding, and the preservation of local creek habitat and the San Francisco Bay. The WMP also identifies capital improvement projects and projected revenue needs for all City watersheds, totaling ~\$37 million over the next 5 years to fully fund the envisioned plan (\$7.5 million in FY 2016 alone).

The WMP proposed a scaled approach to funding the City's Stormwater Program. The size of programs and projects would be tailored to match four levels of available funding, with Level 4 corresponding to the largest available budget and most comprehensive scope of work. Between 2012 and 2015 funding for the Stormwater Program has stayed *near the most basic level*. Consequently, most of the maintenance for the existing stormwater infrastructure has been

⁵ Proposed Capital Improvement Program (FY 2016-2017), City of Berkeley

⁶ Proposed Capital Improvement Program (FY 2016-2017), City of Berkeley

⁷ 2012 Watershed Management Plan (City of Berkeley)

[https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3 - Sewers - Storm/WatershedMgtPlan_2011October_Version1.0.pdf](https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Sewers_-_Storm/WatershedMgtPlan_2011October_Version1.0.pdf)



deferred. Going forward, the availability of secured funding deteriorates as the Measure M Bond is set to expire in 2019.

3. Stormwater Funding Options

Funding stormwater programs is a challenge throughout the US, but in California the challenge is further complicated by Prop. 218, a constitutional amendment adopted in 1996 that has procedural and substantive requirements for property-related fees, such as stormwater management fees. The procedural element requires that new or increased property-related fees for services (other than water, sanitary sewer and trash services) be approved by a super majority of property owners (or 2/3 of registered participating voters). Prior to the election, a majority protest hearing, after 45 days' mailed notice to affected property owners, is also required.

Obtaining voter approval for fee increases poses a particular challenge to stormwater utilities because, unlike many other utility services, it cannot be metered and the service often goes unseen to the untrained eye. Since customers often do not understand the need for this service and may even view it as a “rain tax,” it is often a challenge to get voter support for new or increased stormwater fees.

There is no “silver bullet” to obtaining stormwater funding. However, the following sections provide a list of rate, grant, and debt financing mechanisms that if used alone or in combination may increase the funding of the CSF and Stormwater CIP.

3.1. Funding Sources

The following sections provide a list of funding mechanisms for the CSF. While not all of these options are necessarily recommended, they have been included to demonstrate the breadth of the options that were considered, as well as to give context to the final recommendation

We have assumed that, at a minimum, the City will retain the \$34 Clean Stormwater Fund Flat Fee that is currently assessed to property owners.

3.1.1. Increase Existing Clean Stormwater Fund Flat Fee

A new stormwater fee, adopted within the requirements of Prop. 218, could replace the existing Stormwater Charge. The new rate structure would be supported by an Engineers Report, which would demonstrate that the charge complies with Prop. 218 proportionality requirements, such as assigning the stormwater charges based on the impervious surface of each parcel.

There are multiple approaches to designing stormwater fees that are consistent with Prop. 218 requirements. One example is to allocate costs based on the type and concentration of pollutants that is typically found in the runoff from certain types of land use. This approach would require a complex cost-of service analysis that would consider the specific costs of the Stormwater Program's elements, including the costs associated with remediating each of the



NPDES' pollutants of concern. Less complex approaches could include allocating costs based on impervious surface, property size, or simply by parcel.

Pro & Cons – A new stormwater fee, vetted through the Prop. 218 process, would establish a charge that has a clear nexus with the cost of providing stormwater service to each respective property owner. If adopted, the new fee could include automatic annual rate adjustments based on cost indices for up to 5 years. The drawback to this option, and any option where a new fee is created, is the requirement for voter approval, the cost of designing the new rates, the cost carrying out the election process, and the risk of the expenses if voters do not approve the proposed rates.

Examples – Los Angeles County Flood Control District Clean Water, Clean Beaches Measure and Santa Monica Clean Beaches and Ocean Parcel Tax. In Southern California, many cities and counties are using the Prop. 218 process to generate new revenue to fund their Stormwater Programs. These two examples levied property related water quality fees to finance water quality improvement projects and programs. Their core messaging linked the Stormwater Program to the protection of their shoreline. The City of Berkeley could use a similar approach to promote the multiple benefits of their Stormwater Program⁸.

3.1.2. Transfers from the General Fund

The City has the option to increase its CSF funding with money from the City's General Fund. The General Fund's source of revenue includes property taxes, local income tax, general sales tax, franchise fees and other miscellaneous sources. The previous General Fund supplement for the CSF which ended in FY 2013 could be reinstated. This would be in addition to the City's plans to begin an annual transfer of \$130,000 in FY 2016 for emergency storm response⁹.

Pro & Cons – We assume that relying on additional General Fund monies is not feasible. The City's priorities may evolve over time, resulting in future transfers away from the Stormwater Program. In addition, General Fund allocations are often subject to an annual budgetary process, and are therefore not a secure source of revenue.

3.1.3. Transfers from Other City Utilities and Funds

Fund transfers from other utilities are lawful to the extent that it can be shown that the operations of a utility impose costs on, or receive benefits from, related Stormwater Program services. The transfers cannot exceed those designated costs/benefits. In theory, such utilities may include potable water, solid waste (trash), sewer, and others. For example, it could be argued that the solid waste utility bears responsibility, at least in part, for the litter that needs to

⁸ Stormwater Funding Options, Providing Sustainable Water Quality Funding in Los Angeles County. May 21, 2014. Ken Farfaring, City of Signal Hill and Richard Watson, Richard Watson & Associates, Inc.

⁹ Proposed Biennial Budget (FY 2016-2017), City of Berkeley



be cleared from storm drains. This can be justified because activities such as street sweeping provide a dual benefit for streets and storm drain maintenance. Similarly, the sewer system benefits from repairs to the storm drains since stormwater infiltration can increase the cost of operating and maintaining both the collection system and the sewer treatment plant.

Pro & Cons – While passing-through the cost of storm drain maintenance to the sewer utility may be feasible, transfers between programs inherently may limit the City’s ability to perform other essential functions.

Example – Currently, the City of Berkeley uses a gas tax to partially fund road improvements. A small percentage of this tax (approximately \$300,000 annually) is transferred to the Stormwater Program. To boost transfer funding, the City could leverage the annual surplus currently held by the Measure B Sales Tax Fund. Measure B was developed to fund capital projects for local streets and roads and is currently projecting an annual surplus of over \$300,000 a year between FY 2016 and 2018. Measure B funds could be transferred to the Stormwater Program to fund in street LID capital improvement projects, meeting the needs of both the Road and the Stormwater Programs.

3.1.4. Special Tax

The City could opt to create a special tax that would specifically be used to finance the Stormwater Management Program. Special taxes require a 2/3 majority approval by registered voters. Due to Proposition 13, special taxes cannot be imposed based on property value; in this case, it would be a "per parcel" tax, apportioned according to property square footage, estimated impervious surface, or as a flat charge.

Pro & Cons – While implementing a special tax to fund the CSF is viable, the conditions of approval are not as favorable as Prop. 218 requirements. While the voting dynamics in the City may be unique, it is likely that it would be easier to obtain a simple majority (i.e., 50%) approval from property-owners than 2/3 majority approval of all registered voters. In addition, the proceeds of a special tax count toward a local government's Gann appropriations limit.

Examples – Commercial Trash Impact Fee– A 2011 analysis of street litter in 4 Bay Area Cities (Oakland, Richmond, San Jose, and South San Francisco) found that ~49% of street litter comes from fast food or convenience stores. Application of a trash impact fee would apply pressure to the source of the waste¹⁰. The fee can be used to help fund trash collection projects or City O&M activities aimed at tackling the trash TMDL. The Fee could be waived for companies that embrace waste reduction strategies that can be defined by the City.

In 2006, the City of Oakland assessed such a tax on businesses. An annual tax of \$230 to \$3,815 is collected annually from businesses using tiered rates that assess fees based on the

¹⁰ Clean Water Fund. December 2011. "Taking Out the Trash: Identifying Sources of Trash in the Bay Area."



annual gross receipts of the business. The fees are used to hire small crews to pick up litter in commercial areas and other trash hot spots in the city. The ordinance allows for reduction in fees for businesses that are already providing trash clean-up in their neighborhoods^{11,12}.

The City of Berkeley, following the successful ballot measure on sugar-sweetened beverage products, seems well-positioned to propose a similar General or Special Tax for take-out food, liquor stores, convenience markets, and gasoline station markets to defray the cost of litter and trash clean-ups resulting from their operations. This tax can be used to pay for the trash exclusion devices in storm drains, increased city staff to clean waste, or O&M activities to reduce trash from city streets.

3.1.5. General Tax with Special Advisory

The City could opt to seek approval for a general tax (requiring simple majority approval from registered voters) along with an “advisory measure” (a so called “Measure A-Measure B Strategy”). This involves accompanying the tax measure with an additional measure that provides guidance on how the public feels the funds should be spent. The advisory measure would be non-binding since a general tax, by definition, cannot be legally earmarked for a particular purpose. The idea is that adoption of the advisory measure would hopefully create sufficient political pressure to guarantee that the tax increase will always be used for stormwater management purposes despite being deposited into the general fund.

Pro & Cons – It is not clear whether the terms for voter approval of a general tax are more favorable than enacting a new stormwater fee (a Prop. 218 vote). Distinguishing between the two would require a clear understanding of the opinion of all registered voters versus the opinion of all property owners, which require a comprehensive survey. In the event that no such survey is conducted, enacting a new standalone Prop. 218 compliant user fee is preferable since the revenue would be guaranteed to benefit the Stormwater Program. Like the Special Tax above, the proceeds of a general tax would count toward the City’s Gann appropriations limit.

Example – Orange County, California has instituted a half-cent sales tax to fund the Orange County Transportation Authority’s transportation improvements funding measure. The funds from this sales tax are set aside to fund water quality and environmental clean-up projects with a transportation nexus. This funding allows for both capital and operations improvements.

Similarly, the City of Berkeley could expand on the gas tax to fund new projects designed to offset the contribution of roads and cars to runoff and pollution. If a gas tax is not politically feasible, a similar tax could be applied to other vehicular purchases such as oil changes, tire replacements, or other equipment or repair purchases.

¹¹ <http://www.oaklandnet.com/government/fwawebwebsite/revenue/pdf/WEBPAGEELF92206.pdf>

¹² “Oakland first city to tax fast-food trash.” USA today. February 8, 2006.

http://usatoday30.usatoday.com/news/nation/2006-02-08-fast-food-tax_x.htm



3.1.6. Benefit Assessment

A Benefit Assessment is a charge on properties that receive a “special benefit” from public programs. In other words, Benefit Assessments link the cost of public improvements to those properties which receive a specific benefit from those improvements¹³. Approval requires a simple majority of affected property owners *weighted by financial obligation*.

Benefit Assessments are popular for funding park maintenance efforts and flood programs, but they are less common in funding stormwater programs. A comprehensive engineer’s report is required as the legal basis for the assessment, which may require the creation of separate assessments charges by watershed, based on the relative cost of the Stormwater Program within each watershed. For example, if structural stormwater treatment technologies are required to remediate a particular pollutant of concern that exists in one watershed, but not another, the rules of special assessment may require that those costs should be borne by only those properties within that watershed since only they contribute to the problem.

Pro & Cons – The advantage of a Benefit Assessment is the fact that property owners would pay based on the benefit received. This, however, may not be significantly different from the rate structure of a property-related fee, which charges based on the cost of providing service. It is not clear which is more likely to obtain voter approval: a Benefit Assessment or a Prop. 218 vote. With a Benefit Assessment, the commercial, industrial and institutional (CII) customers would generally pay more and therefore receive a more heavily weighted vote. CII customers would represent a considerable hurdle if they decided to oppose the fee.

3.1.7. Stormwater Impact Fee

Stormwater Impact Fees are assessments on new development and redevelopment projects. They are one-time fees whereby developers “buy into” the existing stormwater infrastructure or pay for the costs of any new infrastructure that is required to accommodate the addition of the development project. California Government Code Sections 66000 through 66009 requires that impact fee revenue only fund capacity-related capital projects. As such, the revenue from the Stormwater Impact Fees could not be used to fund O&M or repair and rehabilitation (R&R) activities. In California, impact fees need to be related to the impact created by the development project, otherwise the fee may fall under a different category, such as a special tax (and thereby require a two-thirds majority voter approval).

¹³ Publicly owned parcels are not exempt from assessments unless the parcels receive no special benefit from the program, which is unlikely given the nature of the stormwater program. Also, because assessments are not defined as taxes, they are not subject to Proposition 13 limitations.



Cities and municipalities that assess stormwater impact fees may provide fee reductions or waivers for developers that incorporate stormwater capture and treatment systems onsite¹⁴.

Pros and Cons – Creating a Stormwater Impact Fee would provide some funding, albeit not reliable, for growth-related CIP projects and allow a larger portion of other stormwater revenue sources to be used for O&M and R&R of existing infrastructure. While impact fees are subject to the provisions and limitation of CA Government Code Sections 66000 et. seq., they are not taxes or special assessments and therefore do not require voter approval to be enacted¹⁵. That being said, the revenues from these fees are unpredictable since the rate of development depends on the economy or the availability of land for growth or redevelopment. Currently, there are 16 large development projects in Berkeley that are being built or are in the building application process¹⁶. At the current rate of development, an impact fee could make a material contribution to funding growth-related capital projects.

3.1.8. In-Lieu Fee

Currently, the City of Berkeley complies with the San Francisco Bay Municipal Regional Permit (MRP) Provision C.3¹⁷ requirements by requiring development and re-development projects to complete a stormwater checklist as one requirement for obtaining a zoning permit. Projects that do not meet C.3 requirements are denied either a building permit or a Certificate of Occupancy¹⁸.

In-Lieu Fees¹⁹ are an alternative compliance option¹⁹ for Provision C.3 stormwater capture/treatment requirements for regulated projects, whereby developers can opt out of installing the required on-site stormwater retention BMPs by paying an “in-lieu” fee that is used to construct an equivalent stormwater project offsite²⁰.

Pros and Cons – In-lieu fees present another opportunity to fund growth-related capital projects, thereby allowing a larger portion of other stormwater revenue to be used for expenses such as O&M and R&R. In-lieu fees are not classified as a tax or special assessment, and therefore do not require voter approval to be enacted. Additionally, in-lieu fees confer

¹⁴ Stormwater Funding Options, Providing Sustainable Water Quality Funding in Los Angeles County. May 21, 2014. Ken Farsing, City of Signal Hill and Richard Watson, Richard Watson & Associates, Inc.

¹⁵ San Francisco Estuary Partnership. August 2015. Green Infrastructure Funding Mechanisms.

¹⁶ Projects range in size between ~24,000 - >180,000 sq. ft. Personal Communication with Timothy Burroughs, City of Berkeley Chief Resilience Officer, October 2015.

¹⁷ Provision C.3 of the San Francisco Municipal Regional Permit provides requirements for onsite stormwater retention/detention for regulated new and redevelopment projects.

¹⁸ Personal Communication with Timothy Burroughs, City of Berkeley Chief Resilience Officer, October 2015.

¹⁹ In-Lieu Fees are described in the latest draft of the Municipal Regional Stormwater Permit under Provision C.3.e, Alternative or In-Lieu Compliance with Provision C.3.b.

²⁰ California Regional Water Quality Control Board, San Francisco Bay Region, Municipal Regional Stormwater NPDES Permit.

http://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/stormwater/Municipal/TO_Order_Only.pdf



developers with the flexibility to build on parcels that are not well suited for onsite stormwater treatment as required by C.3, thus creating more opportunities for redevelopment.

Creating an in-lieu fee system will require a study to determine the appropriate fee structure and mitigation criteria. There is also an on-going effort that will be needed to administer and oversee the program. Additionally, the MRP has included a 2019 deadline for establishing such Alternative Compliance systems²¹. As with impact fees, the revenues from in-lieu fees are highly dependent on the rate of development, which is a function of the economy and the availability of land for development.

3.1.9. Grants

There are some grants available to stormwater utilities, however the competition to receive those grants is intense. In addition, the application process can be lengthy and there is no guarantee that funding will be granted upon the submission of an application package. Grants that are currently available tend to favor large-scale, multi-benefit projects. The following provides a partial list of grants that may be of interest to Berkeley.

- **California Proposition 1** - In 2014 voters passed California Proposition 1²², enacting the Water Quality, Supply, and Infrastructure Improvement Act of 2014, authorizing over \$7 billion of grants, among which are \$1.495 billion for multi-benefit ecosystem and watershed protection and restoration projects and \$395 million for statewide flood management projects and activities.
- **Clean Water Act Section 319**²³ - The Clean Water Act has a section that provides funds to “designated state and tribal agencies” to implement their approved “nonpoint source management programs”. While the City is ineligible to apply directly for these funds. Increased coordination with the Bay Area Integrated Regional Water Management Plan (IRWMP) may yield opportunities to benefit from regional grant-funded projects.
- **Alameda County Clean Water Program**²⁴ - The program includes an annual Community Stewardship Grant Program that funds community-based projects that “enhance and protect the health of local waterways”. Approximately \$25 thousand is available each year. The size of this grant is very small compared to the aggregate need for Stormwater funding. However, it can be a vehicle to engage community groups and create awareness of the need to properly manage the City’s watersheds.

Pros and Cons – Grants make sense as a piece of any city’s stormwater funding portfolio, but do not represent a sustainable source of funding for long term planning. Grants represent an excellent opportunity to advance the City’s Stormwater Program with a large infusion of funds for Capital Improvement projects. However, grants can often come with limitations for how

²¹ San Francisco Estuary Partnership. August 2015. Green Infrastructure Funding Mechanisms.

²² http://www.waterboards.ca.gov/water_issues/programs/grants_loans/swgp/prop1/

²³ <http://water.epa.gov/polwaste/nps/cwact.cfm#apply>

²⁴ <http://www.cleanwaterprogram.org/grants.html>



funds can be spent, involve a substantial amount of staff time to win, may involve more staff time for continual reporting to the funder, and due to the competitive nature of grant procurement, are not a reliable source of funding.

3.2. Debt

The following discusses debt as a mechanism to secure financing for large capital investments. While this strategy can be effective in avoiding the need for a one-time spike in revenue (by spreading those capital costs over a longer duration), it is important to point out that debt is a tool for managing money but not a *source* of money. The City will only be able to secure debt if a reliable (and adequate) source of long-term revenue is established.

3.2.1. General Obligation Debt Financing

With a current bond rating of Aa2, the proposed CIP says that the City is likely able to “generate new bond proceeds in the range of \$57-74 million” while keeping “the total tax rate near the current level over the next 30-years”. This suggests that the City has additional capacity to borrow money to finance capital improvements. New bonds however need to be approved by voters.

It is worth noting that any increase in annual revenues will result in the increased ability for the city to secure future debt financing.

3.2.2. Clean Water State Revolving Fund²⁵

A portion of the Clean Water State Revolving Fund (SRF) is allocated for financing stormwater projects. The 2015 rate from this program was approximately 3.07%. SRF funds are commonly used to finance large water and wastewater infrastructure projects, and can be pursued if a large stormwater project is identified. The application process is complicated and subject to various restrictions, so projects pursuing SRF funding should allocate additional time and up-front resources to secure the funding. The application process will require the applicant to demonstrate the ability to repay the loan, therefore it needs to be coupled with a rate financing mechanism to be successful.

4. Opportunity for Integrated Planning

Each of the funding strategies in Section 3 are accompanied by risks: increasing rates requires voter approval, grants lack dependability, and transfers between various City funds may only shift funding shortfalls to other City programs (Figure 3).

A promising alternative is to identify synergies between existing City programs. While most City services have separate funding and separate master plans, there are many cases where

²⁵ http://www.waterboards.ca.gov/water_issues/programs/grants_loans/srf/



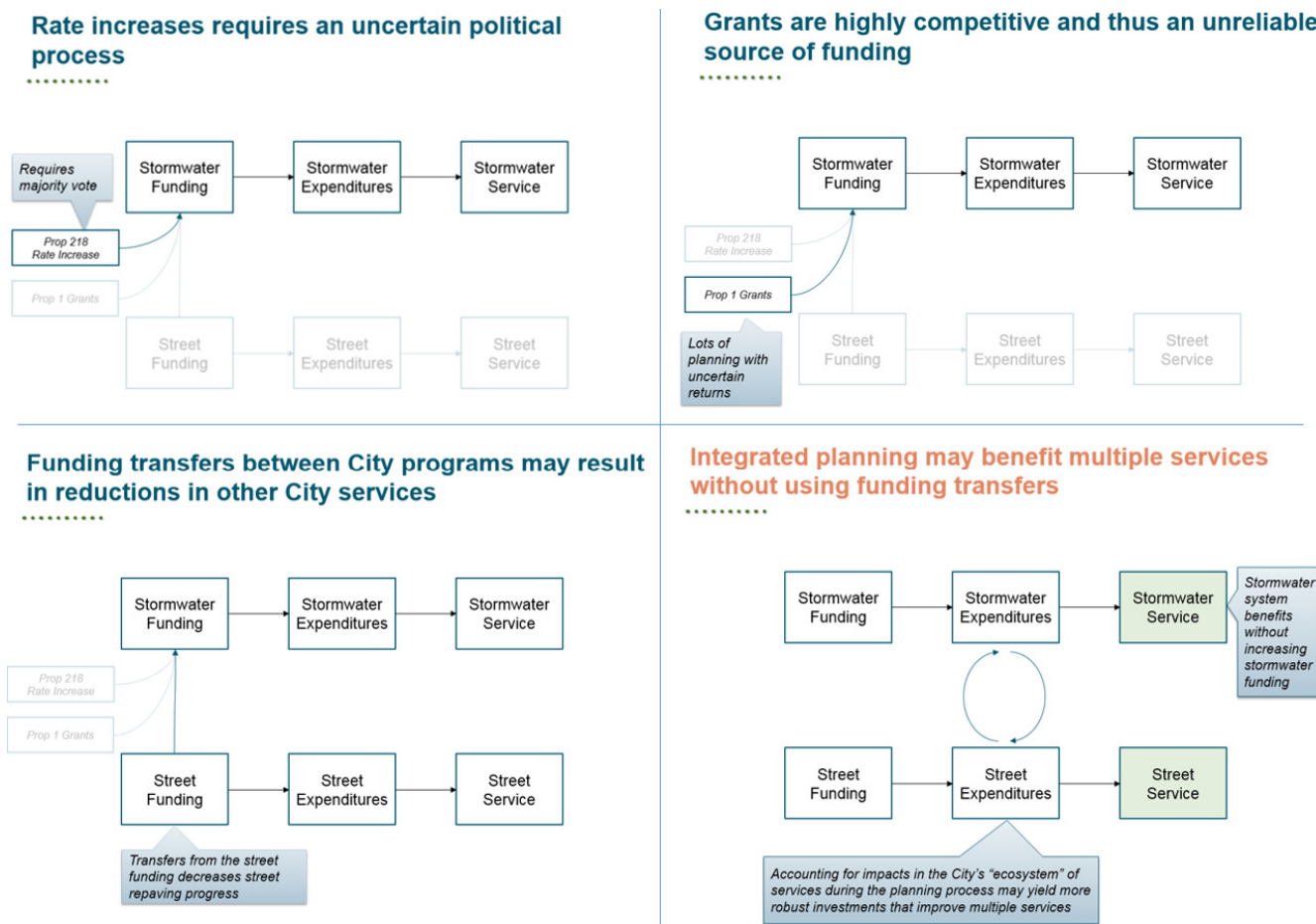
decisions made within one service are likely to affect the performance of another. Integrated planning approaches can be used to identify opportunities to implement projects and programs that serve the needs of multiple City programs. Successful implementation of integrated planning would allow for cost sharing among City programs to achieve equal or greater service at a lower marginal cost. This integrated approach requires a shift in viewing city services as a patchwork of different departments, to a coherent whole, where multiple services work together to produce a desirable environment.

Currently, a large portion of the City's capital expenditures are spent on rehabilitating its streets, which has corresponding (but unexplored) impacts on its stormwater system. Meanwhile the City's Stormwater Program lacks the funding to implement much needed capital improvement projects to manage the runoff from the City's impervious surfaces. An integrated planning approach could be used to identify opportunities for the Streets and Stormwater Program (and potentially other programs) to pool their resources to implement stormwater enhancement projects within the right-of-way (Figure 3). For example, some preliminary studies have shown that utilizing permeable pavers in roadways can reduce the quantity and improve the quality of stormwater runoff while also extending the life of the roadway when compared to traditional asphalt systems^{26, 27}. Projects like these can be implemented in strategic locations to achieve the needs of multiple programs while providing cost savings for each department.

²⁶ Wang, Ting, John T. Harvey, David Jones (2010) A Framework for Life-Cycle Cost Analyses and Environmental Life-Cycle Assessments for Fully Permeable Pavements. Institute of Transportation Studies, University of California, Davis, Research Report UCD-ITS-RR-10-48

²⁷ "Permeable Pavers Score a Triple Double in Bloomington's Cascades Park." Interlocking Concrete Paver Magazine. November 2005.

Figure 3: Integrated Planning May Create Benefits Across Multiple Services



5. Recommendation

The City’s Capital Improvement Program has identified \$37 million in unfunded liabilities over the next 5 years²⁸. Increased funding for the City’s Stormwater Program is needed to meet the City’s regulatory demands, as well as enhance the community’s general aesthetics, environmental protection, and resilience portfolio.

There is no silver bullet to stormwater financing, often stormwater programs remain overlooked and underfunded as communities struggle to allocate limited resources. As an “end game” strategy, we recommend that the City work towards increasing the level of funding from the Clean Stormwater Charge through the Prop. 218 voting process since this would clearly be the

²⁸ This includes \$5 million for unfunded maintenance needs and \$32 million for projected capital improvement projects. The total unfunded capital needs of the stormwater system are ~208 million total.



most reliable source of long-term funding. This process will require a rate study, a period of public outreach, and then the voting process, all of which will take time (1 – 2 years).

Obtaining Prop. 218 approval from voters will require a strong public outreach campaign as well as internal support from City Staff. We recommend building a foundation of public support by first establishing an integrated planning approach for other Public Works programs that allow the City to develop and demonstrate multi-benefit projects that efficiently meet city transportation, waste management, and stormwater demands while reducing flooding impacts, improving water quality, and local environmental health of streams and water ways.

This integrated planning mindset may be the best opportunity for the City to achieve long term fiscal sustainability and resiliency. Other stormwater programs across the US have found ways to “do more with less” by creating multi-benefit projects using green infrastructure to improve water quality and reduce the quantity of wet and dry weather runoff, preserve urban open space and reduce flooding risks by creating mixed use recreation and stormwater detention facilities, prepare for increased peak flow events, and enhance their resilience to water supply interruptions by enhancing groundwater infiltration^{29,30,31}.

By adopting (and demonstrating) an integrated planning process between the multiple Public Works programs (Stormwater, Streets, Trash, and Sewer) to achieve synergistic benefits, the City will be earning the confidence of decision-makers and voters, all of which will improve the chances of successful Prop. 218 campaign.

As a next step, we recommend the City develop an Integrated Stormwater Financing Plan that comprehensively evaluates the City’s revenue building and cost sharing options. Such a plan would evaluate the City’s operating and capital needs, assess current funding mechanisms, and identify the precise financial needs of the Stormwater Program. The final plan would provide a roadmap for increased revenues that will meet the programmatic demand and all regulatory requirements, as well as identify opportunities for multi-benefit projects that reduce the marginal costs of project implementation for the Stormwater Program and other Divisions of the Public Works Department. Implementation of this plan will result in greater financial stability for the Stormwater Program and put into motion a series of projects that will enhance the city’s resiliency portfolio.

²⁹ “Improving Community Resiliency with Green Infrastructure.” USEPA.

http://water.epa.gov/infrastructure/greeninfrastructure/upload/gi_resiliency.pdf

³⁰ “City of LA Releases Seismic Resilience Report and Plans.” <http://www.planningreport.com/2015/02/26/city-la-releases-seismic-resilience-report-and-plans>

³¹ “Managing Wet Weather with Green Infrastructure, Municipal Hand Book, Green Streets.” USEPA. December 2008

Appendix E

City of Berkeley 2018 Storm Drainage Fee Report and Resolution No. 68,483-N.S.



CITY OF BERKELEY

2018 STORM DRAINAGE FEE REPORT

JANUARY 2018

PURSUANT TO THE ARTICLES XIIC & D OF THE CALIFORNIA CONSTITUTION,
AND THE GOVERNMENT CODE SECTIONS 38900 – 38901 ET AL.

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CITY OF BERKELEY

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INTRODUCTION AND EXECUTIVE SUMMARY

OVERVIEW

The City of Berkeley (“City”) has engaged SCI Consulting Group to study, make recommendations, and assist in the implementation of a funding approach for its municipal separate storm sewer system¹ (“MS4”) including capital improvements, maintenance and operations, and compliance to all state and federal regulations associated with the National Pollutant Discharge Elimination System (“NPDES”).

In 2012, Resolution 65,930 NS, the City adopted a Watershed Management Plan (“WMP”) that presented an integrated and sustainable strategy for managing urban water resources. It meant to guide further City efforts in promoting a healthier balance between the urban environment and the natural ecosystem. More specifically, it addressed water quality, flooding, and the preservation of creeks and habitats using multi-objective approaches where possible. The WMP concluded with a set of recommendations that included over \$207 million in capital improvements spread across the City’s 10 watersheds. The WMP also presented four funding scenarios ranging from existing revenue levels up to a \$30 million bond measure and/or a \$7.7 million fee program.

In 2017 the City engaged SCI Consulting Group to conduct a comprehensive storm drainage fee study that would include recommendations to update the City’s storm drainage fees and the strategic plans to meet the City’s storm drainage regulatory compliance requirements. This work was to be done in three phases: 1) Estimate preliminary user rates; 2) Conduct a public opinion survey of Berkeley property owners; and 3) Implement a funding mechanism. This Fee Report (“Report”) is the first task of Phase 3.

CITY’S FACILITIES

The City operates and maintains a storm drainage system, as it is empowered to do so per Government Code Sections 38900 and 38901. It is comprised of an integrated system of storm drain pipes, culverts and ditches. Local creeks are not considered part of the City’s storm drain system, although they receive most of the urban runoff and are impacted by how the City’s storm drainage system functions.

The Berkeley area began experiencing residential development over one hundred years ago. As the community grew, the storm drainage system was developed along with the neighborhoods and commercial areas while still maintaining many native creek segments. Although the City is highly urbanized, there are a large number of open creek segments that cross streets, private properties and roadways through numerous culvert sections.

¹ In this report, the terms “storm sewer”, “storm drainage”, and “stormwater” are used interchangeably, and are considered to be synonymous.

In the early 1990s, in response to the federal Clean Water Act amendment of 1987, municipalities were, for the first time, required to obtain an NPDES² permit from the California Regional Water Quality Control Board to address urban storm drainage runoff pollution. Under this permit, the City works to reduce stormwater pollution, protect and enhance its watersheds, preserve beneficial uses of local waterways, and implement State and federal water quality regulations within the limits of its jurisdiction. Over the years, the range of actions taken by the City has greatly increased in response to evolving regulatory requirements and community needs.

STORM DRAINAGE FUNDING

In response to the NPDES permit requirements, the City implemented a Clean Storm Water Fee in 1991 for all residences and businesses in the City. The City collects approximately \$2 million annually from this fee, which has not been increased since its 1991 inception. In addition, the City receives an annual allocation from UC Berkeley's long range development plan ("LRDP") of approximately \$277,000. Initially these revenues were sufficient to fund ongoing maintenance, operations and capital improvement projects. Today, those costs well exceed the available storm drainage funding.

Based on the current and projected revenue shortfalls for the City's storm drainage activities, SCI recommends that the City implement a property-related fee as the preferred mechanism³ to generate revenue for storm drainage services. This Report proposes a new fee structure, to be known as the 2018 Storm Drainage Fee ("Storm Drainage Fee"), that would be implemented without replacing or affecting the existing fee that has been in place for over 25 years.

IMPLEMENTATION PROCESS & LEGAL REQUIREMENTS OF STORM DRAINAGE FEE

Property-related fees are primarily defined by Articles XIII C and D of the State Constitution, which was approved by voters in 1996 through Proposition 218, as well as the Proposition 218 Omnibus Implementation Act (Government Code Sections 53750 – 53758). In particular, Article XIII D, Section 6 describes the procedures for a property-related fee. Once a proposed fee has been determined, there is a two-step process for approval:

- The City must mail a Notice of the proposed fee to all property owners subject to the fee at least 45 days before a public hearing on the matter. At that hearing, the City shall consider all protests against the fee. If written protests are presented by a majority of owners, the City shall not impose the fee. If a majority protest does not exist, the City may proceed to the next step.

² NPDES stands for the National Pollutant Discharge Elimination System as specified in the Federal Clean Water Act. The City is one of the co-permittees named on the Alameda County NPDES permit issued by the Regional Water Board. The most recent MRP was issued in November 2015, however, these permits typically are renewed every five years, with each new iteration containing additional requirements.

³ The only other practical option for funding storm drainage programs is a parcel tax, which requires a two-thirds majority as opposed to a 50% majority for a property-related fee.

- No property-related fee shall be imposed until it is submitted and approved by a majority vote of the property owners of the properties subject to the fee⁴. This election, or ballot proceeding, shall not be conducted less than 45 days after the public hearing.

The required public hearing is tentatively scheduled for April 3, 2018, which requires the Notices to be mailed before February 16, 2018. The tentative date for the election (or when mailed ballots are due) is May 29, 2018.

OTHER LEGAL REQUIREMENTS

Any property-related fee must also comply with other requirements of Article XIID, Section 6. These include the following:

- Revenues derived from the fee shall not exceed the funds required to provide the property-related service.
- Revenues derived from the fee shall not be used for any purpose other than that for which the fee was imposed.
- The amount of a fee upon any parcel or person as an incident of property ownership shall not exceed the proportional cost of the service attributable to the parcel.
- No fee may be imposed for a service unless that service is actually used by, or immediately available to, the owner of the property in question. Fees based on potential or future use of service are not permitted. Standby charges, whether characterized as charges or assessments, shall be classified as assessments and shall not be imposed without compliance with the assessment section of the code.
- No fee may be imposed for general governmental services including, but not limited to, police, fire, ambulance or library services where the service is available to the public at large in substantially the same manner as it is to property owners.

HOWARD JARVIS TAXPAYERS ASSOCIATION V. CITY OF SALINAS (2002) 98 CAL. APP.4TH 1351

According to Article XIID, Section 6 property related fees for sewer, water and refuse collection services are exempt from the balloting requirement. In 1999, the City of Salinas adopted ordinances that implemented a property related fee to fund NPDES water quality services associated with storm drainage without a ballot proceeding, by relying on “sewer” exemption from balloting. They were legally challenged by the Howard Jarvis Taxpayers Association (the authors and proponents of Proposition 218) which argued that a balloting was required because the services to be funded did not fall within the definition of “sewer”. The Court of Appeal made two rulings pertinent to this Report: 1) Storm drainage services are property-related, and 2) Storm drainage does not qualify for the sewer exemption, and therefore must be balloted. However, in making these findings, the Salinas Court concluded that the meaning of “sewer services” was ambiguous in the context of both Section 6c and in Proposition 218 as a whole. As such, the Court ruled in favor the voters’ intent to curb the

⁴ Proposition 218 also allows approval by two-thirds of the electorate residing in the area. This is essentially the same requirement as a parcel tax, which was rejected by the City for lack of support.

rise in “excessive” taxes, assessments, and fees exacted by local governments with taxpayer consent.

COMPLIANCE WITH CURRENT LAW

This Fee Report is consistent with the *Salinas* decision and with the requirements of Article XIIC and D of the California Constitution because the Services to be funded are clearly defined and the City intends to follow both approval steps (including a ballot proceeding).

FACILITIES AND SERVICES

The City operates and maintains a “municipal separate storm sewer system” (“MS4”) within its boundaries. The MS4 is made of up man-made drainage systems including, but not limited to, curbs and gutters, ditches, culverts, pipelines, manholes, catch basins (inlets) and outfall structures.

There are about 93 miles of storm drain pipelines under the public right-of-way. There are approximately 8 miles of open creeks in the City, only 7% of which are on public lands. There are about 6.5 miles of creek culverts, with about 60% on public property. All the creeks and storm drains in Berkeley eventually drain to the San Francisco Bay. The rainfall varies generally with elevation. The Bay plain areas receive an average annual rainfall of approximately 18 inches per year, while the hills receive as much as 26 inches annually.

The open creeks and storm drain system serving the University of California at Berkeley (“UCB”) campus, located within the City, are owned and maintained by the University, but discharge downstream, primarily to Strawberry Creek. The Lawrence Berkeley National Laboratory, located on University property, also contributes storm drainage runoff to the City’s storm drainage system.

The primary storm drainage service provided by the City is the collection, conveyance, and overall management of the storm drainage runoff from improved parcels. By definition, all improved parcels that shed storm drainage into the City’s MS4, either directly or indirectly, utilize, or are served by, the City’s storm drainage system. The need and necessity of this service is derived from those property improvements, which historically have increased the amount of storm drainage runoff from the parcel by constructing impervious surfaces such as rooftops, concrete areas, and certain types of landscaping that restrict or retard the percolation of water into the soil beyond the conditions found in the natural, or unimproved, state. To the extent that a property is in a natural condition or includes features that hold any increased runoff, that property is exempted from any MS4 service. As such, open space land (in a natural condition), and agricultural lands that demonstrate storm drainage absorption equal to or greater than natural conditions, are typically exempt. The service area is concurrent with the City boundaries.

FINANCIAL NEEDS SUMMARY

SUMMARY OF STORM DRAINAGE SYSTEM NEEDS

As part of the 2018 Storm Drainage Fee implementation task, the SCI team conducted an analysis of the City's storm drain system needs. This analysis is contained in a technical memorandum from the firm of Larry Walker Associates, and is included in Appendix A of this Report. This analysis reviewed existing revenues and estimated the true costs of storm drainage to prevent local flooding and to remain in compliance with the current NPDES permit, commonly known as the Municipal Regional Permit ("MRP") issued by the Water Board to all Phase 1 permittees in the San Francisco Bay area. The first MRP was issued in 2009. The second MRP was issued in 2015, and is referred to as MRP 2.0.

STORM DRAINAGE PROGRAM REVENUES

The first step of the analysis was to review the revenues available to the City's storm drain system. Based on information provided by the City, the existing revenues are projected through Fiscal Year 2021-22 as shown in Table 1 below. The State Transportation Tax and a portion of the Measure M Bond funds were allocated to the Stormwater Capital Improvement Program ("CIP"). Other funds were dedicated to other operational activities.

TABLE 1 – SUMMARY OF STORM DRAINAGE PROGRAM REVENUE

Revenue Category	Shown in millions					
	Prior 2016-17	Current 2017-18	Future 2018-19	2019-20	2020-21	2021-22
Stormwater Fees	\$ 2.06	\$ 2.08	\$ 2.08	\$ 2.08	\$ 2.08	\$ 2.08
University in Lieu (LRDP)	0.27	0.28	0.29	0.29	0.30	0.31
General Fund Transfer In	0.13	-	-	-	-	-
Interest *	0.00	-	-	-	-	-
State Transportation Tax	-	0.30	0.30	0.30	0.30	0.30
Measure M Bonds	-	3.26	1.17	-	-	-
TOTAL Revenues	\$ 2.47	\$ 5.91	\$ 3.83	\$ 2.67	\$ 2.68	\$ 2.69

* Actual Interest revenue for FY 2016-17 was \$2,697

STORM DRAINAGE PROGRAM COSTS

The City's storm drainage program is influenced primarily by the requirements to prevent local flooding and to comply with the MRP 2.0. These estimates were based on budgetary and supplemental information provided by the City. In broadly assessing the City's storm drainage program's costs, three main categories were used: Capital Costs ("CIP"); Operations and Maintenance ("O&M") Costs, and Water Quality (NPDES) Costs. These categories reflect how the City generally allocates funds to implement its day-to-day storm drainage-related operations.

More detailed information can be found in Appendix A. The storm drainage program costs are summarized in Table 2 below. (Note: The CIP costs summarized in the table below reflect a relatively minor subset of overall storm drainage capital needs. The City will continue to pursue non-City funding sources to address large-scale CIP costs.)

TABLE 2 – SUMMARY OF STORM DRAINAGE PROGRAM COSTS

Category	Shown in millions						TOTAL
	Prior 16-17	Current 17-18	Future 18-19	19-20	20-21	21-22	
CIP	\$ 0.16	\$ 3.95	\$ 2.82	\$ 1.70	\$ 1.86	\$ 2.02	\$ 12.51
O & M	1.53	1.23	2.03	1.89	1.95	2.00	10.62
NPDES	0.93	1.05	1.27	1.32	1.37	1.42	7.36
TOTAL COSTS	\$ 2.61	\$ 6.23	\$ 6.12	\$ 4.91	\$ 5.18	\$ 5.44	\$ 30.49

ANNUAL REVENUE REQUIREMENT

The proposed fee is scheduled to begin in Fiscal Year 2018-19. Therefore, the data presented in Appendix A for prior years will not be considered. What remains for analysis is a four-year window in which existing revenue sources and projected costs are presented.

Over the four fiscal years, the projected costs exceed revenues by \$9.77 million. This is the amount that the proposed storm drainage fee would need to generate in order to bring the Stormwater Fund into balance. The resulting revenue requirement is therefore based on an annual revenue, estimated to be adjusted for inflation at 2.8%⁵ per year over the four-year period, that totals \$9.77 million over those four years. These projections are summarized in Table 3 below.

TABLE 3 – ESTIMATE OF ANNUAL REVENUE REQUIREMENT

Category	Shown in millions						TOTAL
	Prior 16-17	Current 17-18	Future 18-19	19-20	20-21	21-22	
Revenues	na	na	\$ 3.83	\$ 2.67	\$ 2.68	\$ 2.69	\$ 11.87
Expenditures	na	na	6.12	4.91	5.18	5.44	21.65
Shortfall	na	na	\$(2.29)	\$(2.24)	\$(2.49)	\$(2.75)	\$ (9.77)
Fee Revenues *			\$ 2.34	\$ 2.41	\$ 2.48	\$ 2.55	\$ 9.77

* Revenues are increased by 2.8% annually for inflation

⁵ This Fee Report includes an Annual Cost Indexing factor (see next section) that is equal to the Consumer Price Index ("CPI"), but is capped at 3% in any single year. Since the CPI may not reach 3% in any of the coming four years, a value of 2.8% is used in this analysis.

RATE STRUCTURE ANALYSIS

All properties which generate storm and urban runoff which flow into the City's MS4 are served by the system. The amount of use attributed to each parcel is proportional to the amount of storm and urban runoff flow contributed by the parcel, which is proportional to the amount of impervious surface area (e.g. building roofs, pavement, etc.) on a parcel.

In this Report, the median single-family residential parcel is used as the basic unit of measure, called the single-family equivalent, or "SFE." Accordingly, since the primary quantifiable attribute for this fee structure is impervious surface area, the amount of impervious surface area on the median SFR parcel serves as the basic unit of impervious area.

The basic unit of impervious area can be expressed by the following formula:

$$\begin{aligned} & \textit{Median SFR Parcel Area} \\ & \times \textit{Average SFR Impervious Percentage} \\ & = \textit{SFE Impervious Area} \end{aligned}$$

The median SFR parcel is 0.11 acres (4,792 square feet). Careful analysis⁶ revealed that the average percentage of impervious area ("%IA") of the medium class of SFR parcels is 44.82%. Therefore, the amount of impervious area for the SFE is 2,148 square feet. This becomes the basis for calculating the SFEs for all other types of land uses. In order to accomplish this, a representative sample of each land use category was studied through aerial photographs to measure the actual impervious area, which was, in turn, used to calculate the %IA for each land use category (see Appendix B).

SINGLE-FAMILY RESIDENTIAL PARCELS

Berkeley has a wide range of sizes of SFR parcels, which have varying levels of %IA. Generally, smaller parcels tend to have a higher proportion of impervious area than larger parcels, which tend to have a lower percentage of impervious area. (This can be best visualized by the fact that larger residential properties tend to have a larger proportion of pervious landscaping, and therefore *less impervious* area.) Therefore, the range of SFRs were broken into three size categories as shown in Table 4 below. Since the size of a parcel is considered in finite groups, the resultant SFEs were calculated on a per-parcel basis for each size category using the formula above.

It should be noted that the SFR category also includes multiplex parcels of two, three or four units, since their lot development characteristics do not vary significantly from the SFR parcels of similar size. In all, this includes the approximately 3,400 multiplex parcels in the

⁶ Appendix B includes a summary of results of parcels sampled in each category

City. Any residential structure with five or more units is categorized as multi-family residential (“MFR”), which is calculated separately. For parcels with multiple SFRs, analysis showed that those parcels contained 22% more impervious area than single-home SFRs within the same size category. Therefore, multiple-SFR parcels are computed separately.

SPECIAL NOTES ON CONDOMINIUMS

Condominium units are particularly difficult to categorize as they are often on very small individual parcels, yet share larger common areas that are made up of landscaped (pervious) areas; parking lots and shared roofs (impervious); and other recreational uses (either pervious or impervious). The data for these variables are not readily available, so it is assumed that overall their characteristics were most similar to the small lot make up. Overall, condominium units are smaller than the average SFR, and may include two or more stories of residences in some cases. When combined with the various common areas (which were exempted from the SFE process), the overall effect would be less runoff impact than the median size SFR. Thus, the Small SFR rate was used.

TABLE 4 – SUMMARY OF SINGLE-FAMILY RESIDENTIAL PARCELS

Lot Type	Parcel Size Range	Total Parcels	Total Acres	Median	% Imperv	Median	SFE per Parcel	
				Parcel Size	Area	Imperv Area	Single Home	Multiple Homes
	<u>Square Footage</u>			<u>SF</u>		<u>SF</u>		
Small	under 3,200	2,358	142	2,614	65.73%	1,718	0.80	0.98
Medium	3,200 to 7,200	16,371	1,861	4,792	44.82%	2,148	1.00	1.22
Large	7,200 and over	2,677	680	8,712	29.81%	2,597	1.21	1.48
Condos	na	2,260	23	na	na	na	0.80	na
		23,666	2,706					

* Total Parcels and Acres do not factor into the basis of the SFE calculation; they are shown for informational purposes only.

NON-SINGLE-FAMILY RESIDENTIAL PARCELS

Unlike the SFR parcels, the non-SFR parcels can vary widely in size as well as characteristics. For this reason, the parcels have been grouped into land use categories according their %IA characteristics (as shown in Appendix B) so that SFE per acre can be computed for each category using the following formula:

$$\frac{(43,560 \text{ sf / acre}) \times \%IA}{2,148 \text{ sf / SFE}} = \text{SFE per Acre}$$

where 2,148 square feet is the amount of the impermeable area in one SFE.

Table 5 below shows a summary of the non-single-family parcel SFEs for each non-SFR land use category.

TABLE 5 – SUMMARY OF NON-SFR PARCELS

Land Use Category	Total Parcels	Total Acres	% Imperv Area	SFE per Acre
Multi-Family (Apartments)	1,417	291	86%	17.44
Commercial / Retail / Industrial	1,740	630	96%	19.47
Office	236	87	90%	18.25
Institutional / Church	274	94	82%	16.63
School / Hospital	34	432	75%	15.21
Recreational	22	53	58%	11.76
Park	73	91	6%	1.22
Vacant (developed)	620	114	5%	1.01
Open Space / Agricultural	na	na		Exempt
TOTAL	4,416	1,792		

* Total Parcels and Acres do not factor into the basis of the SFE calculation; they are shown for informational purposes only.

Each individual parcel's SFE is then calculated by multiplying the parcel size (in acres⁷) times the SFE per acre for that land use category, as shown in the following formula:

$$\text{Parcel Size (acres)} \times \text{SFE per Acre} = \text{SFE}$$

DEVELOPED VACANT PARCELS

Developed vacant parcels are distinguished from undeveloped vacant land by one of several characteristics. Typically, a developed vacant parcel has been graded to be ready for building construction (possibly as part of the original subdivision or adjacent street grading). In some cases, the parcel was previously improved, but the improvement has been removed. Although developed vacant parcels may have significant vegetative cover, the underlying soil conditions resulting from grading work can usually cause some rainfall to run off into the storm drainage system. The %IA for developed vacant parcels is conservatively assumed to be 5%.⁸ Vacant parcels that have significant impervious paving remaining from prior improvements may be classified as Commercial or some other classification best representing the %IA of the parcel.

⁷ Parcel size for non-single-family residential parcels is calculated to the tenth of an acre or portion thereof.

⁸ For instance, the City of Sacramento in 2015 used a %IA of 20% for vacant parcels.

OPEN SPACE AND AGRICULTURAL PARCELS ARE EXEMPT

The City's MS4 was developed in response to land development over the past several decades. Tracts of land that have not yet been developed, or have been used primarily for agricultural purposes, have not created an impact on the drainage system beyond the natural condition, and are therefore considered to receive no service from the MS4. In practical terms, these parcels generate no additional storm runoff beyond the natural condition. For these reasons, open space and agricultural parcels are exempt from the storm drainage fee.

Berkeley is a City with some open space land, which can be situated on portions of developed parcels. For parcels that have a significant portion that is considered open space (or agricultural), those portions have been taken into consideration in the calculations of the %IA and SFEs. For SFR parcels, these open space lands have been included in the sampled lots size when calculating the average %IA, which produced a lower %IA for the large parcel category, and, thus, a lower SFE and Fee to accommodate the open space areas. For non-SFR parcels the fees are calculated on individual acreage. However, the open space portion has been deducted from the acreage prior to all analyses including %IA as well as SFE and fee calculation.

EFFECTS OF LOW IMPACT DEVELOPMENT

The current NPDES Permit requires certain properties to construct storm drainage treatment and attenuation facilities, also known as low impact development ("LID"). These facilities often are designed to capture a portion of the storm flows, retain them, and enable them to infiltrate into the ground. While this is intended to help filter pollutants from the water, it also can reduce the parcel's storm drainage runoff quantity to some extent. However, LID is designed to capture, retain and treat frequent, but low intensity storms. Conversely, the MS4 is designed around the infrequent, high intensity storms, those storms which will typically overflow most LID facilities. For this reason, no discount in the storm drainage fees is made available for parcels with LID facilities.

STORM DRAINAGE FEE CALCULATION

The primary metric in this analysis is the SFE as illustrated above. To arrive at the fee amount for the various land use categories, the total SFEs must be divided into the total revenue requirement to arrive at the rate per SFE. That calculation is represented by the following formula:

$$\frac{\text{Total Revenue Requirement}}{\text{Total SFEs}} = \text{SFE Rate}$$

Or, using numbers from the analysis, the SFE rate is:

$$\frac{\$2,343,041}{54,629.085 \text{ SFEs}} = \$42.89 \text{ per SFE}$$

This SFE rate amount is then multiplied by the SFE per parcel or SFE per acre for the various land use categories to arrive at the Storm Drainage Fee Rate Schedule shown in Table 6 below.

TABLE 6 – STORM DRAINAGE FEE SCHEDULE

Land Use Category	SFE Rate	Proposed Fee	Unit
Single-Family Residential *			
Small <i>Under 3,200 sf</i>	0.79992	\$ 34.31	parcel
Medium <i>3,200 to 7,200 sf</i>	1.00000	\$ 42.89	parcel
Large <i>over 7,200 sf</i>	1.20933	\$ 51.87	parcel
Condominium	0.79992	\$ 34.31	parcel
Multiple SFR on a single parcel pay 22% higher rate			
Non-Single-Family Residential **			
Multi-Family Residential	17.44360	\$ 748.16	acre
Comm / Industrial / Parking	19.47193	\$ 835.15	acre
Office	18.25493	\$ 782.95	acre
Institutional / Church	16.63227	\$ 713.36	acre
School / Hospital	15.21244	\$ 652.46	acre
Recreational	11.76429	\$ 504.57	acre
Park	1.21700	\$ 52.20	acre
Vacant (developed)	1.01416	\$ 43.50	acre
Open Space / Agricultural	exempt		

* Single-Family Residential category also includes duplex, triplex and four-plex units.

** Non-Single-Family Residential parcel size is calculated to the tenth of an acre or portion thereof.

The proposed \$42.89 SFR rate is well within the range of storm drainage rates adopted by other municipalities. For a listing of rates adopted by other municipalities, see Appendix C.

ANNUAL COST INDEXING

The storm drainage fees are subject to an annual adjustment tied to the Consumer Price Index-U for the San Francisco Bay Area as of December of each succeeding year (the "CPI"), with a maximum annual adjustment not to exceed 3%. Any increase in the CPI in excess of 3% shall be cumulatively reserved as the "Unused CPI" and shall be used to increase the maximum authorized rate in years in which the CPI is less than 3%. The maximum authorized rate is equal to the maximum rate in the first fiscal year the Fee was approved adjusted annually by the lower of either 3% or the increase in the CPI plus any Unused CPI as described above. Note: In order for the City's dedicated storm drainage revenue sources to satisfy costs requirement into the future, the annual adjustment for each

property may be calculated based upon the sum of the storm drainage fee and the existing Clean Storm Water Fee.

COLLECTION, MANAGEMENT AND USE OF STORM DRAINAGE FUNDS

The City shall collect the 2018 Storm Drainage Fees in the same manner as the annual property taxes on each parcel subject to the Fee. The City shall also deposit into a separate account(s) all 2018 Storm Drainage Fee revenues collected, and shall appropriate and expend such funds only for the purposes authorized by this Report. The specific assumptions utilized in this Report, the specific CIP projects listed, and the division of revenues and expenses between the three primary categories (CIP, O&M and NPDES) are used as a reasonable model of future revenue needs, and not intended to be binding on future use of funds.

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APPENDICES

APPENDIX A – FINANCIAL PLANNING AND FUNDING OPTIONS REPORT

On the following pages is regulatory assessment and cost and revenue analyses, drawn from a technical memorandum prepared for this project by Larry Walker Associates. The information contained in this Appendix forms a partial basis for the fee calculations in the main body of this Fee Report, and is referenced as appropriate.

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Appendix A – Regulatory Assessment and Cost and Revenue Analysis

Larry Walker Associates – January 2018

1. INTRODUCTION

In the early 1990s, in response to the federal Clean Water Act (CWA) amendment of 1987 to address urban stormwater runoff pollution from Municipal Separate Storm Sewer Systems (MS4s) and the pending federal National Pollutant Discharge Elimination System (NPDES) regulations that would implement the amendment, the San Francisco Bay Regional Water Quality Control Board (Regional Water Board) issued municipal stormwater Phase I NPDES permits to the countywide urban areas of Santa Clara, Alameda, San Mateo and Contra Costa. These countywide areas had individual permits until 2009, when the Regional Water Board issued a Municipal Regional Stormwater Permit (MRP).¹ The MRP was subsequently reissued in 2015.²

The current MRP regulates stormwater discharges from municipalities in Alameda, Contra Costa, San Mateo, and Santa Clara counties, as well as the cities of Fairfield, Suisun City, and Vallejo in Solano County. The MRP includes requirements for the following components, including an increased focus on requirements for control of specific pollutants to address some of the more persistent water quality issues:

- C.1 Discharge Prohibitions and Receiving Water Limitations
- C.2 Municipal Operations
- C.3 New Development and Redevelopment
- C.4 Industrial and Commercial Site Controls
- C.5 Illicit Discharge and Elimination
- C.6 Construction Site Controls
- C.7 Public Information and Outreach
- C.8 Water Quality Monitoring
- C.9 Pesticides Toxicity Controls
- C.10 Trash Reduction
- C.11 Mercury Controls
- C.12 PCBs Controls
- C.13 Copper Controls
- C.14 Bacterial Controls
- C.15 Exempted and Conditionally Exempted Discharges
- C.16 Discharges to Areas of Special Biological Significance
- C.17 Annual Reports

The City of Berkeley (City) implements the various components of the stormwater program and works to prevent stormwater pollution, manage, protect, and enhance its ten watersheds, preserve beneficial uses of local waterways, and implement State and federal water quality regulations. Over the years, the range of actions taken by the City has greatly increased in response to evolving regulatory requirements and community needs.

As a part of the stormwater program initiative, the City leverages its resources by participating in a comprehensive countywide effort, the Alameda Countywide Clean Water Program (ACCWP),

¹ Order R2-2009-0074 as amended by Order No. R2-2011-0083

² Order No. R2-2015-0049

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which was initiated in 1991 and is administered and managed by Alameda County Flood Control and Water Conservation District on behalf of its member agencies. The countywide collaboration is further supplemented by participation in the regional Bay Area Stormwater Management Agencies Association (BASMAA). In addition to directly benefitting Alameda County municipalities with access to better science, the countywide and regional collaborations enhance technical approaches and ensure consistent messaging to the public and community decision makers. Implemented when the first stormwater permits were issued to Alameda County, the collaboration has effectively assisted member agencies in maintaining stormwater programs that achieve federally and State-mandated water quality regulations.

The purpose of this Technical Memorandum is to develop a planning level cost estimate for the stormwater program, which may be used to support a funding measure for the City's stormwater program and infrastructure needs. The assessment includes a summary of known revenues and estimates of prior year, current year, and future costs of the stormwater program.³ This information may also be used in the future to budget program funding and/or to identify potential funding sources.

This memorandum summarizes the results of the work effort and is organized as follows:

1. Introduction
2. Approach
3. Results and Discussion
 - 3.1. Overall Summary
 - 3.2. City Expenditures
 - 3.3. Water Quality (NPDES) Program

2. APPROACH

To understand the funding needs for the stormwater program, the true costs for full implementation of the MRP requirements must be understood. However, determining the true costs for the implementation of the stormwater program can be a complex and time-consuming process. To identify the implementation costs for the City as comprehensively and efficiently as possible, an interview was conducted with key City staff. This meeting was about two hours in length and included structured questions and a discussion regarding the agency's staffing, implementation approach for the range of MRP requirements, prior and current stormwater program revenues, and the estimated costs for program implementation. During this meeting, three spreadsheets containing a summary of estimated costs were reviewed. Following the meeting, the costs were compiled and assigned to three main categories:

- **Capital:** This includes Capital Improvement Projects (CIPs) such as green infrastructure (GI) projects and storm drain projects, and Clean Storm Master Plans.
- **Operations and Maintenance (O&M):** This includes ongoing and routine expense types that fund the O&M of the stormwater infrastructure and trash capture devices, sink hole repair, Engineering and Corporation Yard administration.

³ Prior year is fiscal year 2016-2017; current is fiscal year 2017-2018; future is fiscal years 2018-2019 through 2021-2022.

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- **Water Quality (NPDES):** This includes expense types that are directly related to water quality improvement, such as implementation of the MRP requirements, participation in the countywide program, and Clean Storm Water Program expenses.

3. RESULTS AND DISCUSSION

A summary and discussion of total City costs, including the estimated prior costs (i.e., those for implementation of the MRP in 2016-2017), current costs (i.e., those for implementation of the MRP in 2017-2018) and estimated future costs (i.e., those for implementation of the MRP in 2018-2019 through 2021-2022), is provided within this section.

The cost information is presented in two ways: a summary of City expenditures by cost category (Capital, O&M, and Water Quality (NPDES)) (**3.1. Overall Summary**) and a detailed breakdown of expenditures (**3.2. City Expenditures**) as they relate to the three cost categories. The approach and assumptions used to develop each of these summaries are described below. All costs are in present-value dollars.

In addition, a summary of the various MRP requirements is provided, along with examples of how the City addresses them to work towards its water quality goals (**3.3. NPDES Program-Specific Needs**).

3.1. Overall Summary

Costs for the full implementation of the stormwater program were estimated based on budgetary and supplemental information provided by the City. In broadly assessing the City’s stormwater program costs, three main categories were used: Capital Costs, O&M Costs, and Water Quality (NPDES) Costs. These categories reflect how the City generally allocates funds to implement its day-to-day stormwater-related operations.

The approach and assumptions used were as follows:

- The category-specific totals in the Overall Summary were taken directly from the detailed City Expenditures for 2016-2017 through 2021-2022 (see **Section 3.2**).
- Future projections were based on the average of available costs from 2014-2015 to 2017-2018 and a percentile multiplier (4% for personnel costs and 2% for non-personnel costs).⁴
- No incremental projections were made for capital costs, or for expenses described as “one-time cost.”

The estimated revenue for 2016-2017 through 2021-2022 (from the “5-Year Forecast, Clean Stormwater (Fund 831)” spreadsheet) is shown in **Table 1**.

⁴ One exception to this approach was that the future projection for “revenue collection” was calculated by adding \$1,500 per year, since the historic costs for this expense rose incrementally rather than by percent.

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Table 1. Overall Summary of Revenue (dollars in millions)

Revenue Category	Prior	Current	Future Projected			
	2016-2017	2017-2018 ^[a]	2018-2019	2019-2020	2020-2021	2021-2022
Stormwater Fees	\$2.06	\$2.08	\$2.08	\$2.08	\$2.08	\$2.08
University in Lieu (LRDP)	\$0.27	\$0.28	\$0.29	\$0.29	\$0.30	\$0.31
GF Transfer In	\$0.13	-	-	-	-	-
Interest	\$0.003	-	-	-	-	-
State Transportation Tax	-	\$0.30	\$0.30	\$0.30	\$0.30	\$0.30
Measure M General Obligation Bond	-	\$3.26	\$1.17	-	-	-
Total Revenue	\$2.47	\$5.91	\$3.83	\$2.67	\$2.68	\$2.69

[a] Outside funding was received for capital improvement projects in 2017-2018.

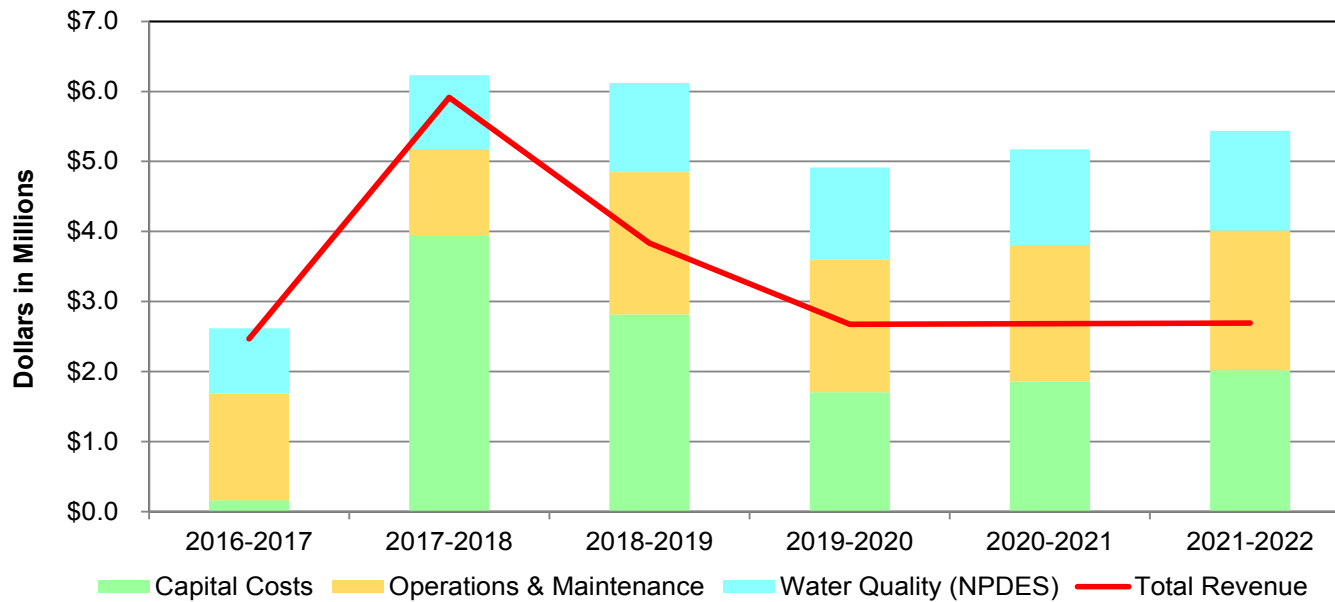
The total estimated expenditures for 2016-2017, 2017-2018, and the next four years, organized by cost category, are shown in **Table 2** and **Figure 1**.

Appendix A – Regulatory Assessment and Cost and Revenue Analysis

Table 2. Overall Summary of Total Estimated Costs for MRP, by Cost Category and Fiscal Year (dollars in millions)

Cost Category	Prior	Current	Future - Projected				Total	Percent of Total
	2016-2017	2017-2018	2018-2019	2019-2020	2020-2021	2021-2022		
Capital Costs	\$0.16	\$3.95 ^[a]	\$2.82 ^[a]	\$1.70	\$1.86	\$2.02	\$12.51	41.0%
Operations & Maintenance	\$1.53	\$1.23	\$2.03	\$1.89	\$1.94	\$2.00	\$10.62	34.8%
Water Quality (NPDES)	\$0.93	\$1.05	\$1.27	\$1.32	\$1.37	\$1.42	\$7.36	24.1%
Total Expenses	\$2.61	\$6.23	\$6.12	\$4.91	\$5.18	\$5.44	\$30.49	100%

[a] Outside funding was used for capital improvement projects in 2017-2018 and 2018-2019.



Note: Outside funding was used for capital improvement projects in 2017-2018 and 2018-2019.

Figure 1. Overall Summary of Total Estimated Costs and Revenue for MRP, by Cost Category and Fiscal Year

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3.1.1. Overall Summary: Discussion

Below are a few key observations regarding the overall, estimated expenditures, organized by cost category:

- During the observed time period, the estimated cost of stormwater program implementation will exceed the estimated, dedicated revenue (**Figure 1**).
- The Capital Costs account for the largest portion (41%, as a six-year average) of the City's stormwater-related costs (**Figure 2** and **Figure 3**), although Capital Costs and O&M Costs are predicted to be nearly equal between 2019-2020 and 2021-2022.
- Overall, the stormwater program is spending similar percentages on each cost category annually, with the exception of FY 2017-2018 and FY 2018-2019, due to one-time funding for Green Infrastructure projects (see "Capital Costs," **Table 2**).
- Based on the assumptions made and information available, the O&M and Water Quality (NPDES) cost categories do not change significantly between 2016-2017 and 2021-2022. The overall cost increase after FY 2018-2019 is steady (**Figure 1**).

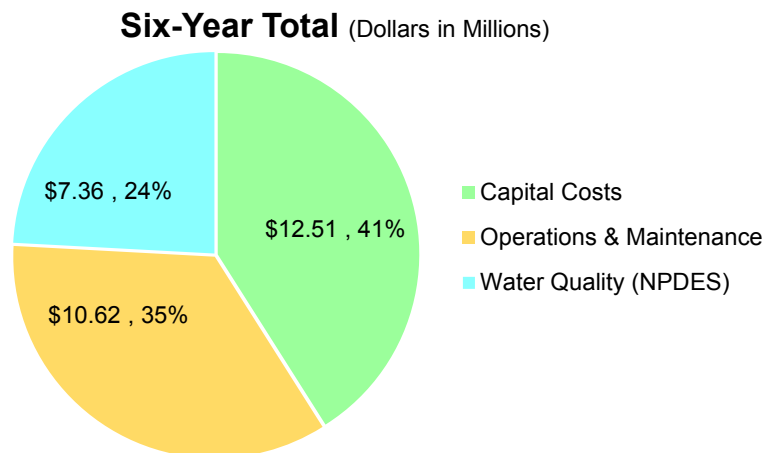


Figure 2. Total Estimated Six-Year Expenditures FY 2016-2017 to FY 2021-2022

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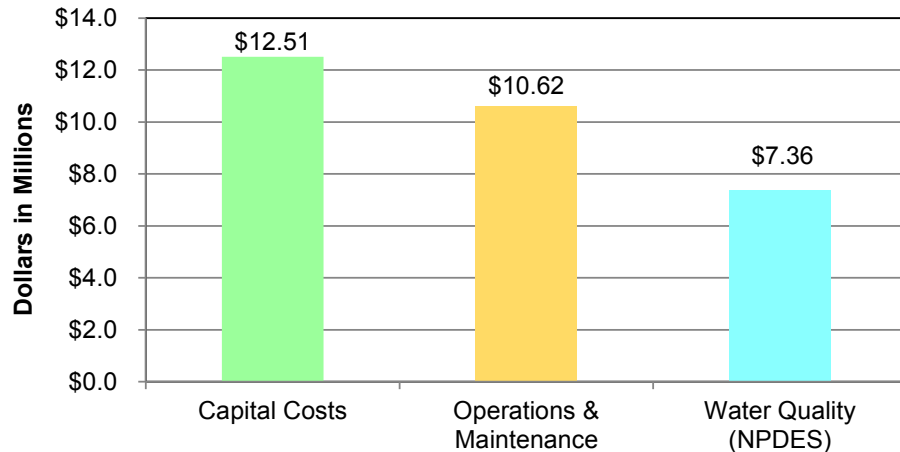


Figure 3. Six-Year Summary of Estimated Expenditures by Cost Category

3.2. City Expenditures

Costs for the implementation of the stormwater program for the MRP were estimated based on budgetary and supplemental information provided by the City. When determining which costs to include, the City considered, at a minimum, the following:

- Labor costs;
- Professional services;
- Capital costs; and
- O&M costs.

The approach and assumptions used were as follows:

- Three key pieces of information were provided by the City:
 - “Clean Stormwater Expenses” spreadsheet, which details the expenditures for the stormwater program by expense type for FY 2015 through FY 2018.
 - “5-Year Forecast, Clean Stormwater (Fund 831)” spreadsheet, which provides an overview of revenues and expenditures for FY 2010 through FY 2022.
 - “Storm Drain System: Program Funding and Summary” (from the City’s Capital Improvement Program book), which provides capital costs for prior, current and future CIPs (both those with one-time funding and those with recurring funding), as well as the source of these funds.
- A single “City Expenditures” spreadsheet was developed by compiling the relevant costs from each of the summaries provided above.
 - The costs detailed in the “Clean Stormwater Expenses” spreadsheet, along with the select costs from the other two documents, were identified as Capital Costs (**Table 3**), O&M Costs (**Table 4**), or Water Quality (NPDES) Costs (**Table 5**).
 - The “Storm Drain System: Program Funding and Summary” capital costs related to CIPs were added to the Capital Costs category.

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- The City’s contribution to ACCWP was determined as follows:
 - The City's percentage from its FY 2016-2017 ACCWP invoice (5.13%) was used to estimate the City's portion of each item specified in the FY 2016-2017 ACCWP budget.
 - The City's payment from its FY 2016-2017 ACCWP invoice was used to calculate the actual City costs within the ACCWP budget, for each item.
- Additional costs were provided via email conversations, including salary information and costs for inspections.
- Future costs were projected as follows:
 - The average costs for each expense type were calculated from the “Clean Stormwater Expenses” spreadsheet for FY 2015 through FY 2018.
 - The average costs were increased by 4% annually for personnel costs, and 2% annually for non-personnel costs (including the contribution to ACCWP). These multipliers were based on the increase of the City's projected costs for Personnel and Non-Personnel for FYs 2019-2022, within the “5-Year Forecast, Clean Stormwater (Fund 831).”
 - The future projection for “revenue collection” (provided in the “Clean Stormwater Expenses” spreadsheet) was calculated by adding \$1500 per year, as the historic costs for this expense rose incrementally rather than by percent.
 - Annual staff training costs were estimated by assuming four hours of one or two employees' time plus \$300 per training, unless otherwise specified during the interview (e.g., the costs for copper controls training was estimated as 50 labor hours annually).
 - Line items considered to be Proposed Projects (described in Section 3.2.1) were included in the Capital Costs category (**Table 3**).
 - Line items considered to be Proposed Expenses were included in the O&M Costs (**Table 4**) and Water Quality (NPDES) Costs (**Table 5**) categories.

The total, estimated expenditures for 2016-2017, 2017-2018, and the next four years (future), organized by expense type, are shown in **Tables 3, 4, and 5**.⁵

The Capital Costs are shown in **Table 3**, divided into two main groups: Funded Projects and Proposed Projects. The Proposed Projects include “Watershed/Drainage and Green Infrastructure Project TBD,” which is described in detail in Section 3.2.1.

⁵ The total costs for each cost category are also summarized in **Table 2**.

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Table 3. City Estimated Capital Costs Expenditures for MRP, by Expense Type and Fiscal Year

Expense Type	Prior 2016-2017	Current 2017-2018	2018-2019	Future - Projected		2021-2022	Total
				2019-2020	2020-2021		
Capital Costs							
Funded Projects							
Administration & Engineering	\$161,464	\$160,025	\$166,454	\$173,314	\$180,429	\$187,808	
One-Time Funding							
2017 GI Project: Rose & Hopkins, University & Shattuck, Woolsey	-	\$1,959,543	-	-	-	-	
2018 GI Project: Parker St. Cistern & Drainage Improvements	-	\$1,300,000	-	-	-	-	
2019 GI Project: King School Park, N. Branch Library, Civic Center Park, Dwight/Sacto Bus Stop, Willard Park, San Pablo Park	-	-	\$1,169,052	-	-	-	
Recurring Funding							
Storm Drain Project: Kains Trash Rack	-	\$164,000	\$12,000	\$12,000	\$12,000	-	
Storm Drain Project: Storm Drain Rehab	-	\$10,000	\$91,584	\$119,984	\$488,000	\$500,000	
Storm Drain Project: Wildcat Canyon Rd Drainage Improvements	-	-	-	\$368,016	-	-	
Storm Planning: Stormwater Master Plan	-	\$326,000	\$396,416	-	-	-	
Clean Storm Planning	-	\$30,000	\$30,000	\$30,000	\$30,000	\$30,000	
Funded Projects Subtotal	\$161,464	\$3,949,568	\$1,865,506	\$703,314	\$710,429	\$717,808	
Proposed Projects							
Complete Watershed Management Plan	-	-	\$400,000	-	-	-	
Watershed/Drainage and Green Infrastructure Project TBD	-	-	\$550,000	\$1,000,000	\$1,150,000	\$1,300,000	
Proposed Projects Subtotal	-	-	\$950,000	\$1,000,000	\$1,150,000	\$1,300,000	
Total Capital Costs	\$161,464	\$3,949,568	\$2,815,506	\$1,703,314	\$1,860,429	\$2,017,808	\$12,508,089

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The O&M Costs are shown in **Table 4**, divided into two main groups: Funded Expenses and Proposed Expenses.

Table 4. City Estimated Operations & Maintenance Expenditures for MRP, by Expense Type and Fiscal Year

Expense Type	Prior	Current	Future - Projected				Total
	2016-2017	2017-2018	2018-2019	2019-2020	2020-2021	2021-2022	
Operation & Maintenance							
Funded Expenses							
Administration & Engineering	\$161,464	\$160,025	\$166,454	\$173,314	\$180,429	\$187,808	
Corp Yard Administration	\$29,777	\$ 11,178	\$46,631	\$48,496	\$50,436	\$52,453	
Customer Service	\$27,929	\$30,284	\$31,495	\$32,755	\$34,065	\$35,428	
Facilities Management Corp Yard Shared Costs	\$3,079	\$3,347	\$3,579	\$3,722	\$3,871	\$4,025	
BMP Inspections	\$1,000	\$1,040	\$1,082	\$1,125	\$1,170	\$1,217	
Facilities Management Streets and Sanitation	\$17,933	\$13,635	\$16,879	\$17,554	\$18,256	\$18,987	
Storm Drain and Trash Capture Maintenance	\$1,284,939	\$1,010,660	\$1,161,584	\$1,184,816	\$1,208,512	\$1,232,682	
Funded Expenses Subtotal	\$1,526,121	\$1,230,169	\$1,427,703	\$1,461,782	\$1,496,738	\$1,532,600	
Proposed Expenses							
CCTV Scope	-	-	\$4,400	\$4,488	\$4,578	\$4,669	
Cleaning 450 Trash Capture Devices	-	-	\$94,530	\$98,343	\$102,277	\$106,368	
Infrastructure Inventory	-	-	\$200,000	-	-	-	
Sink Hole	-	-	\$300,000	\$312,000	\$324,480	\$337,459	
Green Infrastructure O&M	-	-	\$7,000	\$13,600	\$16,900	\$16,900	
Proposed Expenses Subtotal	-	-	\$605,960	\$428,431	\$448,234	\$465,396	
Total Operation & Maintenance	\$1,526,121	\$1,230,169	\$2,033,664	\$1,890,212	\$1,944,973	\$1,997,996	\$10,623,135

Appendix A – Regulatory Assessment and Cost and Revenue Analysis

The Water Quality (NPDES) Costs are shown in **Table 5**, divided into two main groups: Funded Expenses and Proposed Expenses.

Table 5. City Estimated Water Quality (NPDES) Expenditures for MRP, by Expense Type and Fiscal Year

Expense Type	Prior	Current	Future - Projected				Total
	2016-2017	2017-2018	2018-2019	2019-2020	2020-2021	2021-2022	
Water Quality (NPDES)							
Funded Expenses							
Administration & Engineering	\$161,464	\$160,025	\$166,454	\$173,314	\$180,429	\$187,808	
NPDES Permit and Alameda County Clean Water Program	\$143,722	\$149,531	\$152,522	\$155,572	\$158,683	\$161,857	
Clean Storm Water	\$474,099	\$569,607	\$487,102	\$506,586	\$526,850	\$547,924	
Toxics Management	\$118,040	\$141,928	\$126,856.50	\$131,931	\$137,208	\$142,696	
Annual Report	\$29,800	\$30,992	\$32,232	\$33,521	\$34,862	\$36,256	
Funded Expenses Subtotal	\$927,125	\$1,052,083	\$965,166	\$1,000,924	\$1,038,032	\$1,076,541	
Proposed Expenses							
NPDES Environmental compliance	-	-	\$200,000	\$208,000	\$216,320	\$224,973	
Stormwater Design requirements	-	-	\$100,000	\$104,000	\$108,160	\$112,486	
Staff Training	-	-	\$ 6,976	\$ 7,255	\$ 7,546	\$ 7,847	
Proposed Expenses Subtotal	-	-	\$306,976	\$319,255	\$332,025	\$345,306	
Total Water Quality (NPDES) Expenses	\$927,125	\$1,052,083	\$1,272,142	\$1,320,179	\$1,370,057	\$1,421,847	\$7,363,434
Total Program Expenses⁶	\$2,614,710	\$6,231,821	\$6,121,312	\$4,913,706	\$5,175,458	\$5,437,651	\$30,494,658

⁶ The total program expenses and total costs for each cost category are also summarized in **Table 2**.

Appendix A – Regulatory Assessment and Cost and Revenue Analysis

3.2.1. Proposed Capital Improvement Projects

The list of proposed projects comes from the 2011 Watershed Management Plan. A watershed is an area of land that drains rainfall to a common outlet such as a reservoir, a bay, or along a stream channel. The nine watersheds in Berkeley push stormwater toward creeks, which carries the water out to the San Francisco Bay. The capital projects in the watershed involve developing a system of bioswales and cisterns that will clean water before it enters the creeks. Bioswales are landscaping elements designed to catch stormwater and remove some of the pollutants. Cisterns are underground containers used for catching stormwater. The bioswales in the City projects would be developed to catch stormwater first and reduce dirt, oil, and other pollutants. The water would then flow into cisterns, where the water would be slowly released into the storm drain system or slowly reduced into the ground to replenish the ground water.

The impacts of releasing this water slowly helps minimize huge flows of water that cause flooding in certain areas. It also prevents large amounts of water from entering the creeks and flushing fish and other biological life out of the creeks and into the Bay, where they would die because the Bay is not their natural habitat. As of 2012, the estimated cost of creating a system of bioswales and cisterns in the City's watersheds was \$208M. These proposed projects and estimated costs are listed below.

- Potter: \$65M
- Schoolhouse: \$19.5M
- Gilman: \$10M
- Wildcat: \$10M
- Strawberry: \$45M
- Codornices: \$18M
- Cerrito: \$15M
- Marin: \$15M
- Temescal: \$10M

If the fee increase is approved, City staff will determine the priorities of the projects and schedule them into the Capital Improvement Plan.

Appendix A – Regulatory Assessment and Cost and Revenue Analysis

3.3. Water Quality (NPDES) Program

The City works to protect water quality within its watersheds and beyond. As part of this effort, the City implements the various components of the NPDES stormwater program to meet the requirements of the MRP, the permit that regulates stormwater discharges from the City. The permit requirements include several provisions, which are described below, along with specific examples of how the City works to meet these requirements:

- C.2 – Municipal Operations. The purpose of this provision is to ensure implementation of appropriate best management practices (BMPs) by the City to control and reduce non-stormwater and stormwater discharges to storm drains and watercourses during operation, inspection, and routine repair and maintenance activities of municipal facilities and infrastructure. This includes activities such as street and road repair and maintenance, sidewalk/plaza maintenance and pavement washing, bridge and structure maintenance and graffiti removal, stormwater pump station maintenance, and Corporation Yard maintenance.
- C.3 – New Development and Redevelopment. The goal of this provision is for the City to use their planning authorities to include appropriate source control, site design, and stormwater treatment measures in new development and redevelopment projects to prevent increases in runoff, as well as to address potential discharges. This includes incorporation of hydromodification management, green infrastructure (GI), and low impact development concepts. As part of these efforts, the City is developing a GI Plan that will provide guidance on how to incorporate clean water controls into new development projects.
- C.4 – Industrial and Commercial Site Controls. This provision requires the implementation of an industrial and commercial site control program, including inspections, follow-up, enforcement, training, and reporting, which is intended to prevent potential and actual discharges from these sites. On an annual basis, the City conducts 320 inspections of commercial businesses, with a particular focus on restaurants and food service companies. These businesses must implement specific practices to prevent oil and chemicals from entering storm drains.
- C.5 – Illicit Discharge Detection and Elimination. The purpose of this provision is to implement the illicit discharge prohibition and to ensure that illicit discharges are detected and controlled. The program includes inspections, follow-up, enforcement, training and reporting to address discharges such as sewage, surface wash water, runoff from stored materials (including hazardous materials), pool or fountain water containing chlorine, yard waste or pet waste, or food-related wastes. As part of these efforts to address illicit discharges, the City actively responds to complaints from the public regarding illegal discharges into the storm drainage system.

Appendix A – Regulatory Assessment and Cost and Revenue Analysis

- C.6 – Construction Site Control. This provision requires the implementation of a construction site control program, including inspections, follow-up, enforcement, training, and reporting, which is intended to prevent potential and actual discharges from these sites. Erosion control and other pollution controls may be required by construction site operators, and the effectiveness of these controls is demonstrated during inspections. Each year, the City conducts inspections of 200 construction projects to ensure these controls are in place and are properly implemented.
- C.7 – Public Information and Outreach. The goal of this provision is to increase the awareness of a broad spectrum of the community regarding the impacts of stormwater pollution on receiving waters and potential solutions and prevention techniques. The program requires the marking of storm drain inlets, participation in or contribution to outreach campaigns, education, citizen involvement events, and watershed collaborative efforts. The City promotes participation in California Coastal Cleanup Day at two sites where volunteers pick up trash: Aquatic Park and a joint effort with UC Berkeley at Codornices Creek.
- C.8 – Water Quality Monitoring. This is a regional effort to determine the quality of the receiving waters through a region-wide water quality monitoring program. The monitoring program includes receiving water monitoring, creek monitoring, stressor identification projects, pollutants of concern monitoring, and pesticides and toxicity monitoring. The City contributes to the countywide monitoring effort, and ACCWP coordinates the water quality sampling and analyses for pollutants that are present.
- C.9 – Pesticides Toxicity Control. This provision requires the City to implement a pesticide toxicity control program that addresses the uses of pesticides that pose a threat to water quality and have the potential to reach the storm drain. The City has adopted an Integrated Pest Management (IPM) policy that includes required standard operating procedures and training for municipal employees and pest control contractors. Pest control workers are required to use less toxic methods in order to minimize the amount of chemicals that enter storm drain system.
- C.10 – Trash Load Reduction. This provision requires the City to implement control measures and other actions to reduce the amount of trash entering the storm drain. A specific schedule of reduction requirements is included, with a goal to meet 100% of the trash load reduction by July 1, 2022. To meet the requirements of this provision, the City has installed more than 400 trash capture devices to retain trash that has entered storm drain inlets. These trash capture devices are regularly cleaned out to prevent trash from entering the Bay.
- C.11 – Mercury Controls. This provision requires the City to implement a control program for mercury in stormwater, including source control, treatment control, and pollution prevention strategies, and to report on these control measures. The City is complying with this requirement through the countywide program and including control measures for mercury in its GI Plan, with the goal of removing mercury contamination from stormwater before it enters local creeks and the Bay.

Appendix A – Regulatory Assessment and Cost and Revenue Analysis

- C.12 – PCBs Controls. This provision requires the City to implement a control program for polychlorinated biphenyls (PCBs) in stormwater, including source control, treatment control and pollution prevention strategies, and to report on these control measures. The City is complying with this requirement through the countywide program and including control measures for PCBs in its GI Plan, with the goal of removing PCBs contamination from stormwater before it enters local creeks and the Bay.
- C.13 – Copper Controls. This provision requires the City to implement a control program for copper in stormwater, the primary source of which is copper roofs. The City is complying with this requirement through the countywide program and including control measures in its GI Plan. As part of its copper control efforts, the City annually inspects businesses that have potential for releasing copper into the storm drain system, and it has included best management practices in building permits for new development projects to prevent copper contamination.
- C.17 – Annual Reports. This provision requires the City to submit annual reports to the Regional Water Board documenting the actions taken to comply with the above provisions during the previous fiscal year.

Appendix A – Regulatory Assessment and Cost and Revenue Analysis

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APPENDIX B – RESULTS OF PERCENTAGE OF IMPERVIOUS AREA SAMPLING

For each land use category, a sample of parcels were analyzed using aerial photography and other data to determine the average percentage of impervious area (“%IA”). Table 7 below shows the results of that analysis.

TABLE 7 – RESULTS OF PERCENTAGE OF IMPERVIOUS AREA SAMPLING

Land Use Category	No. of Parcels	No. of Parcels Analyzed	Total Acres Sampled	Total Acres Impervious Area	Average % IA
Residential					
Small <i>Under 3,200 sf</i>	2,333	94	5.69	3.74	65.73%
Medium <i>3,200 to 7,200 sf</i>	15,819	401	44.11	19.77	44.82%
Extra Large <i>over 7,200 sf</i>	2,590	100	23.28	6.94	29.81%
Multiple Home Lots	664	29	3.77	2.06	54.64%
Condominium	2,260	not sampled			
Non-Residential					
Apartments	1,417	50	8.30	7.16	86.27%
Comm / Industrial / Parking	1,740	79	20.74	19.85	95.71%
Office	236	23	8.69	7.56	89.87%
Institutional / Church	274	32	10.86	8.95	82.41%
School / Hospital	34	28	78.64	59.02	75.05%
Recreational	22	21	51.02	29.76	58.33%
Park	73	15	23.84	1.50	6.29%
Vacant (developed)	620	not sampled			
TOTAL	28,082	872	278.94	166.31	

APPENDIX C – STORM DRAINAGE RATES FROM OTHER MUNICIPALITIES

There have been relatively few voter-approved local revenue mechanisms in the past 15 years to support storm drainage programs in California. A summary of those efforts plus some others in process or being studied is shown in Table 8 below, in roughly chronological order. Amounts are annualized and are for single family residences or the equivalent.

TABLE 8 – RECENT STORM DRAIN MEASURES

Municipality	Status	Annual Rate	Year	Mechanism
San Clemente	Successful	\$ 60.15	2002	Balloted Property Related Fee
Carmel	Unsuccessful	\$ 38.00	2003	Balloted Property Related Fee
Palo Alto	Unsuccessful	\$ 57.00	2003	Balloted Property Related Fee
Los Angeles	Successful	\$ 28.00	2004	Special Tax - G. O. Bond
Palo Alto	Successful	\$ 120.00	2005	Balloted Property Related Fee
Rancho Palos Verde	Successful , then recalled and reduced	\$ 200.00	2005, 2007	Balloted Property Related Fee
Encinitas	Unsuccessful	\$ 60.00	2006	Non-Balloted Property Related Fee adopted in 2004, challenged, ballot and failed in 2006
Ross Valley	Successful, Overturned by Court of Appeals, Decertified by Supreme Court	\$ 125.00	2006	Balloted Property Related Fee
Santa Monica	Successful	\$ 87.00	2006	Special Tax
San Clemente	Successfully renewed	\$ 60.15	2007	Balloted Property Related Fee
Solana Beach	Non-Balloted, Threatened by lawsuit, Balloted, Successful	\$ 21.84	2007	Non-Balloted & Balloted Property Related Fee
Woodland	Unsuccessful	\$ 60.00	2007	Balloted Property Related Fee
Del Mar	Successful	\$ 163.38	2008	Balloted Property Related Fee
Hawthorne	Unsuccessful	\$ 30.00	2008	Balloted Property Related Fee
Santa Cruz	Successful	\$ 28.00	2008	Special Tax
Burlingame	Successful	\$ 150.00	2009	Balloted Property Related Fee
Santa Clarita	Successful	\$ 21.00	2009	Balloted Property Related Fee
Stockton	Unsuccessful	\$ 34.56	2009	Balloted Property Related Fee
County of Contra Costa	Unsuccessful	\$ 22.00	2012	Balloted Property Related Fee
Santa Clara Valley Water District	Successful	\$ 56.00	2012	Special Tax
City of Berkeley	Successful	varies	2012	Measure M - GO Bond
County of LA	Deferred	\$ 54.00	2012	NA
Vallejo San & Flood	Successful	\$ 23.00	2015	Balloted Property Related Fee
Culver City	Successful	\$ 99.00	2016	Special Tax
County of El Dorado	Studying	NA	NA	NA
County of Orange	Studying	NA	NA	NA
County of San Mateo	In Process	NA	NA	NA
City of Sacramento	In Process	NA	NA	Balloted Property Related Fee
Town of Moraga	In Process	NA	NA	Balloted Property Related Fee
City of Santa Clara	In Process	NA	NA	Balloted Property Related Fee
Town of Los Altos	In Process	NA	NA	Balloted Property Related Fee
County of San Joaquin	In Process	NA	NA	Balloted Property Related Fee
County of Ventura	Studying	NA	NA	Balloted Property Related Fee

In addition to the agencies listed above in Table 8 that have gone to the ballot for new or increased storm drainage fees, there are several other municipalities throughout the State that have existing storm drainage fees in place. Some of these rates are summarized in Table 9 below. Amounts are annualized and are for single family residences or the equivalent.

The City's proposed \$42.89 SFR rate is well within the range of storm drainage rates adopted by other municipalities. When coupled with the existing 2018 Storm Drainage Fee (with an average SFR rate of \$47.66), the rates are still within the reasonable range for municipal rates.

TABLE 9 – LOCAL STORM DRAINAGE FEES

Municipality	Annual Rate	Type of Fee
Bakersfield	\$ 200.04	Property Related Fee
Culver City	\$ 99.00	Special tax
Davis	\$ 84.94	Property Related Fee
Elk Grove	\$ 70.08	Property Related Fee
	\$ 190.20	Property Related Fee
Hayward	\$ 28.56	Property Related Fee
Los Angeles	\$ 27.00	Special tax
Palo Alto	\$ 136.80	Property Related Fee
Redding	\$ 15.84	Property Related Fee
Sacramento (City)	\$ 135.72	Property Related Fee
Sacramento (County)	\$ 70.08	Property Related Fee
San Bruno	\$ 46.16	Property Related Fee
San Clemente	\$ 60.24	Property Related Fee
San Jose	\$ 91.68	Property Related Fee
Santa Cruz	\$ 109.08	Special Tax
Stockton *	\$ 221.37	Property Related Fee
Vallejo Sanitation and Flood Control District	\$ 23.64	Property Related Fee
West Sacramento	\$ 144.11	Property Related Fee
Woodland	\$ 5.76	Property Related Fee

* This is the calculated average rate for the City of Stockton, which has 15 rate zones with rates ranging from \$3.54 to \$651.68 per year.

RESOLUTION NO. 68,483-N.S.

APPROVING THE FEE REPORT, ACCEPTING THE BALLOT TABULATION RESULTS, AND ORDERING THE LEVY OF THE CITY OF BERKELEY'S 2018 CLEAN STORMWATER FEE (CALIFORNIA CONSTITUTION, ARTICLE XIII D, § 6)

WHEREAS, the City Council ("Council") of the City of Berkeley ("City") has previously authorized the initiation of proceedings to conduct a ballot proceeding to obtain approval of a proposed property-related fee, called the "2018 Clean Stormwater Fee" consistent with the procedures established in Article XIII D of the California Constitution. If approved, the 2018 Clean Stormwater Fee would raise revenue to pay for services and improvements provided by the City that are necessary to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) stormwater permit issued to the City. NPDES stormwater permits require the public agency permittee to take certain prescribed measures to keep pollutants from entering storm drain systems and being discharged into other bodies of water, such as our local creeks and the San Francisco Bay; and

WHEREAS, the City is responsible for installing, operating, and maintaining its catch basins, pipes, and channels, including cleaning them of debris in order to prevent trash and pollutants from entering the creeks and Bay, as well as to prevent local flooding; and

WHEREAS, the City seeks to prevent the formation of sink holes caused, in part, by the failure of old pipes, and which are a hazard to drivers, bicycle riders and pedestrians; and

WHEREAS, on February 13, 2018, the Council adopted Resolution No. 68,334-N.S., to initiate the property related fee process and Resolution No. 68,335-N.S. on February 13, 2018, to establish the balloting procedures for the proposed 2018 Clean Stormwater Initiative consistent with California Constitution Article XIII-D; and

WHEREAS, on April 3, 2018, the Council conducted a public hearing at which a majority protest was not achieved, and subsequently adopted Resolution No. 68,381-N.S. directing the mailing of fee ballots to all property owners of properties within the City subject to the fee; and

WHEREAS, pursuant to the provisions of California Constitution Article XIII-D, the Council has provided a ballot to each record owner of parcels of real property located within the boundaries of the City subject to the fee, and the returned ballots have been received and tabulated.

NOW, THEREFORE BE IT RESOLVED, by the Council of the City of Berkeley, as follows:

SECTION 1. Tabulation of the Ballots. The canvass of the fee ballots submitted by property owners is complete and certified by the City Clerk, and the votes cast are as follows:

Total Number of Valid Ballots Processed:	9,378
Total Number of Votes of Valid Ballots Processed:	10,614
Total Number of "Yes" Ballots Processed:	5,933
Total Number of Votes of "Yes" Votes Processed:	6,448
Percentage of "Yes" Ballots:	63.27%
Total Percentage of "Yes" Votes:	<u>60.75%</u>
Total Number of "No" Votes Processed:	3,445
Total Number of Votes of "No" Votes Processed:	4,166
Percentage of "No" Votes, unweighted	36.73%
Total Percentage of "No" Votes:	39.25%
Total Number of "Invalid" Ballots Processed:	219
Total Number of Votes of "Invalid" Ballots Processed:	246

SECTION 2. Invalid Ballots. 9,597 fee ballots were returned and received prior to the close of the public input portion of the public hearing on May 29, 2018. This represents a 38.7% ballot return rate on the 24,800 ballots mailed. Of the fee ballots returned, 219 ballots were declared invalid, in that they were either not marked with a "Yes" or "No", were marked with both a "Yes" and a "No," were not signed, or the property ownership and barcode information was illegible.

SECTION 2. Ballots Results. As determined by ballots cast, 60.75% of the votes cast by property owners were in support of the measure. Since a majority protest, as defined by Article XIII D of the California Constitution, did not exist, this Council thereby acquired jurisdiction to order the levy of the 2018 Clean Stormwater Fee.

SECTION 3. Findings. The City Council finds that the 2018 Clean Stormwater Fee is being implemented in compliance with the requirements of Proposition 218, as codified in Article XIII D of the California Constitution. Based on the oral and documentary evidence, including the 2018 Storm Drainage Fee Report, received by the Council, the Council expressly finds and determines that it is in the best interest of the City and the public to order the fee to be levied.

SECTION 4. Ordering of the Levies. The Council hereby orders the fees for fiscal year 2018-19 shall be levied at the rates specified in the 2018 Storm Drainage Fee Report.

SECTION 5. CPI. The authorized maximum fee amount to be levied in future fiscal years shall be increased annually based on the San Francisco-Oakland-Hayward Consumer Price Index (CPI), not to exceed 3% per year. The maximum annual CPI adjustment for each property shall be calculated by adding the existing 1991 Clean Stormwater Fee amount to the new 2018 Clean Stormwater Fee amount, and multiplying the sum by the CPI or 3%, whichever is lower. The resulting maximum authorized adjustment will be applied only to the 2018 Clean Stormwater Fee. The fee amount charged in any year cannot exceed the cost to provide the stormwater services and improvements.

SECTION 6. Filing this Resolution. Shortly after the adoption of this Resolution, but in no event later than August 10 following such adoption, the City Clerk shall file a certified copy of this Resolution and a fee levy roll with the Auditor of Alameda County ("County Auditor"). Upon such filing, the County Auditor shall enter on the County assessment roll opposite each lot or parcel of land the amount of fee thereupon as shown in the levy roll. The fees shall be collected at the same time and in the same manner as County taxes are collected and all laws providing for the collection and enforcement of County taxes shall apply to the collection and enforcement of the fees. After collection by the County, the net amount of the fees, after deduction of any compensation due the County for collection, shall be paid to the City of Berkeley.

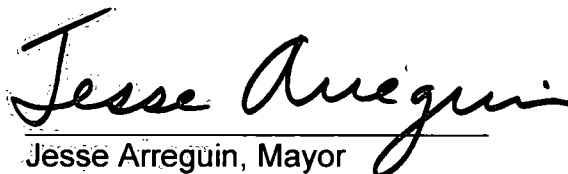
SECTION 7. Corrections. The 2018 Clean Stormwater Fee, as it applies to any parcel, may be corrected, cancelled or a refund granted as appropriate, by order of the City Council or its designee, by a determination from the City Council or its designee that the fee for that parcel should be revised to be consistent with the fee method established in the Fee Report. Any such corrections, cancellations or refunds shall be limited to the current fiscal year in which the correction, cancellation or refund was requested.

The foregoing Resolution was adopted by the Berkeley City Council on June 12, 2018 by the following vote:

Ayes: Davila, Droste, Hahn, Harrison, Maio and Arreguin.

Noes: None.

Absent: Bartlett, Wengraf and Worthington.


Jesse Arreguin, Mayor

Attest: 
Mark Numainville, City Clerk

RESOLUTION NO. 68,041-N.S.

FRAMEWORK FOR GREEN INFRASTRUCTURE PLAN DEVELOPMENT

WHEREAS, in order to be in compliance with Provision C.3.j of the reissued Municipal Regional Stormwater Permit (MRP 2) adopted by the San Francisco Bay Regional Water Quality Control Board on November 19, 2015 (Order No. R2-2015-0049); the City of Berkeley is required to prepare a Green Infrastructure Plan for the inclusion of low impact development drainage design into appropriate projects on public and private lands to address the adverse water quality impacts and pollutants from urban stormwater runoff and urbanization, including paving of roadways and parking lots; and

WHEREAS, the goal of low impact development drainage design is to reduce runoff, minimize land disturbance, minimize pavement and other impervious cover, and remove pollutants from stormwater runoff using methods that employ natural processes of storage, detention, infiltration, evapotranspiration, and filtering of runoff through soil media as described in Provision C.3.c of MRP 2; and

WHEREAS, the Green Infrastructure Plan shall meet the following milestones specified in Provision C.3.j of MRP 2:

1. Approval of a framework for the Green Infrastructure Plan by June 30, 2017.
2. Approval of the Green Infrastructure Plan by June 30, 2019.
3. Submittal to the San Francisco Regional Water Quality Control Board of the Green Infrastructure Plan with the City of Berkeley's Annual Stormwater Report by September 30, 2019; and

WHEREAS, in order to be in compliance with MRP 2, a Framework for Green Infrastructure Plan Development has been prepared and presented to applicable City of Berkeley Commissions including Public Works Commission, Planning Commission, and Community Environmental Advisory Commission.


NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it hereby adopts the Framework for Green Infrastructure Plan Development.

The foregoing Resolution was adopted by the Berkeley City Council on June 13, 2017 by the following vote:

Ayes: Bartlett, Davila, Droste, Hahn, Harrison, Maio, Wengraf, Worthington and Arreguin.

Noes: None.

Absent: None.



 Jesse Arreguin, Mayor

Attest: 

 Mark Numainville, City Clerk



Office of the City Manager

CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council
 From: Animal Care Commission
 Submitted by: Diane Sequoia, Chairperson
 Subject: Referral Response: Proposed New BMC Ordinance Adding Chapter 9.26 Live Animal Sales – Disclosure Requirements

RECOMMENDATION

In lieu of approving the ordinance, encourage Berkeley live animal retailers to provide purchasers with information regarding the sourcing of their animals by utilizing one or two of the following designations describing the sourcing of the particular animal: 'captive bred;' 'hobby breeder' or 'licensed breeder;' 'rescue;' 'wild caught;' or 'imported.'

FISCAL IMPACTS OF RECOMMENDATION

None

CURRENT SITUATION AND ITS EFFECTS

There are currently three (3) retail stores in Berkeley selling live animals; East Bay Vivarium (EBV), Your Basic Bird (YBB) and Biofuel Oasis (BfO). All three stores are small independent businesses. EBV has been in business since 1970, YBB is going on 38 years and BfO was founded in 2003. EBV specializes in reptiles, amphibians and invertebrates such as arachnids. YBB specializes in pet birds and also regularly hosts Hopalong rescue cat & kitten adoptions. BfO sells chicks, ducks and honeybees.

Live animal sales at all of the above three stores are overseen and regulated by both federal law (United States Department of Agriculture/Animal Plant Health Inspection Service aka USDA/APHIS) and California state law (health & safety code, fish & game code, etc). Berkeley Animal Care Services is empowered to inspect for code violations and enforce compliance.

In contrast, retail sales of dogs, cats and rabbits in California are subject to 2017's AB 485 (aka the puppy mill ban bill) in addition to the relevant federal and other state laws

BACKGROUND

On November 13th, 2018, the Berkeley City Council referred adoption of an ordinance adding Chapter 9.26 Live Animal Sales Disclosure Requirements to the Animal Care Commission (ACC). The reasons given justifying the need for the proposed new BMC ordinance were two-fold:

- 1) To provide customers with animal sourcing information to enable them to make purchases based on animal welfare concerns.
- 2) To prevent the sale in Berkeley of 'puppy mill' type commercial mass produced/bred animals.

The ACC considered extensive public comment over seven (7) months. Public comment came from the three individuals promoting the proposed new ordinance, three owners from EBV and YBB and members of the non-interested public. Other factors considered were on-going BACS commitments to animal welfare in the community, community outreach, public health and safety and current staffing levels at BACS.

After deliberating, the ACC respectfully recommends that the Berkeley City Council (BCC) not approve the proposed new BMC ordinance Chapter 9.26 Live Animal Sales - Required Disclosures. At the June 19, 2019 regular meeting the following Motion was made and approved.

MOTION III: O'Day/Shumer

To approve a recommendation to City Council to reject a proposed new B.M.C ordinance adding Chapter 9.26 Live Animal Sales-Disclosure Requirements.

Aye: O'Day, Shumer, Sequoia

Motion passed

Instead, the ACC recommends that the BCC encourage Berkeley retailers of live animals to provide their animal's sourcing information to purchasers by using the appropriate one or two of the following descriptions: 'Captive bred'; 'hobby breeder' or 'licensed breeder', 'rescue', 'wild caught' or 'imported'.

ENVIRONMENTAL SUSTAINABILITY

No change from current situation

RATIONALE FOR RECOMMENDATION

The ACC determined that the proposed new ordinance would not achieve the stated goals, would cause an undue burden in staff time on the retailers in complying with the proposed ordinance and would be unenforceable by BACS at its current staffing levels. The diversion of BACS staff to enforcing the proposed new ordinance would impair public health, safety, animal welfare and would disproportionately impact low income, homeless and other vulnerable groups who rely heavily on assistance from BACS for information and assistance with their pets.

The proposed descriptions will enable customers to make informed purchases based on ecologic impact and animal welfare considerations, while not unduly burdening the stores or BACS in complying with the new requirements.

ALTERNATIVE ACTIONS CONSIDERED

None

CITY MANAGER

City Manager concurs with recommendation.

CONTACT PERSON

Amelia Funghi, Manager, Animal Care Services, (510) 981-6603



Commission on Disability

CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council
 From: Commission on Disability
 Submitted by: Alex Ghenis, Chairperson, Commission on Disability
 Subject: Providing Wheelchair Charging Opportunities for Homeless Individuals

RECOMMENDATION

Adopt a Resolution directing appropriate City staff to develop policies which will provide accessible, reliable opportunities for homeless individuals with disabilities to charge power wheelchairs. Staff is directed to research existing conditions of homeless individuals with disabilities; barriers to charging power wheelchairs; related consequences; and potential City actions to provide accessible, reliable wheelchair charging. Request that staff assemble a policy to be reviewed and implemented. (Motion to approve item as amended, July 10, 2019, Motion: Walsh, Second, Weiss, Ghenis; aye, Singer: aye, Smith: aye, Abstain: None, LOA: Ramirez, Absent: Leeder)

FISCAL IMPACTS OF RECOMMENDATION

Providing reliable wheelchair charging will almost certainly save the City money overall through reduced costs from emergency personnel, medical services and similar expenses. The money that the City grants to Easy Does It Emergency Services (EDI) for transportation, wheelchair repair, etc. will be able to be better used by EDI and thus better serve its clients, Berkeley's residents with disabilities (whether housed or homeless). The various options for providing reliable wheelchair charging will surely have different fiscal costs and benefits, which may be determined by appropriate city staff.

CURRENT SITUATION AND ITS EFFECTS

There are multiple City and community-based efforts to address the larger situation of homeless individuals such as the Homeless Services Panel of Experts created pursuant to Measure O. This panel and other groups including the Berkeley Commission on Homelessness and Commission on Aging have raised concerns about wheelchair charging and other issues affecting homeless individuals with disabilities.

At least several dozen, and possibly over 100, of Berkeley's homeless individuals use power wheelchairs to navigate their surroundings. When these wheelchairs are charged, their owners can navigate Berkeley to acquire much-needed goods, meals, and services. Proper mobility can also support circulation, skin integrity, etc. by allowing individuals to get out of beds/encampments, sit upright and move around. When wheelchair batteries drain to empty, individuals may become stuck in sidewalks or

crosswalks, requiring assistance from strangers or paid city staff to move them to safety; this can potentially be extremely costly in cases when emergency personnel are required. Batteries must also be regularly charged to continue functioning, so individuals who are unable to charge batteries risk having non-functional wheelchairs. Easy Does It Emergency Services (EDI) – which partly operates using city funds for transportation and wheelchair repair – has committed energy, staff time, transportation services and wheelchair repair resources to maintain functioning wheelchairs for the homeless population, charge them as needed, and sometimes provide transportation to stranded individuals. EDI's costs could be drastically reduced if individuals had proper access to charging stations and could keep their wheelchairs working properly.

Berkeley's homeless residents live in a diverse range of circumstances. Some live in well-managed encampments while some are in unorganized encampments and others live alone. There is also a range of capabilities regarding self-care influenced by health, substance use, personal capacities, etc. These and other factors mean that there may not be a "one-size-fits-all" solution to providing reliable charging, but that does not negate the City's responsibility to seek out a better course-of-action.

Some potential policies may include but are not limited to: keeping wheelchair chargers at homeless shelters and/or other public buildings, ensuring that certain outdoor power outlets are turned on and uncovered, at least at designated times; providing reliable electric power at recognized homeless encampments with wheelchair-using residents; working with city staff, volunteers, or other stakeholders to manage charging "boxes" at designated public outlets; and actively communicating with the homeless community about charging options and locations.

The Commission's recommendation supports the Strategic Plan Priority of championing and demonstrating social and racial equity.

BACKGROUND

In early 2019, the Commission on Disability was approached by multiple homeless and disability advocates concerned about the lack of available options for homeless power-wheelchair-users to charge wheelchair batteries. Public outlets near sidewalks, which used to be a main option for charging wheelchairs, have increasingly been covered up or turned off in recent years. Building owners/operators turn away individuals attempting to use indoor outlets. There are no reliable outlets near encampments, and none have been made available despite multiple requests. Charging "boxes" – which convert outlet AC power into DC power for battery plugs – are not available at homeless shelters or in reliable locations, even though nearly all wheelchairs use the same power converters.

The Commission on Disability held several discussions to explore concerns and opportunities for providing wheelchair charging opportunities for homeless individuals. The Commission did not endorse one specific course-of-action, but rather wishes to request that appropriate city staff prioritize this concern and develop a well-designed strategy to ensure that homeless individuals may charge power wheelchairs.

ENVIRONMENTAL SUSTAINABILITY

Providing wheelchair charging could lead to related environmental benefits. One main benefit is that regularly charging batteries extends their service life and means that fewer batteries must be produced and disposed of, which both have environmental externalities. Secondly, guaranteeing functional power wheelchairs means that fewer individuals will be stranded near encampments, on sidewalks or in crosswalks; this will reduce emissions from fossil-fuel-powered emergency vehicles, wheelchair transportation services, and other services which would otherwise be necessary to bring an individual to safety. Other environmental benefits may exist but are not listed here.

RATIONALE FOR RECOMMENDATION

A significant portion of Berkeley's homeless population has disabilities, including many individuals who use power wheelchairs for mobility. However, there are extremely limited options for people to charge those very power wheelchairs: public power outlets are increasingly disconnected, covered or otherwise unavailable, and there are limited to no viable outlets at homeless encampments. The inability to charge wheelchairs has drastic consequences for individuals' health, mobility, safety and independence; it also presents logistical and fiscal consequences for the City of Berkeley, its medical providers and public safety departments. The current situation presents significant challenges and, arguably, an unrecognized crisis for an already-vulnerable group.

Providing opportunities for homeless individuals to charge power wheelchairs will support their health, independence, safety, and overall well-being at many levels, while saving the city valuable resources. There are several potential options for how to better allow for wheelchair charging including but not limited to: coordinating to turn on outlets at or near encampments with homeless wheelchair-users, providing publicly available wheelchair chargers at designated areas, or keeping chargers at existing homeless shelters or public buildings (e.g. senior centers or libraries).

ALTERNATIVE ACTIONS CONSIDERED

The Commission on Disability considered developing a specific policy but believes that staff are better equipped to research existing conditions and develop concrete policies.

CITY MANAGER

The City Manager concurs with the content and recommendations of the Commission's Report.

CONTACT PERSON

Dominika Bednarska, Disability Services Specialist, Public Works, 510 981-6418

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

WHEELCHAIR CHARGING FOR BERKELEY'S HOMELESS RESIDENTS

WHEREAS, a significant number of homeless individuals in Berkeley have disabilities and use power wheelchairs for independence, health and well-being; and

WHEREAS, there are few to no reliable, accessible locations in Berkeley for homeless individuals to charge power wheelchairs; and

WHEREAS, power wheelchairs must be regularly charged, using a proper power converter, in order to function and for batteries to remain viable; and

WHEREAS, individuals whose wheelchairs run out of power may be unable to access vital areas, goods, and services, and may become stranded, including in the middle of sidewalks or crosswalks, in ways that jeopardize health, safety and well-being; and

WHEREAS, repairing wheelchairs and/or rescuing stranded individuals requires significant resources by emergency personnel and local nonprofits and may endanger their safety; and

WHEREAS, people with disabilities have a human right to health, independence, and mobility, which are often provided by charged and functional power wheelchairs.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager and other appropriate staff research existing conditions of homeless individuals with disabilities using power wheelchairs, available charging options, and potential actions and policies to provide reliable, accessible wheelchair charging for homeless individuals; and

BE IT FURTHER RESOLVED that the City Manager and appropriate staff develop actions and policies to provide reliable, accessible wheelchair charging for homeless individuals and return to City Council with proposed policies for further discussion and approval.



Community Environmental Advisory Commission

CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council
 From: Community Environmental Advisory Commission
 Submitted by: Ben Gould, Chairperson, Community Environmental Advisory Commission
 Subject: Calling for State Action on Parking Enforcement Vehicle Emissions

RECOMMENDATION

Refer to the City Manager to send the attached letter, calling for the State of California to require 100% all-electric parking enforcement vehicles by 2030 or earlier, to Berkeley's elected State-level representatives and the Chair of the California Air Resources Board.

FISCAL IMPACTS OF RECOMMENDATION

Negligible time and costs to send letters.

CURRENT SITUATION AND ITS EFFECTS

Berkeley's Strategic Plan sets the goal of being a global leader in addressing climate change, advancing environmental justice, and protecting the environment. However, Berkeley simultaneously needs to ensure effectiveness of service delivery and use of taxpayer funds.

Currently, Berkeley operates and purchases gasoline-powered parking enforcement vehicles in order to ensure effective service delivery, but has discussed switching to electric options. However, the two all-electric vehicles the City owns have had technical difficulties, and the City lacks adequate charging infrastructure for expanding its electric fleet.

At its June 13, 2019 meeting, the Commission adopted the recommendation which calls for state action on parking enforcement vehicle emissions. *M/S/C* (Gould/Ticconi). Ayes: Simmons, Varnhagen, Ticconi, De Leon, Goldhaber, Gonzales, Gould. Noes: None. Absent: None. Abstained: Hetzel.

BACKGROUND

At the May 14th City Council meeting, Berkeley City Council encountered a dilemma in balancing these two goals when approving the purchase of new parking enforcement vehicles. Most parking enforcement vehicles today are gasoline-powered, and while all-electric options exist, Berkeley has experienced technical difficulties when using them,

and cities lack the infrastructure to support them. In order to ensure effective service delivery, Council approved the purchase of new gas-powered parking enforcement vehicles, but the challenge of needing better all-electric alternatives will persist unless action is taken to support the market.

ENVIRONMENTAL SUSTAINABILITY

Encouraging the State to take action in encouraging electric parking enforcement vehicles will have an indirect positive impact on environmental sustainability.

RATIONALE FOR RECOMMENDATION

The technology exists and creating a market will drive competition, improving reliability, cost, and performance. The IPCC recommends aggressive action by 2030.

ALTERNATIVE ACTIONS CONSIDERED

None.

CITY MANAGER

The City Manager concurs with the content and recommendations of the Commission's Report.

CONTACT PERSON

Ben Gould, Chair, Community Environmental Advisory Commission, 510-725-9176

Attachments:

1: Letter to State Officials

[Date MM DD, YYYY]

To: Governor Gavin Newsom, State Senator Nancy Skinner, Assemblymember Buffy Wicks, and California Air Resources Board Chair Mary Nichols

From: Berkeley City Council

RE: Electrification Requirements for Parking Enforcement Vehicles

Dear XX,

The City of Berkeley is calling for action on driving forward the market for all-electric parking enforcement vehicles.

Throughout the State of California, public safety officers use specialized light-duty parking enforcement vehicles to ensure compliance with local parking laws. These vehicles regularly operate in a low-speed, stop-and-go urban environment – a prime setting for electric or hybrid vehicles. However, the existing electric vehicles available on the market have not been found to adequately meet many cities' needs, and cities have not planned or built the infrastructure necessary to accommodate fleets of electric parking enforcement vehicles.

Setting statewide policies and directives around the use of electric parking enforcement vehicles will help cities and manufacturers plan and bring these vehicles into the mainstream, as we have seen from early successes with California's requirement for all new buses to be all-electric by 2029.

The City of Berkeley asks for your support and leadership in executing a similar approach for parking enforcement vehicles, potentially by requiring 100% electric vehicles by 2030 or earlier. The City thanks you for your environmental leadership.

Respectfully,

The Berkeley City Council

CONSENT CALENDAR

September 10, 2019

To: Honorable Mayor and Members of the City Council

From: Disaster and Fire Safety Commission

Submitted by: Gradiva Couzin, Chair, Disaster and Fire Safety Commission

Subject: Commission Referral: Recommendation to Install an Outdoor Public Warning System (Sirens) and Incorporate It Into a Holistic Emergency Alerting Plan

RECOMMENDATION

We recommend that City of Berkeley immediately begin the process to purchase, install, and maintain an outdoor public warning system (sirens) as a supplement to other alert and warning technologies within our boundaries and coordinated with abutting jurisdictions and Alameda County.

This installation should be accompanied by the following:

- ongoing outreach and education so that the public will understand the meaning of the sirens and what to do when they hear a siren
- development of a holistic alert protocol, incorporating sirens as an additional option among the available suite of alerting methods
- staff training and drills on alerting procedures
- development of a testing and maintenance plan that will ensure the system is fully operational while avoiding unnecessary or excessive noise pollution in the City
- outreach to deaf and hard of hearing residents to encourage them to opt-in for alerting that meets their communication needs. This may include distributing weather radios or other in-home devices with accessibility options for people with disabilities.

This recommendation does not specify the number, type, or location of sirens; City staff should determine the most cost-effective system that achieves the goals described in this recommendation. This may include either mobile or fixed-location sirens.

POLICY COMMITTEE RECOMMENDATION

On June 3, 2019, the Public Safety Policy Committee adopted the following action: M/S/C (Wengraf/Robinson) to recommend that the report issued by the Disaster and Fire Safety Commission be submitted to the City Council with a Positive Recommendation. Vote: All Ayes.

FISCAL IMPACTS OF RECOMMENDATION

Exact costs and staff time are to be determined. However, the two estimates below give a ballpark sense of the possible cost of this installation:

- Example 1: The cost of a 23-siren system in Berkeley was estimated at \$801,000 in 2004 (\$1.1 million in 2018 dollars), with an additional \$100,000 (\$132k in 2018 dollars) for public outreach and 0.5 FTE staff member time for 6 months to support the installation process.
- Example 2: A siren proposal in Sonoma County was recently estimated at \$850,000 for design and installation of 20 sirens.

CURRENT SITUATION AND ITS EFFECTS

On March 27, 2019, at the Regular meeting of the Disaster and Fire Safety Commission, the commission passed a motion to recommend that the City immediately begin the process to purchase, install, and maintain an outdoor public warning system (sirens) as a supplement to other alert and warning technologies within our boundaries and coordinated with abutting jurisdictions and Alameda County. M/S: Flasher, Degenkolb; Vote: 8 Ayes: Degenkolb, Flasher, Simmons, Stein, Bailey, Couzin, Grimes, Dean; 0 Noes; 0 Absent; 0 Abstain.

Berkeley faces a serious threat from a wildland-urban interface (WUI) fire that has increased for many reasons, including the growth of fuel that is happening as a result of recent rains. Based on recent experiences in the 2017 North Bay fires and the 2018 Camp Fire, it is clear that a wildfire in Berkeley would spread very quickly, expanding at many miles per hour and requiring a rapid evacuation of a large number of residents. This is especially likely in the designated Hazardous Fire Zones in the hills, but an intense and fast-moving fire threatens the entire City of Berkeley, including the flats.

Significant efforts are underway to address this increasing threat, including City staff's creation of a draft Wildfire Evacuation Plan and other wildfire safety efforts.

The City of Berkeley currently has several available alerting options that it can use in a wildfire emergency (see Attachment A) but does not have a citywide system of emergency sirens.

Recent wildfires in Northern and Southern California have shown that existing alerting systems and processes have not been sufficient. These wildfires have had tragic outcomes, with a disproportionate number of deaths of seniors and people with disabilities. Some of these locations have since initiated plans to install outdoor public warning systems (sirens).

BACKGROUND

Berkeley has considered using sirens for many years. In 2004, the City commissioned a study exploring installing emergency sirens, which included testing sirens and designing a possible layout of sirens.

In November, 2004, Bill Greulich, Emergency Services Manager at the time, recommended against installation of fixed sirens. He instead recommended exploring mobile sirens or weather radios. See Attachment B, "Alerting and warning system project update and recommendations for further action." However, in the 15 years since that discussion, neither of the suggested alternatives (mobile sirens and mass distribution of weather radios) has materialized.

Since that time, wildfires have become an increasing hazard in California due to the effects of climate change, including: increased frequency and severity of drought, tree mortality, bark beetle infestation, warmer spring and summer temperatures, and longer and more intense dry seasons. California experienced the deadliest and most destructive wildfires in its history in 2017 and 2018.¹ Fires are bigger, faster, and more intense; firefighters in the 2018 Camp Fire reported that they had never seen a fire move so quickly.² The length of wildfire season has expanded to be nearly year-round.³ With the continuing effects of climate change, scientists suggest that fires will continue to be a worsening threat.⁴

Also, in the years since the 2004 decision, smartphone technology has emerged, and while this has been an important addition to alerting options, it has not fully met the alerting needs or expectations of the public. A California Office of Emergency Services (Cal OES) Assessment Report on the Sonoma County wildfires of October 2017⁵ concluded that public expectations for local government alert and warning services are higher than what is currently being offered. People expect to be adequately alerted, even if they have never taken any action to “opt-in” for warnings.

At this time, the City is reviewing and re-evaluating all of its emergency notification options following the 2017 and 2018 wildfires. Berkeley Fire Department has been considering the idea of installing sirens for at least a year, since January 2018.

ENVIRONMENTAL SUSTAINABILITY

Installing sirens will have an environmental impact due to the construction and maintenance required. They also create noise pollution that can be highly annoying for residents. Poles can be wood, concrete or steel. Sirens can be AC or battery-powered with solar-powered battery back-up as an option.

RATIONALE FOR RECOMMENDATION

The tragedies of the 2018 Camp Fire and the 2017 North Bay fires show the extreme danger that fast-moving wildfire events pose for both residents and responders. The objective of this Commission is to assist policy makers, responders, and residents in achieving the ultimate goal of a smooth-running, extremely fast, safe and effective evacuation with no loss of life.

Currently, Berkeley has several systems available to alert residents of an emergency. See Attachment A, “Alerting Systems Available for Berkeley Emergencies (February 2019)”.

Each of Berkeley’s currently-available alert systems will reach some but not all residents, and most of these systems are only available to people who have opted-in before an emergency, or

¹ <http://www.fire.ca.gov/downloads/45-Day%20Report-FINAL.pdf>

² <https://www.nationalgeographic.com/environment/2018/11/how-california-fire-catastrophe-unfolded/>

³ <https://www.nature.com/articles/ncomms8537>

⁴ <https://www.theguardian.com/environment/2018/aug/07/california-wildfires-megafires-future-climate-change>

⁵ <https://sonomacounty.ca.gov/Public-Safety/Emergency-Notification-for-Sonoma-Complex-Fires-2017/>

who are actively seeking information about an emergency – not people who are simply going about their lives.

As an additional concern, failure rates can be high with any one system. In Sonoma County in the 2017 North Bay fires, only 51% of the 290,000 emergency alert calls reached a human or answering machine⁶. Camp Fire failure rates for alerts reportedly ranged from 25% to 94%.⁷

Due to various failures and limitations of emergency alerting, many survivors after the 2017 North Bay fires and the 2018 Camp Fire were left wondering why they did not receive any alert at all. These experiences and tragic outcomes strengthen the importance of redundancy through multiple alert methods.

A modern outdoor siren system, designed to blanket all of Berkeley in sound, would provide an additional layer of coverage where other systems may fail. Sirens can also provide redundancy if other communication channels are disabled due to power outage or cell tower disruption.

Here are several questions and answers about this siren recommendation:

When will sirens be activated? Currently, City staff determine what type of alerts to send out based on the level of danger, how localized the danger is, and how imminent the danger is. Sirens should be incorporated into a holistic plan for warnings and alerts so that they have the best chance of filling any gaps to alert people when there is a serious or life-threatening hazard, including wildfires, chemical spills, or other hazards.

Modern sirens allow for multiple tones, so they can be used for more than one message. In addition to wildfire and other hazard alerting, sirens could potentially be integrated with future earthquake early warning systems, which is already done in Mexico City, to provide a warning before earthquake shaking hits.⁸

This recommendation does not specify the exact criteria for determining when to activate a siren alert; the option of activating sirens should be incorporated into the City's alerting protocol based on the best professional judgement of City staff, and in accordance with appropriate state or federal guidelines.

Any alert or warning technology is only as good as the planning, training, and situational awareness that allows responders to use it well. We recommend that activation criteria and procedures be fully and clearly documented in writing, trained, and tested by City staff on a regular basis:

- Criteria for activating alerts
- Who is authorized to decide to activate an alert

⁶ <https://abc7news.com/sonoma-county-tests-emergency-phone-calls-in-wake-of-north-bay-fires/4208459/>

⁷ <https://www.mercurynews.com/2018/12/16/camp-fire-created-a-black-hole-of-communication/>

⁸ <https://eos.org/features/lessons-from-mexicos-earthquake-early-warning-system>

- Content of alerts (message template), as applicable
- Technical operation of the alerting system

Will people hear them indoors? Outdoor public warning systems are generally considered to be for alerting people who are outdoors, not indoors. However, “practical experience and the results of tests by the Federal Emergency Management Agency (FEMA) and others have shown that siren sounds are quite effective for alerting large populations—including those indoors”⁹

According to a 2006 FEMA technical bulletin, despite the limitations in sound getting inside buildings, “an outdoor [public alert system] can reasonably be expected to alert *some* people inside buildings” and “a properly designed outdoor [public alert system] may also awaken sleeping members of the public in residential areas.”¹⁰ This bulletin reports that the likelihood of a person being awakened from sleep by an outdoor siren ranges from 17% - 52%, depending on the person’s age and the loudness of the sirens.

Consistent with this research, past events also show that sirens are often heard indoors. For example, in the deadly 2011 Joplin, MO tornado, sirens “could generally be heard indoors” although unfortunately many residents did not take action based on the sirens¹¹. Recent siren malfunctions in 2017 and 2018 (in Dallas and Memphis) resulted in a large number of complaints about people being awakened or kept awake by the sirens.¹² And many West Berkeley residents can attest to being awakened from sleep by Bayer plant sirens.

Clearly, the City can’t rely on sirens to alert everyone who is indoors, especially if people are asleep. Sirens may only reach half or a quarter of this population; because of this, sirens should be just one layer in multiple alerting methods that are used. The most effective emergency alerting combines multiple methods, both outdoor and indoor.¹³

We recommend that the selection of tones and frequencies be made to maximize the chance of the siren being audible indoors, as described here: “lower frequency components should be included for better coverage, including components between 225 Hz and 355 Hz for transmission through windows (Mahn 2013).”¹⁴

Will they be confusing? An ongoing public information campaign is an important part of any outdoor public warning system, so that people know what action to take when they hear a siren. Additionally, siren testing should be designed to help the public be aware of sirens and their

⁹ <https://asa.scitation.org/doi/10.1121/1.2024832>

¹⁰ https://www.midstatecomm.com/PDF/FEMA_guide.pdf

¹¹ <https://www.nist.gov/sites/default/files/documents/2017/05/09/NCSTACmtgDec2013KuligowskiJoplin.pdf>

¹² <http://www.wmcactionnews5.com/2018/11/01/tornado-sirens-falsely-sound-nd-straight-morning/>,

<https://www.nytimes.com/2017/04/08/us/dallas-emergency-sirens-hacking.html>

¹³ https://www.researchgate.net/profile/John_Sorensen7/publication/327226171_Rogers_and_Sorensen_1988_Diffusion_of_Emerg_Warn/links/5b816d40299bf1d5a7270825/Rogers-and-Sorensen-1988-Diffusion-of-Emerg-Warn.pdf

¹⁴ <https://nvlpubs.nist.gov/nistpubs/TechnicalNotes/NIST.TN.1950.pdf>

meaning. Testing should take place at the same time of day and week (e.g. at noon on Tuesdays) to avoid any confusion, and silent testing should be used when possible.

Here are examples of siren testing programs in locations near Berkeley:

- San Francisco, which has had a siren system in place for many years, tests their system every Tuesday at noon using a single tone for 15 seconds. In an actual emergency, the sound will cycle repeatedly for 5 minutes.¹⁵
- Oakland and UC Berkeley test on the first Wednesday of every month at the same time, using a slow wail for 90 seconds. This is explained to the public as not only testing the system, but “enhancing public awareness” so that if something different from the usual day, time, or tone is heard, the public should turn on radios, computers, phones or TV for more information. Three different tones are used in case of an actual emergency: A 3-minute slight wail means shelter in place, a slow wail means a tsunami, and a fast wail means a fire.¹⁶
- Richmond, which is on the Contra Costa County system, tests on the first Wednesday of every month at 11:00 am for less than 3 minutes, and every Wednesday at 11:00 am using a barely audible sound (known as a “growl test”)¹⁷. There are also two systems in place controlled by the Chevron Refinery.

The typical action that people should take when they hear an emergency siren is to seek more information through other channels, which may include the radio or internet, in order to learn what they need to do next. It’s very important that people get a consistent message from all of these channels, so planning for that output should be included in the holistic alerting plan.

Here are two examples of this process not working well:

- In the 2011 Joplin, MO tornado, sirens prompted people to look for more information, but they got conflicting information from different sources, which led to public confusion and is considered a major contributor to why people didn’t take action and get to safety.¹⁸
- Another example of poorly-managed public information for outdoor public warnings is the Bayer plant in West Berkeley. Bayer alarms occasionally go off and are concerning to neighbors, but there is minimal information available online, and Bayer doesn’t answer a support line after hours.

City of Berkeley would need to do a better job and provide extensive support and education, not only when the system is installed but also on an ongoing basis afterwards, and every time the sirens are activated.

Are they accessible and ADA compliant? A negative feature of sirens is that, like other audible alerts, they are not accessible to people who are deaf or hard of hearing.

¹⁵ <https://sfdem.org/tuesday-noon-siren>

¹⁶ <http://www2.oaklandnet.com/oakca1/groups/fire/documents/webcontent/oak063278.pdf>

¹⁷ <https://www.ci.richmond.ca.us/331/Community-Warning-System>

¹⁸ <https://www.nist.gov/sites/default/files/documents/2017/05/09/NCSTACmtgDec2013KuligowskiJoplin.pdf>

Berkeley's emergency alerting must use a combination of notification methods that can reach all residents. The public outreach campaign should include a very extensive program to reach all disabled residents and encourage them to opt-in for alerting that meets their communication needs. This may include distributing weather radios or other in-home devices with strobe light or vibration options as an alternative to siren alerting for people who are deaf or hard of hearing.

We believe that despite this limitation, sirens could help deaf and hard of hearing residents. In emergencies, many people learn about the danger from a neighbor, not directly from official alerts. This is described in the 2018 Camp Fire:

"Some learned about the looming wildfire from neighbors knocking on their doors. Or frantic cellphone calls from friends. Others just looked out their windows and saw the smoke and flames, or heard the chaos of neighbors hustling up children and pets and scrambling to get out.

Matthew White was sound asleep when the fire began raging around his home in Paradise, Calif., the morning of Nov. 8. But somehow he heard his cellphone ring.

It was a friend of his shouting on the other end of the line: "Get the hell up and get the hell out! Paradise is on fire!" ".¹⁹

The way this helps is analogous to the concept of "herd immunity" or "community immunity" that helps explain how vaccines make communities safer: blanketing the area with a siren will allow a larger percentage of people to get informed and to inform neighbors, and this will improve the level of protection for all, including vulnerable neighbors who may not hear the sirens.

Will they work in a power outage? Outdoor warning sirens can have backup batteries, which can be recharged using solar panels to ensure that they will work during a power outage. They can be controlled by a radio signal from a safe location.²⁰ Sirens may burn down in a fire, but they will at least be able to provide warning until the fire reaches their location.

What other communities in California have sirens? Many communities near Berkeley have sirens, including the City of Oakland and UC Berkeley as well as Contra Costa County, as noted above. Oakland's sirens were installed as a result of the 1991 Tunnel fire. Lake County installed sirens following the deadly Valley Fire in 2015. Sonoma County is considering installing sirens following the deadly North Bay fires of 2017 Mill Valley is exploring the use of mobile sirens. Berkeley now has the opportunity to install sirens before, rather than after, a disaster occurs.

Will people take them seriously? The decision-making process for people to decide to take action in an emergency is complicated and varies from person to person. *Studies show that*

¹⁹ <https://www.nytimes.com/2018/11/21/us/paradise-fires-emergency-alerts.html>

²⁰ https://www.dhs.gov/sites/default/files/publications/Outdoor-Sirens-MSR_0315-508.pdf

*people look for confirmation from more than one source before they take action.*²¹ Sirens can reinforce other messages about imminent danger.

Although conventional wisdom may worry about a “cry wolf” or “warning fatigue” effect from too many warnings, research about these effects is mixed.²² Ensuring the credibility of the sirens and avoiding a “cry wolf” effect should be considered when choosing a siren system and testing plan.

Can’t the city go door-to-door instead? If there is a fire moving at the scale and speed of recent California wildfires, responders will not have enough time to alert a large portion of the population by going door-to-door. The City will be balancing its resources between fighting the fire, clearing the roads, and knocking on doors. According to Berkeley’s draft Evacuation Plan:

“Community members should not expect door-to-door notifications or assistance from emergency responders during evacuation.”

What is the best siren system? This recommendation does not specify a specific siren brand or system. A 2015 FEMA survey of available siren systems²³ shows that there are many features that can be varied in different systems, including:

- Price
- Number and location of sirens
- Static or mobile sirens
- Materials (concrete, wood, or metal poles)
- Type of sounds (wailing, beeping, voice)
- Power backup
- Methods of activation (in-person, radio, wired, wireless)
- Testing options (low-volume and silent testing)

We recommend that Berkeley select a system that provides the most cost-effective solution to meet the goals described in this recommendation: providing reliable coverage for the maximum number of Berkeley households possible, while offering enough flexibility of controls so that sirens can be effectively integrated into a complete alerting protocol.

ALTERNATIVE ACTIONS CONSIDERED

Several interrelated recommendations were made to City Council in 2017 and 2018 addressing fire safety and community disaster preparedness. These recommendations included many possible actions covering a broad range of preparedness and hazard mitigation activities. Progress is already being made on some of these priorities.

²¹ <https://www.osti.gov/servlets/purl/6137387>

²² <https://nvlpubs.nist.gov/nistpubs/TechnicalNotes/NIST.TN.1950.pdf>

²³ https://www.dhs.gov/sites/default/files/publications/Outdoor-Sirens-MSR_0315-508.pdf

Sirens should be part of a suite of emergency alerting options; other options could also be enhanced in addition to this one:

- Berkeley could forgo installing sirens, and focus on improving existing protocols to get the maximum effectiveness from the existing suite of alerting tools, particularly Wireless Emergency Alerts (WEA, also used for Amber Alerts). A new set of guidelines for WEA and Emergency Alert System (EAS) alerting is expected from Cal OES in July 2019, and Berkeley will be required to comply with those guidelines within six months. We look forward to Berkeley's continued improvement of these protocols.
- Mass distribution of NOAA weather radios has been discussed as an alternative to sirens. However, the cost to distribute weather radios to every household in Berkeley would reach \$1+ million, and each radio would need to be programmed to receive appropriate alerts. It would also be challenging to ensure proper maintenance and testing of the radios over time. However, a limited distribution to residents who are deaf and hard of hearing should be considered as an accessible supplement to sirens.
- Relying on police and fire vehicle apparatus (bullhorns or sirens) is another option. However, these have a limited audible range²⁴ and would not be able to alert large portions of the city at once. There may also be physical obstacles that could limit the ability of vehicles to reach all the areas that need alerting. It should not be forgotten that such systems may have a substantial role to play in an early warning system specifically designed to evacuate seniors and people with disabilities.

CITY MANAGER

The City Manager appreciates the research and work put into this report by the Disaster and Fire Safety Commission. A siren alerting system could be a valuable tool for use in the City's overall emergency notification system. Given the number of modern options for sirens, the high cost in purchase and replacement of such a system, and the additional FTE that would be necessary to install and maintain the system, the Fire Department is researching options and alternatives. The City Manager refers this to the budget process for consideration of funding sources and prioritization with the overall needs of the City.

CONTACT PERSON

Keith May, Assistant Fire Chief, Berkeley Fire Department, 510-981-5508

Attachments:

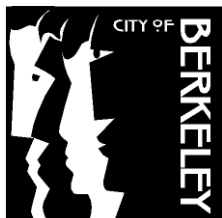
- 1: Attachment A: Alerting Systems Available for Berkeley
- 2: Attachment B: Memorandum: Alerting and Warning System Project Update, November 2004

²⁴ <https://www.fireapparatusmagazine.com/articles/print/volume-22/issue-4/features/siren-limitation-training.html>

ATTACHMENT A
Alerting Systems Available for Berkeley Emergencies (February 2019)

Alerting system	Requires Opt-in?	Description	Reaches these people	Will not reach these people
Systems to alert people who are not actively seeking information:				
WEA (Wireless Emergency Alert)	Does not require opt-in	An Amber Alert-style message with a loud squawking sound, vibration, and brief text message on cell phones.	Anyone with a cell phone that is powered on. Reaches all phones in an area, including residents and visitors passing through.	Anyone without a cell phone or with their cell phone in airplane mode or fully turned off. It is also possible for people to opt out of WEA alerts.
AC Alert (Alameda County Alert)	Requires opt-in except landlines	Sends emergency messages by landline phone, email and cell phone.	Houses with a landline, plus people who have opted in for cell phone or email messages. Reaches people based on their residence address, not their current location.	Anyone without a landline, unless they have opted in. Only 5-10% of Berkeley residents have opted in to this system. ¹
Emergency Alert System	n/a	National public warning system that broadcasts on TV, radio, cable, and satellite TV. Also broadcasts to weather radios.	Anyone who is watching or listening to broadcast TV or radio in a specified area.	Anyone not watching or listening to a live TV or radio broadcast at the time of the emergency. Streaming (Netflix, Hulu etc.) do not show EAS messages.
Nixle	Requires opt-in	Sends messages by email and cell phone and on the web. Often used for lower-urgency messages.	Anyone who has signed up to get messages.	Anyone who has not signed up.
Information that people can actively seek in an emergency, but won't receive passively:				
City Website, Twitter, Facebook, Nextdoor	n/a	The City plans to post emergency messaging on the City website and social media.	People who are actively seeking information, able to access the internet, and know where to look for City information.	Anyone not actively seeking information online, or not able to access the internet.
1610 AM Radio	n/a	The City plans to output emergency messages on 1610 AM radio.	People who are actively seeking information, have a radio, and know to go to 1610 AM.	Anyone not actively seeking information online, or who does not have a radio. Also, 1610 AM radio does not reach all of Berkeley.

¹ Estimate based on data from Berkeley Office of Emergency Services, 3/29/2019.



Department of Fire and Emergency Services
Office of Emergency Services Division
William Greulich, Manager

MEMORANDUM

Date: November 5, 2004

To: Phil Kamlarz, City Manager

Cc: Lisa Caronna, Deputy City Manager
Arrietta Chakos, Chief of Staff
Reginald Garcia, Fire Chief
Roy Meisner, Police Chief

From: Bill Greulich, Emergency Services Manager

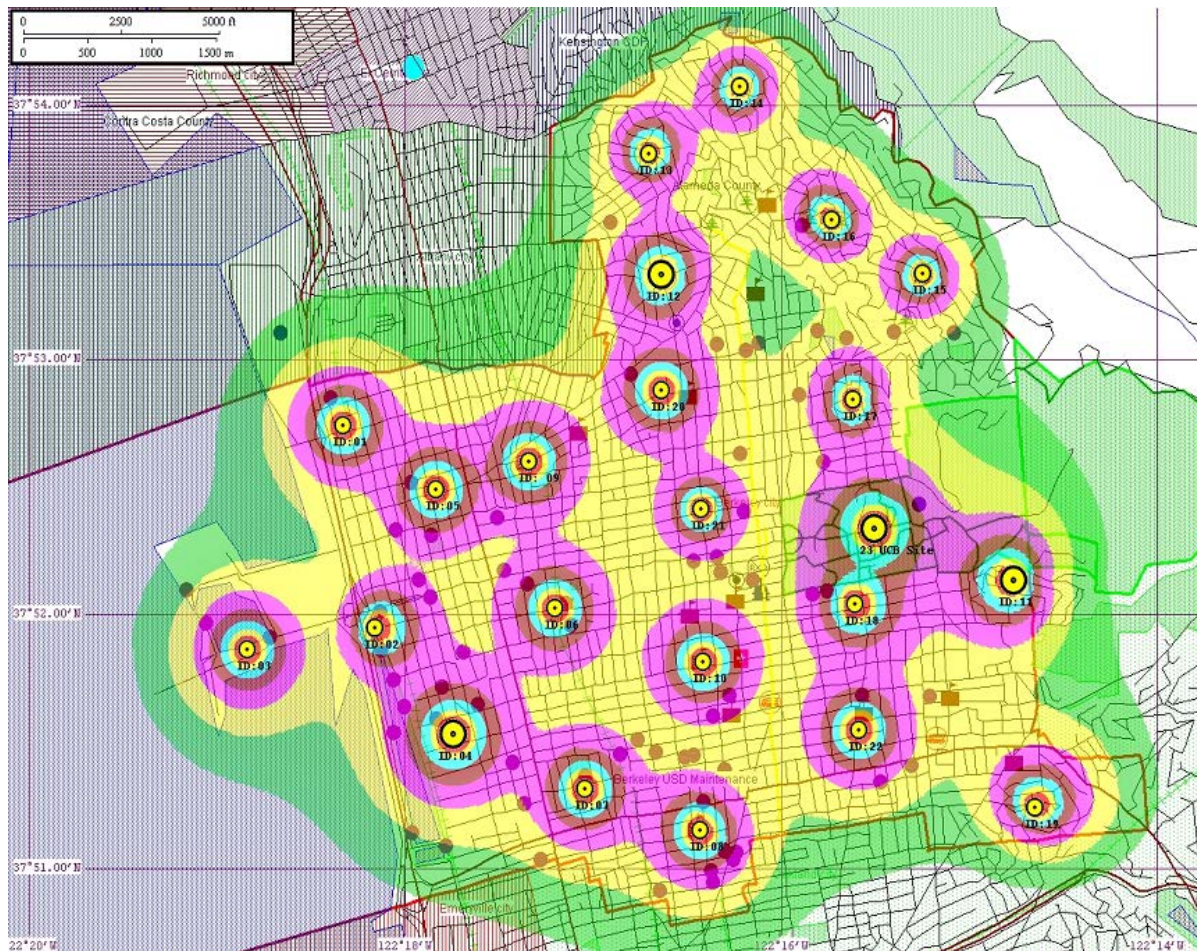
Alerting and warning system project update and recommendations for further action

As discussed in our quarterly meeting of May 28th, here is a summary of work completed to date and my recommendations for further action.

The first phase of the project as outlined in my memorandum of October 14, 2003, "Berkeley Outdoor Warning System (Siren) Project Recommendation" has been completed. Hormann America, Inc. of Martinez, CA in partnership with ProComm Marketing was awarded the contract under IF-9046-04 for \$9,250. Hormann and ProComm designed, installed and continue to support Contra Costa County and the City of Oakland Alerting and Warning Systems (AWS).

Based on criteria derived from the FEMA "*Outdoor Warning Systems Guide*", Civil Preparedness Guideline 1-17, Hormann produced a design requiring the placement of 23 sirens (19 @ 118 dB and 4 @ 121 dB). This design was field verified at four Berkeley locations.

Here are my recommendations.



Sound intensities are shown as contours, the outermost is 70 – 75 dB.

Recommendations –

1. Discontinue the implementation of a citywide siren system. Implementation of a citywide siren system is of limited emergency value, may be detrimental to the health of the community, and exhibits poor cost benefit characteristics.

Cost considerations –

The non-recurring capital estimate is based on City funding of 21 sirens totaling **\$801,000**. This is in alignment with the cost to the City of Oakland of \$1.03 million for 27 units. There would be recurring costs associated with power and maintenance.

The initial public education campaign is estimated at **\$100,000**. There would be recurring costs associated with public education.

Cost estimates for the permitting process are difficult. It is likely that significant staff time would be required to complete an EIR and the other associated work. It is estimated that **0.5 FTE** of City staff would be necessary over a six-month period to accomplish this.

Public and Environmental Health Consequences -

The FEMA “*Outdoor Warning Systems Guide*” has guided the design of siren systems nationwide since May of 1980. Recent work has challenged some of the fundamental assumptions on which the guide was based. The current conclusion is that 123 dB sources will likely be considered “highly annoying” by a noticeable segment of the population.

The FEMA guide also proposed the public would accept loud warning devices regardless of their perceived annoyance because of the potentially life saving value. This belief however, does not accurately reflect the possibility that a 118 or 121 dB sound could in fact contribute to public hearing loss, especially to those who are most sensitive, such as children or the frail. While the guide makes a valid point in light of a life-threatening emergency, it does not accommodate the need to activate the sirens regularly to familiarize the public with their existence. A perceived reduction in quality of life is likely in those members of the community who view the siren testing as “highly annoying”. This phenomenon was demonstrated during the field-testing of Phase I.

City Environmental Health staff has concluded that the sirens would qualify for the emergency use exemption of the City Noise Ordinance. It is also their conclusion that preparation of an Environmental Impact Report (EIR) would be necessary.

Siren System Efficacy -

Sirens target only the community members capable of hearing the warning or alerting tone. Many factors contribute to limiting the number of people who are able to recognize the alert or warning. These include hearing impairments, being inside a building at home, school or work, in an automobile, or in a higher noise environment, i.e. listening to music or operating a power tool.

Hearing a siren sounding is not enough in and of itself. In order to be effective the public must know the system exists before it is used, how to recognize an alert, warning, or test, and what subsequent actions are expected or necessary.

2. Continue to work with Toxics Management and the two private facilities covered by the California Accidental Release Prevention Program (CalARP).

Hazardous materials and the related use of such materials in an act of terror are the best matches to a citywide siren system. In fact, the “East Bay Corridor of Safety” community direction of “Shelter, Shut and Listen” comes from the Contra Costa County alerting and warning system which is focused on and funded by local chemical manufacturing companies. Two facilities in Berkeley possess hazardous materials in quantities requiring implementation of State accidental release prevention programs. Sirens would benefit the community in the event of a release of material from either of these facilities.

3. Continue to work with UCB and the “Corridor of Safety” concerning their siren programs.

UCB has a limited outdoor warning and alerting system in place. Neighboring communities, in particular the City of Oakland, have sirens that may also impact Berkeley when activated.

These agencies have not currently produced a complete, integrated set of procedures and protocols for system activation. It is recommended that staff continue to work with UCB and the “Corridor of Safety” on the creation of protocols for the activation of their systems.

4. Investigate alternative alerting and warning technologies – mobile siren.

Berkeley has a history with these systems and has experienced their lack of utility in public safety programs and their long-term resource burden. However, the potential use of a small number of deployable or mobile sirens with voice capability may be valuable. Mobile sirens could be pre-deployed or brought to areas of high risk as needed, such as placement in the Hills during fire season. Addition of a voice capability could expand their utility as a potential public address tool. While they would be more costly on a unit basis, the city would not need to purchase a large number, and a basic capability in outdoor warning might be had at a more affordable cost.

5. Investigate alternative alerting and warning technologies – weather radio.

Currently, only two Federal programs exist to alert and warn the public, the commercial radio and television based Emergency Alerting System (EAS), and the National Weather Service (NWS) weather radio program. The City of Berkeley has the ability to utilize the EAS; it is recommended the City investigate the weather radio program. The program is very simple. Radios are available which turn themselves on when a NWS alert signal is received. Community members are not burdened by having to listen all the time to the warning station. The NWS signal is broadcast from a tower in San Francisco or on Mt. Diablo. Several key findings are:

- The radios can be placed anywhere, including in schools, and with members of vulnerable populations.
- The alert would be citywide; all radios in the reach of the Diablo or SF tower would be activated.
- The radios are affordable at approximately \$30 each.
- The radios do not have any obvious adverse health impact and can be acquired with visual aids for the hearing impaired.
- Significant Federal support for this program exists.

It is recommended that staff investigate the possibilities of utilizing the NWS system.



Homeless Commission

CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council
 From: Homeless Commission
 Submitted by: Carole Marasovic, Chair, Homeless Commission
 Subject: Reinstating October, 2019 Homeless Commission Meeting

RECOMMENDATION

The Homeless Commission recommends that Council reinstate the October, 2019 Homeless Commission meeting earlier relinquished in order to hold an additional meeting in February, 2019 to address community funding allocations.

SUMMARY

The Homeless Commission scheduled an additional meeting on February 27, 2019 to evaluate community agency funding recommendations. In order to do so, a regular scheduled meeting had to be relinquished. The Commission decided to relinquish the regularly scheduled October, 2019 meeting so that it could complete its funding recommendations.

Apart from funding recommendations, the Homeless Commission makes policy recommendations. In order to continue its work, the Commission needs to reinstate the regularly scheduled October, 2019 Commission meeting.

FISCAL IMPACT of RECOMMENDATION:

The Homeless Commission meets at New City Hall at 2180 Milvia and thus, does not incur any rental charges for meetings. The only fiscal impacts are staff time for its meeting and the minor stipends issued to one or two commissioners.

CURRENT SITUATION and its EFFECTS

Without reinstating the October, 2019 meeting, the Commission will lose a meeting during a six month period when there are already two meetings not scheduled (August, 2019 and December, 2019). That will prevent work from being addressed timely.

BACKGROUND

The Homeless Commission voted to reinstate its October meeting on June 12, 2019:

Action: M/S/C Marasovic/Hill to recommend that Council reinstate the October meeting of the Homeless Commission.

Vote: Ayes: Behm-Steinberg, Hill, Kealoha-Blake, Marasovic, Mulligan

Noes: None. Abstain: None. Absent: Hirpara (excused).

Action: M/S/C Marasovic/Hill that the report requesting an additional October Homeless Commission meeting be submitted to Council as written.

Vote: Ayes: Behm-Steinberg, Hill, Kealoha-Blake, Marasovic, Mulligan
Noes: None. Abstain: None. Absent: Hirpara (excused).

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental impacts.

RATIONALE for RECOMMENDATION

The Homeless Commission meets ten times per year. An additional 2019 meeting was required for community agency funding recommendations, an intensive process, traditionally made for two years. In 2019, the recommendations were made for four years.

Due to the ten meeting a year restriction, the Commission needs to return to Council to reinstate its October, 2019 meeting.

ALTERNATIVE ACTIONS CONSIDERED

The Commission did not see any viable alternative to conducting its work other than reinstating the October, 2019 Homeless Commission meeting.

CITY MANAGER

The City Manager takes no position on this recommendation.

CONTACT PERSON

Peter Radu, Secretary, Homeless Commission, (510) 981-5435.



Housing Advisory Commission

CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council
 From: Housing Advisory Commission
 Submitted by: Xavier Johnson, Chairperson, Housing Advisory Commission
 Subject: 1281 University Avenue Request for Proposals

RECOMMENDATION

Direct the City Manager to issue a Request for Proposals (RFP) for residential development at the City-owned site at 1281 University Avenue with a requirement that at least 50% of the on-site units to be restricted to 50% AMI or below households, with consideration given to accommodations that serve unhoused or homeless households, including nontraditional living arrangements such as tiny homes and that Council consider interim use for the site for housing purposes.

FISCAL IMPACTS OF RECOMMENDATION

This site is already owned by the City and is currently vacant. Housing staff time will be required to issue, review, and select a qualified development group. This group may apply to the City for additional funding.

CURRENT SITUATION AND ITS EFFECTS

At its May 2, 2019 meeting, the Housing Advisory Commission took the following action:

Action: M/S/C (Tregub/Lewis) to recommend issuing a Request for Proposals for residential development at the City-owned site at 1281 University Avenue with a requirement that at least 50% of the on-site units be restricted to 50% AMI or below households, with consideration given to accommodations that serve unhoused or homeless households including nontraditional living arrangements such as tiny homes and that Council consider interim use for the site for housing purposes.

Vote: Ayes: Johnson, Lewis, Lord, Tregub, and Wright. Noes: Sargent, Sharenko and Wolfe. Abstain: None. Absent: Owens (unexcused) and Simon-Weisberg (excused).

BACKGROUND

On March 28, 2017, Council directed staff to develop an RFP to “create small residential units, with appropriate on-site common spaces and services, affordable to extremely low-income persons, with incomes below 30% of Area Median Income (AMI)” at the City-owned site at 1281 University Avenue. On February 8, 2018, the City released an RFP seeking proposals to acquire and develop the site as housing for people with

extremely low-incomes with a preference for homeless services. The RFP also met City and State requirements, including the Surplus Lands Act (AB 2135).

The parcel at 1281 University Avenue is vacant lot consisting of approximately 3,600 sq ft and is adjacent to the Berkeley Way Mini-Park. City records indicate that while the park and lot are on a single legal parcel, the lot has never been included in the park and is therefore not subject to park rules. Staff is concurrently coordinating the subdivision of the University Avenue-facing parcel from the Berkeley Way Mini-Park. Subdividing the parcel is necessary for the sale of the non-park portion.

The site previously hosted the Kenney Cottage, a historic house that has been designated as a Berkeley Structure of Merit since 2003. The cottage was relocated in August 2018 at the direction of the City Council to facilitate the development of the parcel in coordination with the RFP for development proposals.

The City received two proposals in response to the RFP:

- *OpenDoor Group's University Avenue Co-Living*

OpenDoor proposed a “co-living” model that provides small, private bedrooms and baths with shared kitchen and living space. Their development model emphasizes shared communal spaces and activities. Their proposal featured 28 units (two studios and 26 co-living bedrooms), with seven units (25%) set aside for 50% AMI.

- *Resources for Community Development's (RCD) UA Permanent Supportive Housing*

RCD proposed a residential development specifically targeting the homeless, with 16 studios targeting 20-30% AMI and providing on-site homeless services.

On July 11, 2018, the Housing Advisory Commission (HAC) adopted a 1281 University RFP subcommittee's recommendation to select RCD's proposal with specific reservations. The subcommittee considered the RFP, Surplus Lands Act, the proposals, and staff's technical analysis as part of their analysis for the HAC.

On September 25, 2018, the City Council authorized to staff to negotiate and enter in a Memorandum of Understanding (MOU) with RCD based on the HAC's recommendation. Staff drafted an MOU as a starting point for negotiations with RCD. In December 2018, RCD informed the City they did not believe the financial resources needed for the proposed project would be available in a timely way, and formally withdrew from the negotiation process. When asked by staff in April 2019, OpenDoor informed the City they are no longer interested in having their proposal considered for the site. Therefore, the City no longer has proposals to consider from the RFP.

At the April 4, 2019 meeting, the HAC appointed a subcommittee to develop a recommendation to Council for the future use of 1281 University Avenue. The subcommittee met on April 19, 2019 to create a recommendation that was presented to the HAC at its May 2, 2019 meeting. The major change to the subcommittee's recommendation was to recommend that the Council also consider nontraditional living arrangements, including interim use of the site for housing purposes

ENVIRONMENTAL SUSTAINABILITY

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

RATIONALE FOR RECOMMENDATION

The City had already issued an RFP for this site and received two proposals, both of which have been withdrawn. This is a very small site and so only a limited number of traditional housing units can be built. This complicates planning and financing units for the site and may take several years before units could be completed. Since the City has many unhoused homeless individuals and households, the HAC also recommends that the City consider other approaches to house the homeless more quickly. Building tiny homes is one option to consider.

ALTERNATIVE ACTIONS CONSIDERED

The HAC recognizes that there are limited options for this site if it is to be developed in residential use. By issuing an RFP that includes interim uses, it is possible to identify other organizations that could recommend creative options for the City's consideration.

CITY MANAGER

The City Manager concurs with the content of this report and the recommendation to reissue an RFP with a requirement that at least 50% of the on-site units be restricted to 50% AMI or below households. The RFP previously developed and issued by the City was very similar to what the HAC recommends and it could be re-purposed. Given that the City already issued this RFP once, a second attempt may not yield different responses. Housing staff time will be required to manage the RFP process and work with the selected developer.

The City can consider housing opportunities prioritizing the homeless or nontraditional arrangements. With the HAC's recommendation, Council would determine whether to award a disposition and development agreement to any applicant. Staff recommend that project milestones such as securing required permits and assembling necessary financing be part of such an agreement and required prior to the sale of the property.

Staff issued a report on nontraditional living arrangements including tiny homes in October 2016 noting research and amendments to the City's zoning and housing/building codes would be needed to allow permanent tiny homes on public property such as 1281 University Avenue. This would be noted in the RFP to ensure

transparency for any firm with plans to submit a proposal for nontraditional housing models.

If Council refers finding an interim use for the site to staff, this referral would need to be prioritized within the Council referral system to enable the staff time and resources for this type of project.

CONTACT PERSON

Mike Uberti, Acting Commission Secretary, HHCS, (510) 981-5114



Housing Advisory Commission

CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council
 From: Housing Advisory Commission
 Submitted by: Xavier Johnson, Chairperson, Housing Advisory Commission
 Subject: Spring 2019 Bi-Annual Report on Funding for Housing Programs

RECOMMENDATION

Accept the Housing Advisory Commission's (HAC) recommendations for the allocation of U1 General Fund revenues to increase the supply of affordable housing and protect residents of Berkeley from homelessness.

SUMMARY

This report is the first Bi-Annual Report in 2019 that the HAC is submitting to the Council. The expenditure of \$5 million dollars of discretionary funds recommended in this Report (Small Sites/Community Land Trusts, Housing Trust Fund, and Development of New Housing Programs) is broad enough to be useful for existing, proposed, and future housing programs. In late 2019 or early 2020, the Housing Advisory Commission will submit a second bi-annual report. This forthcoming report will, to the extent feasible, report on the actual expenditures and commitments of funds for 2019, as well as lay out a clear, structured, and goals oriented process as to how the City should establish and fund programs to increase the supply of affordable housing and protect residents of Berkeley from homelessness.

FISCAL IMPACTS OF RECOMMENDATION

The funds to pay for these recommendations come from a special Business License tax that is charged on properties consisting of five or more units. It is estimated that the revenues will total approximately \$5 million during the upcoming fiscal year. Staff time is included within the administrative costs listed in the summary table of proposed allocations.

CURRENT SITUATION AND ITS EFFECTS

At the May 2, 2019 meeting, the HAC took the following vote to adopt the Bi-Annual Housing Policy Report Subcommittee recommendations to Council, as amended by Commissioner Johnson, to Council to allocate \$5 million in General Fund revenue as follows:

Small Sites/Community Land Trusts	\$1,000,000
Housing Trust Fund	\$2,500,000
Development of New Housing Programs (Housing Co-Ops, Land Trusts)	\$250,000
Anti-Displacement	\$900,000
Administrative Costs	\$350,000
Total (2019)	\$5,000,000

M/S/C (Wright/Tregub):

Ayes: Johnson, Lewis, Sargent, Sharenko, Tregub, Wolfe and Wright. Noes: Lord.
Abstain: None. Absent: Owens (unexcused) and Simon-Weisberg (excused).

BACKGROUND

Ballot Measure U1 charged the Housing Advisory Commission with providing annual or bi-annual recommendations to the City Council on “how and to what extent the City should establish and fund programs to increase the supply of affordable housing and protect residents of Berkeley from homelessness.” This report is the first Bi-Annual Report in 2019 that the HAC is submitting to the Council. The expenditure of \$5 million dollars of discretionary funds recommended in this Report (Small Sites/Community Land Trusts, Housing Trust Fund, and Development of New Housing Programs) is broad enough to be useful for existing, proposed, and future housing programs.

In late 2019 or early 2020, the Housing Advisory Commission will submit a second bi-annual report. This forthcoming report will, to the extent feasible, report on the actual expenditures and commitments of funds for 2019, as well as lay out a clear, structured, and goals oriented process as to how the City should establish and fund programs to increase the supply of affordable housing and protect residents of Berkeley from homelessness.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with the subject of this report, since the City does not know at this time the locations of the housing units to be assisted.

RATIONALE FOR RECOMMENDATION

The actions recommended by the HAC are consistent with Berkeley’s existing housing programs and policies. Recommended expenditures support existing programs and potential new programs to be explored, such as alternative forms of housing ownership.

ALTERNATIVE ACTIONS CONSIDERED

Another option for the City to consider would be to deposit all U1 General Fund Revenues into the City’s Housing Trust Fund (HTF). However since one of the uses of

U1 General Fund Revenues is to protect Berkeley residents from homelessness, the HAC decided not to deposit all the funds into the HTF in order to provide revenues for anti-displacement activities. In addition, U1 General Fund Revenues are, by definition, more discretionary than other funds deposited into the HTF. This will allow the City to assist innovated programs needed given the housing affordability crisis.

CITY MANAGER

The City Manager recommends referring these recommendations to a Council Policy Committee for further discussion.

The City Council has already authorized General Fund revenue received pursuant to Measure U1 for the following projects:

- \$150,000 to the Berkeley Unified School District as a planning grant for educator housing;
- \$368,000 for Resources for Community Development predevelopment loan application for its proposed development at 2001 Ashby Avenue;
- \$900,000 for anti-displacement activities each year for FY20 and FY21; and
- \$100,000 capacity building for housing cooperatives each year for FY20 and FY21.

At the time of the writing Resources for Community Development has applied for an additional \$1.2M for a predevelopment loan for its proposed development at 2001 Ashby Avenue.

CONTACT PERSON

Mike Uberti, Commission Secretary, HHCS, (510) 981-5114

Attachments:

- 1: Spring 2019 Revised Draft Bi-Annual Report
- 2: Housing Revenues and Expenditures
- 3: Future Program Recommendations in Development by the HAC
- 4: Funding Summary Table as of May 2, 2019

To: Members of the Housing Advisory Commission
From: Xavier Johnson, Chairperson, Housing Advisory Commission
Subject: Spring 2019 Revised Draft Bi-Annual Report
Date: April 25, 2019

RECOMMENDATION

In keeping with the Housing Advisory Commission’s (HAC) annual/biannual obligation to “make recommendations...to what extent the City should establish and fund programs to increase the supply of affordable housing and protect residents of Berkeley from homelessness,” this Report recommends the City of Berkeley allocate \$5 million in general fund revenue as follows:

● Small Sites/Community Land Trusts	\$1,000,000
● Housing Trust Fund	\$2,500,000
● Development of New Housing Programs (Housing Co-Ops, Land Trusts)	\$250,000
● Anti-Displacement	\$900,000
● Administrative Costs	\$350,000
<u>Total (2019)</u>	<u>\$5,000,000</u>

Further information on how the City of Berkeley should establish programs to increase the supply of affordable housing and protect Berkeley residents from homelessness will follow in future reports to the Berkeley City Council.

SUMMARY

The City of Berkeley (City) is currently experiencing a major shortfall in funding for affordable housing for its residents, and many existing residents find that they are unable to keep up with rising rents and may face displacement from their current homes. The purpose of U1, a ballot measure that passed by a majority of Berkeley’s residents in November 2016 was to increase funding for these two vitals areas (increasing the supply of affordable housing and preventing displacement). However, since these funds are part of the General Fund, the City actually has the option of spending them on non-housing related expenditures.

Measure U1 charged the Housing Advisory Commission with providing annual or bi-annual recommendations to the City Council on “how and to what extent the City should establish and fund programs to increase the supply of affordable housing and protect residents of Berkeley from homelessness.” This report is the first Bi-Annual Report in 2019 that the HAC is submitting to the Council. The expenditure of \$5 million dollars of discretionary funds recommended in this Report (Small Sites/Community Land Trusts,

Housing Trust Fund, and Development of New Housing Programs) is broad enough to be useful for existing, proposed, and future housing programs.

In late 2019 or early 2020, the Housing Advisory Commission will submit a second bi-annual report. This forthcoming report will, to the extent feasible, report on the actual expenditures and commitments of funds for 2019, as well as lay out a clear, structured, and goals oriented process as to how the City should establish and fund programs to increase the supply of affordable housing and protect residents of Berkeley from homelessness.

FISCAL IMPACTS OF RECOMMENDATION

This report recommends the allocation of \$5 million dollars in General Fund revenue. It is acknowledged that the City has already, in some cases temporarily and in other cases indefinitely, committed various sources of revenue to various projects. To truly be able to maximize the allocation and effectiveness of resources this recommendation suggests the City will have to take into account all available funding sources and commitments made by the City; this will ensure there are no more additional unfunded commitments moving forward.

CURRENT SITUATION AND ITS EFFECTS

The City of Berkeley continues to be in the midst of a major housing crisis. U1 directed the Housing Advisory Commission to look at all possible avenues and strategies the City can take to increase the supply of affordable housing and protect Berkeley residents from homelessness.

BACKGROUND

This report provides the following information:

1. *History*
The history of Measure U1, as well as the previous reports the Housing Advisory Commission has issued.
2. *Current Funding for Affordable Housing and Prevention of Displacement:*
An approximate summary of expenditures and allocations for affordable housing and prevention of homelessness. While this list is subject to constant change, and the number of sources grows, this list offers some context and background on some of the many resources currently available to the City.

3. *Recommendations for 2019 Expenditures*

Recommendations for future expenditures for housing as well as potential programs and ideas, will be more thoroughly explored and evaluated by the Housing Advisory Commission as part of its regular business.

4. *Potential Future Recommendations under Consideration by the Housing Advisory Commission*

As part of our 2018 Work Plan, the HAC came up with numerous ideas for programs and funding that it is currently evaluating and reviewing. While the HAC is beginning to start the 2019 process, we thought it was important to review the ideas that are still in the works and under review.

1. *History*

Measure U1, which was passed in November 2016, authorized an increase in the Business License Tax charged on properties that consist of five or more residential units. In addition and separately, Measure U1 provided that the HAC will make recommendations on how and to what extent the City should establish and fund programs to increase the supply of affordable housing and protect residents of Berkeley from homelessness. After the measure passed, it was incorporated into Berkeley's Municipal Code. The HAC was required under measure U1 to provide a report to the City Council and specified that HAC make annual or bi-annual recommendations to the Council. The HAC has chosen to set as its timeline April and October as reporting dates for each year.

In its first annual report to the City Council in 2018, the HAC recommended funding at these levels for the following uses:

● Anti-Displacement	\$550,000
● Small Sites Program	\$1,000,000
● Housing Trust Fund	\$2,000,000
● Reserve for pipeline housing programs	\$400,000
● Administrative Costs	<u>\$50,000</u>

Total	\$4,000,000
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This report is the second report to the City Council and is the first Bi-Annual Report for 2019. It provides information to the City Council to assist the Council in its decision-making regarding the allocation of funds to increase the supply of affordable housing and protect residents of Berkeley from homelessness.

2. Current Funding for Affordable Housing and Prevention of Displacement

The City of Berkeley has a number of sources of funding available to expand the supply of affordable housing and prevent homelessness. The subcommittee decided it would be good to understand the overall level of funds designated for affordable housing and homelessness prevention. First, Table 1 provides information on the most recent commitments from General Fund revenue

Secondly, working with staff, the subcommittee obtained information on housing related expenditure and allocations from several local sources including General Funds, In-Lieu and Housing Mitigation Fees, and federal sources, such as HOME and CDBG. This information is summarized in Table 2 and more information on actual expenditures is presented in Attachment 1.¹ Finally Attachment 3 provides information on committed expenditures.

Table 1: Allocations²

	Allocation
COMMITTED EXPENDITURES	
<i>Anti-Displacement</i>	
FY 2018	
Eviction Defense (Rent Board)	\$300,000
Retention - East Bay Comm Law Center HHCS	\$250,000
Rapid Rehousing HHCS	\$100,000
<i>Subtotal</i>	<i>\$650,000</i>
FY 2019 EXPENDITURES	
Eviction Defense (Rent Board)	\$300,000
Retention - East Bay Comm Law Center HHCS	\$250,000
Rapid Rehousing HHCS	\$100,000
<i>Subtotal</i>	<i>\$650,000</i>
<i>STAFF AND ADMIN. FY 2018</i>	
Staff Position	\$150,757
Other Administrative Costs	\$199,243

¹ Note: The total HOME funds listed in Table 2 do not include funding for public services projects, planning and administration, public facilities, and all ESG, since these uses do not fall directly under the policy framework for U1. ESG is primarily used to help those who are already homeless.

²As of February 2019. Also, Table 1 does not include expenditures from ESG or City's matching funds for ESG. See tables in Attachment 1
Source: City Staff

Attachment 1: Spring 2019 Revised Draft Bi-Annual Report

Subtotal	\$350,000
<i>HOUSING</i>	
Future Small Sites Program Activities - HHCS	\$950,000
Organizational Capacity Building (BACLT)	\$50,000
Subtotal	\$1,000,000
TOTAL: COMMITTED AND ASSIGNED	\$2,650,000

Table 2: FY 2018-19 Committed and Reserved Funds for Housing

<i>Committed Housing Trust Funds</i>	<i>CDBG</i>	<i>Home</i>	<i>Local Funds (1)</i>	<i>Total</i>
Bridge/Berkeley Food & Housing			\$3,967,548	\$3,967,548
1638 Stuart St (BACLT Small Sites)			\$50,000	\$50,000
SAHA (Oxford Street)			\$25,000	\$25,000
SAHA/Grayson Apartments	\$876,000	\$1,020,827	\$598,173	\$2,495,000
Subtotal				\$6,537,548
<i>Development - Reserved</i>				
Bridge/Berkeley Food & Housing(2)				\$23,500,000
BACLT Small Sites			\$950,000	\$950,000
SAHA (2)				\$6,000,000
Subtotal				\$30,450,000
Total HOME Projects				\$813,509
Community Allocations for Housing Development and Rehab.				\$451,662
<i>Prevention of Displacement</i>				
FY 2018			\$650,000	\$650,000
FY 2019			\$650,000	\$650,000
Subtotal				\$1,300,000

Attachment 1: Spring 2019 Revised Draft Bi-Annual Report

<i>Staffing and Administration</i>				
Subtotal				\$350,000
TOTAL FUNDS COMMITTED AND RESERVED				\$39,902,719

- 1) Local funding sources include Housing Trust Funds, U1 and additional General Funds.
- 2) No sources indicated.

Finally, the City passed Measure O in Fall 2018. This measure authorized the City to issue up to \$135 million in bonds to be paid for by an increase in the property tax for 36 years. These bonds can be used "to fund housing for "low-, very low-, low-, median, and middle-income individuals and working families, including teachers, seniors, veterans, the homeless, students, people with disabilities, and other vulnerable populations," according to ballot language. These bonds have not yet been issued, so the future financial resources from this bond measure are not included in this report.3.

Recommendations for 2019 Expenditures

Table 3 provides the Housing Advisory Commission's funding recommendations for 2019 designed to increase the supply of affordable housing and protect Berkeley residents from homelessness. It should be noted that there is some overlap. For example, funding for a small sites program could be provided by the Housing Trust Fund, and a small sites program could also be based on a land trust model. In addition, this is not intended to be an exhaustive list of the City's expenditures for increasing the supply of affordable housing or for protecting residents from homelessness.

Table 3: 2019 Funding Recommendations

		% of Committed Funds
Anti-Displacement	\$900,000	18%
Administrative Costs	\$350,000	7%
Small Sites/Community Land Trusts	\$1,000,000	20%
Housing Trust Fund	\$2,500,000	50%
Development of New Housing Programs (Housing Co-Ops)	\$250,000	5%
Total (2019)	\$5,000,000	100%

4. Potential Future Recommendations under Consideration by the Housing Advisory Commission

As part of the 2018 work plan, the Housing Advisory Commission identified numerous potential programs, which it is in the process of evaluating and designing. Moving forward, the HAC may put some of these ideas forward to the City Council. The current nine members of the Housing Commission responded to a poll regarding some of the strategies/programs included in the most recent Work Plan.³ Table 4 presents poll results. The poll required a “yes” or “no” vote.

- The strategies supported by all commissioners included funds for the Housing Trust Fund and Community Land Trusts.
- Those strategies supported by almost all of the Commissioners included anti-displacement services, expansion of the small sites program, and group equity/zero equity co-ops.
- Finally, home sharing and supportive mental health services received support from less than two-thirds of the Commissioners, but still a majority of the members.⁴

Since a majority of Commissioners supported all these activities/strategies, they represent a good starting point for recommendations on how 2019/20 housing funds could be allocated. With the exception of home sharing and supportive mental health services, three-quarters of the commissioners supported the other strategies listed in Table 4.

³ A more detailed description of these Work Plan recommendations can be found at [https://www.cityofberkeley.info/uploadedFiles/Housing/Commissions/Commission_for_Housing_Advisory/2018-7-11%20HAC%20Agenda%20Packet%20COMPLETE\(2\).pdf](https://www.cityofberkeley.info/uploadedFiles/Housing/Commissions/Commission_for_Housing_Advisory/2018-7-11%20HAC%20Agenda%20Packet%20COMPLETE(2).pdf)

⁴According to two commissioners who provided comments, mental health services are outside the auspices of the HAC and Housing Division. Another member indicated that they need more information in order to assess support for these services. Additional comments included in the poll results are included in Attachment 2.

Table 4: Commissioner Poll Results

Activities/Strategies	Percent Supporting
East Bay Community Law Center to help tenants who are at-risk of displacement (1)	88%
Supportive Mental Health Services to assist Residents who have housing remain housed (1)	63%
Expand Supply of Affordable Housing (Small Sites Program)	89%
Housing Trust Fund (for leveraging of new construction)	100%
ADU Development	78%
Tenant Option to Purchase	78%
Group Equity and Zero Equity Co-ops (1)	88%
Community Land Trusts	100%
Home Sharing	56%

- (1) The percentage of HAC members supporting these three issues is based on responses from eight out of nine members of the HAC. One of the members did not vote on these three strategies, because the member indicated more information was needed to provide input.

Attachment 2: Housing Revenues and Expenditures

**Table 1.1:
February 2019 U1 Revenues**

FY 2018 Revenues	\$5,161,615
FY 2019 YTD Revenues	\$865,451
Total	\$6,027,066

Source: City of Berkeley

Table 1.2: February 2019 Committed Expenditures Preventing Homelessness

Use	Anti-Displacement FY18	Anti-Displacement FY19
Eviction Defense - Rent Board	\$300,000	\$300,000
Retention - East Bay Community Law Center - HHCS	\$250,000	\$250,000
Rapid Rehousing - HHCS	\$100,000	\$100,000
Total	\$650,000	\$650,000

Source: City of Berkeley

Table 1.3: February 2019 Committed Expenditures Increasing Housing Supply

Future Small Sites Program Activities – HHCS (not yet provided)	\$950,000
Organizational Capacity Building (BACLT Contract)	\$50,000
Sub-Total	\$1,000,000

Source: City of Berkeley

Table 1.4: Staff and Administrative Costs Funded by the General Fund

Finance Development Spec II Position - FY18	\$150,757
Other Administrative Costs - Fin FY18	\$199,243
Sub-total	\$350,000

Table 1.5: HOME Projects Allocations FY 2018-2019

HOME Admin.	\$81,351
CHDO Operating Funds	\$28,115
Housing Trust Fund	\$704,043
Subtotal HOME Projects FY 2018-2019	\$813,509

Source: City of Berkeley Annual Action Plan. (Does not include all funding)

Attachment 3: Future Program Recommendations in Development by the HAC

Additional comments written on the Commissioner's Poll include the following:

- Small Sites Program - Perhaps use funds for organizational/program development minor support rather than support for purchasing sites at this time. Developers that have experience in affordable housing development should only be considered given the financial risks of this type of development and the complexities of small scattered-site developments.
- Tenant Option to Purchase - This is good for apartment buildings that contain fewer than 20 units. This approach could be combined with the institutional structure of Community Land Trusts. CLTs are an important model that can be used to support these types of ownership structures.
- Group Equity and Zero Equity Co-ops - It is possible that those most interested in co-ops would be UC Berkeley students. Is this the City of Berkeley's priority given the transient nature of university students?
- Home Sharing - Assistance to a service organization like HIP Housing is a good idea, but this strategy is a service and not affordable housing development of new units. Also, the City should be very careful with supporting this type of service given potential for abuse by tenants and/or landlords.

Attachment 4: Summary Table as of May 2, 2019

	CDBG 2018-19	HOME 2018-19	Housing Trust Fund	Other	General Fund 2018-19	General Fund 2019-2020	No Source	Total
Committed-New Affordable Housing								
Bridge/Berkeley Food & Housing Project			\$3,967,548				\$23,500,000	\$27,467,548
SAHA (Oxford Street)			\$25,000					\$25,000
SAHA (Grayson Apartments)	\$876,000	\$1,020,827	\$598,173					\$2,495,000
SAHA (Oxford Street)							\$6,000,000	
Subtotal-New Affordable Housing	\$876,000	\$1,020,827	\$4,590,721				\$29,500,000	\$35,987,548
Committed-Preservation								
BACLT Small Sites Program (1638 Stuart St.)					\$950,000			\$950,000
BACLT Small Sites Capacity Building					\$50,000			\$50,000
Housing Development & Rehabilitation	\$380,613			\$56,230	\$14,819			\$451,662
Subtotal-Preservation	\$380,613			\$56,230	\$1,014,819			\$1,451,662
Home Projects Allocations (FY 2018-2019)								
Administration		\$81,351						\$81,351
CHDO Operating Funds		\$28,115						\$28,115
Housing Trust Fund			\$704,043					\$704,043
Subtotal Home Projects		\$109,466	\$704,043					\$813,509
Committed-Anti-Displacement								
Eviction Defense-Rent Board					\$300,000	\$300,000		\$600,000
East Bay Community Law Center					\$250,000	\$250,000		\$500,000
Rapid Re-Housing					\$100,000	\$100,000		\$200,000
Subtotal – Anti- Displacement					\$650,000	\$650,000		\$1,300,000
Administrative Overhead								
Finance Development Specialist II						\$150,757		
Other Administrative Costs						\$199,243		
Subtotal-Administrative Overhead						\$350,000		\$350,000

	CDBG 2018-19	Home 2018-19	Housing Trust Fund	Other	General Fund 2018-19	General Fund 2019-2020	No Source	Total
Total Funds Committed and Reserved	\$1,256,613	\$1,130,293	\$5,294,764	\$56,230	\$1,664,819	\$1,000,000	\$29,500,000	\$39,902,719



Mental Health Commission

CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council
 From: Mental Health Commission
 Submitted by: boona cheema, Chairperson, Mental Health Commission
 Subject: Appointment of Andrea Pritchett to the Mental Health Commission

RECOMMENDATION

Adopt a Resolution approving the appointment of Andrea Pritchett to the Mental Health Commission, as a representative of the general public interest category, for a three year term beginning September 11, 2019 and ending September 10, 2022.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

The Mental Health Commission is authorized to be composed of thirteen members. However, there are presently seven vacancies on the Commission. These vacancies impair the Commission's ability to adequately review and evaluate the community's mental health needs, resources, and programs.

Approval of the recommended action will fill a vacancy, and allow the Commission to move one step closer to having a full and diverse complement of commissioners to review and evaluate the community's mental health needs, resources, and programs.

BACKGROUND

California State law requires that appointments to the Mental Health Commission meet specific categories, who may serve up to nine years consecutively. The general public interest category may include anyone who has an interest in and some knowledge of mental health services. The special public interest category includes direct consumers of public mental health services and family members of consumers, which together must constitute at least fifty percent or seven of the commission seats. Direct consumers and family members shall each constitute at least 20% of the commission membership. Two members shall be residents of the City of Albany with at least one of these seats filled by a direct consumer or family member.

Currently, the Mental Health Commission consists of the following: two Berkeley Special Public Interest Commissioners; two Berkeley General Public Interest Commissioners; one Albany General Public Interest Commissioner; and one Mayoral appointee.

At its June 27, 2019 meeting, the Mental Health Commission interviewed Andrea Pritchett who is a teacher with the Berkeley Unified School District (BUSD), a board member of the Berkeley Flea Market, and a police accountability advocate. Ms. Pritchett is interested in serving on the Commission to help improve the delivery of mental health services to people who are poor, homeless or underserved. She has worked with diverse populations and homeless and marginalized individuals for approximately 40 years and has experience working with individuals who are managing mental illness and other disabilities. The secretary has determined that Ms. Pritchett is eligible for a General Public Interest seat on the Mental Health Commission.

On June 27, 2019 the Mental Health Commission passed the following motion:

M/S/C (Kealoha-Blake, Heda) Move that the Berkeley City Council appoint Andrea Pritchett to the Mental Health Commission in a general public interest seat.

Ayes: cheema; Castro; Fine; Heda; Kealoha-Blake; Noes: None. Abstentions: None. Absent: Davila.

ENVIRONMENTAL SUSTAINABILITY

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

RATIONALE FOR RECOMMENDATION

Approval of the recommended action will allow the Mental Health Commission to move one step closer to having a full and diverse complement of commissioners to review and evaluate the community's mental health needs, resources, and programs.

ALTERNATIVE ACTIONS CONSIDERED

None.

CITY MANAGER

The City Manager takes no position on the content and recommendations of the Commission's Report.

CONTACT PERSON

Jamie Works-Wright, Commission Secretary, (510) 981-7721

Attachments:

1: Resolution

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

APPOINTMENT OF ANDREA PRITCHETT TO THE MENTAL HEALTH COMMISSION
AS A REPRESENTATIVE OF THE GENERAL PUBLIC INTEREST

WHEREAS, membership of the Mental Health Commission is composed of thirteen appointments by the City Council as a whole, including one appointment by the Mayor (or designee), six special public interest appointments, two appointments of residents of Albany (one of which shall be a representative of the special public interest category), and four general public interest appointments; and

WHEREAS, with the ongoing implementation of the Mental Health Services Act, the City of Berkeley will need to have a full complement of diverse appointees to the Commission to review and evaluate the community's mental health needs, resources, and programs and to fulfill its mandate; and

WHEREAS, the Mental Health Commission, at its June 27, 2019 meeting recommended the appointment of Andrea Pritchett to the Mental Health Commission.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council appoints Andrea Pritchett to the Mental Health Commission, as representative of the general public interest category, for a three year term beginning September 11, 2019 and ending September 10, 2022.



[Commission Name]

CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council
 From: Berkeley Peace and Justice Commission
 Submitted by: Igor Tregub, Chairperson, Peace and Justice Commission
 Subject: Resolution: Oppose U.S. Withdrawal from INF Treaty

RECOMMENDATION

Adopt a resolution that calls on President Trump to rescind the U.S. notice of withdrawal from the Intermediate-Range Nuclear Forces Treaty (INF Treaty) and to continue to comply with and re-enter into the Treaty, calls on Congress to oppose U.S. withdrawal from the Treaty and to support resolution of U.S.-Russian disputes through mechanisms established by the Treaty, and calls on Representative Barbara Lee to support H.R. 1249, the INF Treaty Compliance Act of 2019.

FISCAL IMPACTS OF RECOMMENDATION

None

CURRENT SITUATION AND ITS EFFECTS

The INF Treaty between the U.S. and the Soviet Union was ratified by the U.S. Senate on May 27, 1988. It banned the two nations' land-based intermediate-range ballistic missiles, cruise missiles, and missile launchers with ranges between 310 and 3,420 miles. This Treaty resulted in the destruction within three years of 2,692 United States and Soviet short-, medium-, and intermediate-range missiles.

On February 1, 2019, Secretary of State Michael R. Pompeo announced that the U.S. would withdraw from the Intermediate-Range Nuclear Forces Treaty (INF Treaty) in 6 months, in accordance with Article 15 of the treaty.

The Russian Federation (Russia), successor state to the Soviet Union, subsequently made a similar announcement with respect to Russia's withdrawal.

The terms of the Treaty do not provide for withdrawal except for extraordinary events related to the subject matter of the Treaty that jeopardize the supreme interests of one side. The Russian missile deployment that the U.S. claims violates the treaty terms does not constitute such an extraordinary event. Instead, the treaty provides in Article 15 that issues of compliance (a material breach of the treaty provisions) are brought before a Special Verification Commission for resolution, and other avenues for resolution are also provided.

M/S/C: Maran/Meola

Ayes: Askary, al-Bazian, Bohn, Gussman, Lippman, Maran, Meola, Morizawa, Pierce, Pancoast

Noes: None

Abstain: None

Absent: Chen

Excused: Rodriguez, Tregub

BACKGROUND

At its regular meeting on April 8, 2019, the Peace and Justice Commission recommended the Council of the City of Berkeley call on President Trump to rescind the U.S. notice of withdrawal from the INF Treaty, call on Congress to oppose U.S. notice of withdrawal, and on Rep. Barbara Lee to support H.R. 1249, the INF Treaty Compliance Act of 2019.

The U.S. abrogation of the Treaty has caused concern domestically and internationally. The Chairs of the House of Representatives Committees on Foreign Affairs and Armed Services stated that instead of crafting a plan to hold Russia accountable and pressure it into compliance, the Trump administration has offered President Putin an easy way out of the treaty and has played right into his hands. Similarly, European members of NATO urged the United States "to try to bring Russia back into compliance with the treaty rather than quit it, seeking to avoid a split in the alliance that Moscow could exploit." Mikhail Gorbachev, who co-signed the Treaty with President Reagan, warned that "a new arms race has been announced."

ENVIRONMENTAL SUSTAINABILITY

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

RATIONALE FOR RECOMMENDATION

The City of Berkeley has repeatedly stated a policy priority to eliminate nuclear weapons and end the threat of nuclear war.

The Peace and Justice Commission mandate states that the Commission shall perform the following function:

“Advise the Berkeley City Council and the Berkeley Unified School Board on all matters relating to the City of Berkeley's role in issues of peace and social justice, including, but not limited to the issues of ending the arms race, abolishing nuclear weapons, support for human rights and self-determination throughout the world, and the reallocation of our national resources so that money now spent on war and preparation of war is spent on fulfilling human needs and the promotion of peace.”

The Nuclear Free Berkeley Act states that “The nuclear arms race poses an intolerable threat to humanity....Since the Nuremberg principles hold individuals accountable for crimes against humanity, and since nuclear weapons cannot be used without indiscriminately killing civilians and violating accepted international rules of war, then nuclear weapons are illegal, and should be prohibited in the City. We will not remain silent while policies of global death and destruction are carried out in our name.”

ALTERNATIVE ACTIONS CONSIDERED

None

CITY MANAGER'S COMMENTS

The City Manager takes no position on the content and recommendations of the Commission's report.

CONTACT PERSON

Igor Tregub, Chairperson, Peace and Justice Commission

Breanne Slimick, Commission Secretary, City Manager's Office (510) 981-7018

Attachments:

1: Resolution: Oppose US withdrawal from the Intermediate-Range Nuclear Forces Treaty (INF)

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

OPPOSE US WITHDRAWAL FROM THE INTERMEDIATE-RANGE NUCLEAR
FORCES TREATY (INF)

WHEREAS, the Peace and Justice Commission advises the City Council on all matters relating to the City of Berkeley's role in issues of peace and social justice (Berkeley Municipal Code Chapter 3.68.070); and

WHEREAS, On February 1, 2019, Secretary of State Michael R. Pompeo announced that the U.S. would withdraw from the Intermediate-Range Nuclear Forces Treaty (INF Treaty) in 6 months, in accordance with Article 15 of the treaty (1);¹ and

WHEREAS, The Russian Federation (Russia) subsequently made a similar announcement with respect to Russia's withdrawal; and

WHEREAS, Article 15, paragraph 1, stating that the INF Treaty is of "unlimited duration" is followed by Paragraph 2, thus: "Each Party shall, in exercising its national sovereignty, have the right to withdraw from the Treaty if it decides that extraordinary events related to the subject matter of this Treaty have jeopardized its supreme interests. It shall give notice of its decision to withdraw to the other Party six months prior to withdrawal from this Treaty. Such notice shall include a statement of the extraordinary events the notifying Party regards as having jeopardized its supreme interests;"² and

WHEREAS, the Russian missile deployment that the U.S. claims violates the treaty terms does not constitute an "extraordinary event" that jeopardizes U.S. "supreme interests;" and

WHEREAS, the U.S. deployment of anti-missile missile launchers that Russia claims violates the treaty terms does not constitute an "extraordinary event" that jeopardizes Russian "supreme interests;" and

WHEREAS, nowhere in the INF Treaty is it accepted that one party to the treaty may withdraw on the grounds that they have reason to believe the other party is in material breach of the treaty provisions; the treaty provides instead in Article 15 that issues of compliance are brought before a Special Verification Commission; and

WHEREAS, in addition to the Special Verification Commission, the U.S. and Russia may call upon third-party technical and legal experts to assist in resolution of the dispute; request the UN Security Council pursuant to Article 36 of the UN Charter to recommend a procedure for resolution of the dispute; or refer the matter by special agreement to the International Court of Justice.³

NOW THEREFORE, BE IT RESOLVED that the City of Berkeley calls on President Trump to rescind the US notice of withdrawal from the INF Treaty, and to confirm that the United States will continue to comply with the said Treaty until such time as extraordinary events related to the subject matter of this Treaty have demonstrably jeopardized the supreme interests of the United States.

BE IT FURTHER RESOLVED that the City of Berkeley calls on Congress to oppose U.S. withdrawal from the INF Treaty and to support resolution of the dispute through the treaty's Special Verification Commission and other international procedures as needed.

BE IT FURTHER RESOLVED that the City of Berkeley calls on Representative Barbara Lee to support H.R. 1249, the "INF Treaty Compliance Act of 2019," which would prohibit funds being made available for any missile prohibited by the INF Treaty.

BE IT FURTHER RESOLVED that the City of Berkeley send a copy of this resolution to President Donald Trump, Secretary of State Michael R. Pompeo, Senators Dianne Feinstein and Kamala Harris, and Representative Barbara Lee.

BE IT FURTHER RESOLVED that the City of Berkeley send a copy of this resolution to Vladimir Putin, President of the Russian Federation, with a formal request that he, likewise, rescind the Russian notice of withdrawal from the INF Treaty and commit to fully complying with the terms of this Treaty.

¹ "U.S. Intent to Withdraw from the INF Treaty, Mike Pompeo," <https://www.state.gov/u-s-intent-to-withdraw-from-the-inf-treaty-february-2-2019/>

² "Intermediate-Range Nuclear Forces (INF) Treaty," <https://www.acq.osd.mil/tc/inf/INFtext.htm>

³ "Russia, U.S. clash over INF arms treaty at United Nations," Reuters, October 26, 2018, <https://www.reuters.com/article/us-usa-nuclear-russia-un/russia-u-s-clash-over-inf-arms-treaty-at-united-nations-idUSKCN1N02FI>

Also:

"Trump stokes debate about new Cold War arms race," HILL.TV, October 27, 2018, <https://thehill.com/policy/defense/413383-trump-stokes-debate-about-new-cold-war-arms-race>



Office of the Mayor

CONSENT CALENDAR
September 10, 2019

To: Honorable Members of the City Council

From: Mayor Jesse Arreguín, Vice Mayor Susan Wengraf,
Councilmember Kate Harrison, and Councilmember Rigel Robinson

Subject: Support of AB 18 – Firearms Excise Tax

RECOMMENDATION

Adopt a Resolution in support of Assembly Bill (AB) 18, which would place a \$25 excise tax on the sale of firearms. Send a copy of the Resolution to Governor Gavin Newsom, State Senator Nancy Skinner, and Assemblymembers Buffy Wicks and Marc Levine.

BACKGROUND

As of August 18, 2019, there have been 257 mass shootings this year in the United States of America, thirty-three (33) of these have taken place in California. A mass shooting is defined as a single incident in which there are four or more injuries. Mass shootings have become so common in America that foreign countries have issued travel alerts to the United States because of the potential safety risk. In 2017, there were almost 40,000 gun deaths in America, including 3,184 in California.

AB 18, introduced by Assemblymember Marc Levine, would place a \$25 excise tax on the sale of all handguns, shotguns, and semiautomatic rifles. While the bill had previously stalled in committee in May – usually a sign that a bill has died for the year – recent mass shootings, including the tragic Gilroy Garlic Festival shooting, has created a new sense of urgency in moving forward with reviving the bill. A new amendment will also be introduced placing a yet to be determined amount excise tax on the sale of ammunition. Revenue generated from this bill would go towards the California Violence Intervention and Prevention Grant Program (CalVIP). CalVIP supports violence intervention and prevention activities, with preference given to cities and regions that have been disproportionately affected by violence.

The Berkeley City Council has a long history of supporting gun safety legislation. In recent years, the Council has supported state and federal bills in support of expanding background checks, a ban on assault rifles and high capacity magazines, and improving research towards gun violence. Locally, the Council has recently approved an ordinance for safe and secure storage of firearms.

FINANCIAL IMPLICATIONS

None.

Support of AB 18

CONSENT CALENDAR
September 10, 2019

ENVIRONMENTAL SUSTAINABILITY

Not applicable.

CONTACT PERSON

Mayor Jesse Arreguín 510-981-7100

Attachments:

- 1: Resolution
- 2: Text of AB 18

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

IN SUPPORT OF ASSEMBLY BILL 18

WHEREAS, as of August 18, 2019, there have been 257 mass shootings (a single incident in which there are four or more injuries) this year, including 33 in California; and

WHEREAS, in 2017, there were almost 40,000 gun deaths in America, including 3,184 in California; and

WHEREAS, recent mass shootings, such as in Gilroy, El Paso, and Dayton, have reinvigorated the debate over gun safety, placing focus on governments at all levels to move forward on legislation that can help reduce the number of shootings; and

WHEREAS, Assembly Bill 18, introduced by Assemblymember Marc Levine, would place a \$25 excise tax on the sale of all handguns, shotguns, and semiautomatic rifles, in addition to an excise tax on ammunition; and

WHEREAS, revenue generated from this bill would go towards the California Violence Intervention and Prevention Grant Program (CalVIP), which supports violence intervention and prevention activities, with preference given to cities and regions that have been disproportionately affected by violence; and

WHEREAS, the Berkeley City Council has a long history of supporting gun safety legislation, including state and federal bills aimed at reducing the number of shootings and gun violence such as extended background checks and bans of assault rifles and high capacity magazines.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it hereby supports Assembly Bill 18.

BE IT FURTHER RESOLVED that copies of this Resolution be sent to Governor Gavin Newsom, State Senator Nancy Skinner, and Assemblymembers Buffy Wicks and Marc Levine.

AMENDED IN ASSEMBLY APRIL 24, 2019

AMENDED IN ASSEMBLY APRIL 3, 2019

AMENDED IN ASSEMBLY MARCH 21, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 18

**Introduced by Assembly Members Levine, Bonta, and Nazarian
(Coauthors: Assembly Members Bloom, Chiu, Gipson, Limón,
McCarty, and Ting)**

December 3, 2018

An act to add Title 10.2 (commencing with Section 14130) to Part 4 of the Penal Code, and to add Part 16 (commencing with Section 36001) to Division 2 of the Revenue and Taxation Code, relating to firearms, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 18, as amended, Levine. Firearms: excise tax.

(1) Existing law establishes the Board of State and Community Corrections. Existing law charges the board with providing the statewide leadership, coordination, and technical assistance to promote effective state and local efforts and partnerships in California's adult and juvenile criminal justice system, including addressing gang problems.

The existing Budget Act of 2018, establishes the California Violence Intervention and Prevention (CalVIP) Grant Program, administered by the Board of State and Community Corrections, to award competitive grants for the purpose of violence intervention and prevention.

This bill would codify the establishment of the California Violence Intervention and Prevention Grant Program and the authority and duties

AB 18

— 2 —

of the board in administering the program, including the selection criteria for grants and reporting requirements to the Legislature.

(2) Existing law imposes various taxes, including taxes on the privilege of engaging in certain activities. The Fee Collection Procedures Law, the violation of which is a crime, provides procedures for the collection of certain fees and surcharges.

This bill would impose an excise tax on a retailer in the amount of \$25 per firearm on the sale in this state of a handgun or semiautomatic rifle or shotgun sold as new, as provided. The tax would be collected by the state pursuant to the Fee Collection Procedures Law. This bill would require that the revenues collected be deposited in the CalVIP Firearm Tax Fund, which the bill would create. The moneys in that fund would be continuously appropriated to the Board of State and Community Corrections to provide CalVIP grants.

This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

Because this bill would expand the scope of the Fee Collection Procedures Law, the violation of which is a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature hereby finds and declares all of
- 2 the following:
- 3 (a) Firearms sold by gun dealers contribute to unacceptably high
- 4 rates of gun violence in communities across California. Dealers
- 5 are the leading source of firearms trafficked to illegal markets,
- 6 often through straw purchases as well as preventable losses or
- 7 thefts. Data from the federal Bureau of Alcohol, Tobacco, Firearms
- 8 and Explosives (ATF) indicates that from 2016 to 2018 alone,
- 9 licensed dealers in California reported losing track of nearly 1,200

1 firearms from their inventories. The true number of these misplaced
2 firearms, including unreported losses, is likely substantially higher.

3 (b) Federal law broadly immunizes firearm dealers from civil
4 liability for a wide range of conduct that contributes to death,
5 injury, and other social harms in our state. Essentially no other
6 industry enjoys such a sweeping degree of immunity from civil
7 claims that may incentivize safe and responsible commercial
8 activity. Dealers may also frequently evade other forms of
9 accountability for behaviors that threaten public health and safety.
10 According to a 2013 report by the United States Department of
11 Justice Inspector General, for instance, 38 percent to 53 percent
12 of dealers inspected by ATF from 2004 to 2011 were found to be
13 operating in violation of federal laws “that ban sales to prohibited
14 persons and require inventory and sales to be tracked.” Very few
15 faced any substantial civil or criminal consequences.

16 (c) Gun dealers’ products impose enormous fiscal burdens on
17 California’s taxpayers, including an estimated \$1.4 billion each
18 year for direct public expenditures such as law enforcement, courts,
19 and health care costs in response to firearm deaths and injuries in
20 our state. This estimate does not include other major expenses,
21 such as crime victim compensation, substantially diminished tax
22 revenue due to lost income, depreciated property values, and
23 reduced business activity associated with gun deaths and injuries
24 in California.

25 (d) In recent years, gun sales have been booming in California.
26 The California Department of Justice processed between 880,000
27 and 1.33 million dealer records of sale per year between 2015 and
28 2017, up from 344,000 to 375,000 from 2005 to 2007, just one
29 decade earlier.

30 (e) At the same time, large spikes in gun violence at the national
31 level have also impacted our state. From 2014 to 2017, gun murder
32 rates rose by 16 percent in California, even as there was no such
33 increase among non-gun homicides.

34 (f) The excise tax on firearm retailers proposed in this bill is
35 analogous to the Federal Aid in Wildlife Restoration Act,
36 commonly called the Pittman-Robertson Act, which imposes a 10
37 to 11 percent federal tax on the sale of guns and ammunition by
38 manufacturers, producers, and importers. Revenues from the
39 Pittman-Robertson tax, which has been described as a “legislative
40 model” by the National Rifle Association, fund wildlife

1 conservation efforts that remediate the effects firearms have on
2 wildlife populations through game hunting.

3 (g) The purpose of this act is to similarly place a reasonable tax
4 on the firearm industry's activities in order to fund programs to
5 remediate the devastating effects firearms cause many families
6 and communities across our state. This act is not intended to
7 penalize firearm sellers or otherwise discourage lawful firearm
8 sales and commerce whatsoever, but is intended to fairly generate
9 revenue to fund CalVIP programs that are targeted and effective
10 at mitigating the harms that firearms too often cause.

11 (h) The CalVIP grant program funds evidence-based violence
12 reduction initiatives that alleviate the societal harms caused by
13 firearms in communities that are disproportionately impacted by
14 gun violence.

15 SEC. 2. Title 10.2 (commencing with Section 14130) is added
16 to Part 4 of the Penal Code, to read:

17

18 TITLE 10.2. CALIFORNIA VIOLENCE INTERVENTION
19 AND PREVENTION GRANT PROGRAM

20

21 14130. This title shall be known, and may be cited, as the Break
22 the Cycle of Violence Act.

23 14131. (a) The California Violence Intervention and Prevention
24 Grant Program (CalVIP) is hereby created to be administered by
25 the Board of State and Community Corrections.

26 (b) The purpose of CalVIP is to improve public health and safety
27 by supporting effective violence reduction initiatives in
28 communities that are disproportionately impacted by violence,
29 particularly group-member involved homicides, shootings, and
30 aggravated assaults.

31 (c) CalVIP grants shall be used to support, expand, and replicate
32 evidence-based violence reduction initiatives, including, without
33 limitation, hospital-based violence intervention programs,
34 evidence-based street outreach programs, and focused deterrence
35 strategies, that seek to interrupt cycles of violence and retaliation
36 in order to reduce the incidence of homicides, shootings, and
37 aggravated assaults. These initiatives shall be primarily focused
38 on providing violence intervention services to the small segment
39 of the population that is identified as having the highest risk of
40 perpetrating or being victimized by violence in the near future.

1 (d) CalVIP grants shall be made on a competitive basis to cities
2 that are disproportionately impacted by violence, and to
3 community-based organizations that serve the residents of those
4 cities.

5 (e) For purposes of this section, a city is disproportionately
6 impacted by violence if any of the following are true:

7 (1) The city experienced 20 or more homicides per calendar
8 year during two or more of the three calendar years immediately
9 preceding the grant application.

10 (2) The city experienced 10 or more homicides per calendar
11 year and had a homicide rate that was at least 50 percent higher
12 than the statewide homicide rate during two or more of the three
13 calendar years immediately preceding the grant application.

14 (3) An applicant otherwise demonstrates a unique and
15 compelling need for additional resources to address the impact of
16 homicides, shootings, and aggravated assaults in the applicant's
17 community.

18 (f) An applicant for a CalVIP grant shall submit a proposal, in
19 a form prescribed by the board, which shall include, but not be
20 limited to, all of the following:

21 (1) Clearly defined and measurable objectives for the grant.

22 (2) A statement describing how the applicant proposes to use
23 the grant to implement an evidence-based violence reduction
24 initiative in accordance with this section.

25 (3) A statement describing how the applicant proposes to use
26 the grant to enhance coordination of existing violence prevention
27 and intervention programs and minimize duplication of services.

28 (4) Evidence indicating that the proposed violence reduction
29 initiative would likely reduce the incidence of homicides,
30 shootings, and aggravated assaults.

31 (g) In awarding CalVIP grants, the board shall give preference
32 to applicants whose grant proposals demonstrate the greatest
33 likelihood of reducing the incidence of homicides, shootings, and
34 aggravated assaults in the applicant's community, without
35 contributing to mass incarceration.

36 (h) The amount of funds awarded to an applicant shall be
37 commensurate with the scope of the applicant's proposal and the
38 applicant's demonstrated need for additional resources to address
39 violence in the applicant's community.

AB 18

— 6 —

1 (i) Each grantee shall commit a cash or in-kind contribution
2 equivalent to the amount of the grant awarded under this section.
3 The board may waive this requirement for good cause.

4 (j) Each city that receives a CalVIP grant shall distribute no less
5 than 50 percent of the grant funds to one or more of any of the
6 following types of entities:

7 (1) Community-based organizations.

8 (2) Public agencies or departments, other than law enforcement
9 agencies or departments, that are primarily dedicated to community
10 safety or violence prevention.

11 (k) The board shall form a grant selection advisory committee
12 including, without limitation, persons who have been impacted by
13 violence, formerly incarcerated persons, and persons with direct
14 experience in implementing evidence-based violence reduction
15 initiatives, including initiatives that incorporate public health and
16 community-based approaches.

17 (l) The board may use up to 5 percent of the funds appropriated
18 for CalVIP each year for the costs of administering the program
19 including, without limitation, the employment of personnel,
20 providing technical assistance to grantees, and evaluation of
21 violence reduction initiatives supported by CalVIP.

22 (m) Each grantee shall report to the board, in a form and at
23 intervals prescribed by the board, their progress in achieving the
24 grant objectives.

25 (n) The board shall, by no later than April 1, 2024, and every
26 third year thereafter, prepare and submit a report to the Legislature
27 in compliance with Section 9795 of the Government Code
28 regarding the impact of the violence prevention initiatives
29 supported by CalVIP.

30 (o) The board shall make evaluations of the grant program
31 available to the public.

32 *14132. There is hereby established in the State Treasury the*
33 *CalVIP Firearm Tax Fund to receive moneys pursuant to Section*
34 *36041 of the Revenue and Taxation Code. Notwithstanding Section*
35 *13340 of the Government Code, all moneys in the CalVIP Firearm*
36 *Tax Fund are continuously appropriated without regard to fiscal*
37 *years to the Board of State and Community Corrections for the*
38 *purpose of funding grants in accordance with this title.*

39 SEC. 3. Part 16 (commencing with Section 36001) is added to
40 Division 2 of the Revenue and Taxation Code, to read:

PART 16. FIREARM TAX LAW

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

36001. This part shall be known, and may be cited, as the Firearm Tax Law.

36002. For purposes of this part:

(a) "Antique firearm" means any firearm not designed or redesigned for using rimfire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898. This includes any matchlock, flintlock, percussion cap, or similar type of ignition system, or any replica thereof, whether actually manufactured before or after the year 1898, or any firearm manufactured in or before 1898 that uses fixed ammunition no longer manufactured in the United States and not readily available in the ordinary channels of commercial trade.

(b) "Department" means the California Department of Tax and Fee Administration.

(c) "Firearm" means any handgun, semiautomatic shotgun, or semiautomatic rifle. "Firearm" does not include an antique firearm.

~~(d) "Firearm dealer" means a person described in Section 26700 of the Penal Code.~~

~~(e)~~

(d) "Handgun" means any pistol, revolver, or firearm capable of being concealed upon the person.

~~(f)~~

(e) "Law enforcement agency" means any department or agency of the state or of any county, city, or other political subdivision thereof that employs any peace officer that is authorized to carry a firearm while on duty, or any department or agency of the federal government or a federally recognized Indian tribe with jurisdiction that has tribal land in California, that employs any police officer or criminal investigator authorized to carry a firearm while on duty.

~~(g)~~

(f) "Peace officer" means any person described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code that is authorized to carry a firearm on duty, or any police officer or criminal investigator employed by the federal government or a federally recognized Indian tribe with jurisdiction that has

1 tribal land in California, that is authorized to carry a firearm while
2 on duty.

3 ~~(h)~~

4 (g) “Retailer” means any person that is engaged in the business
5 of making retail sales of goods, including firearms, to the general
6 public.

7 ~~(i)~~

8 (h) “Semiautomatic” refers to a firearm that uses the energy of
9 the explosive in a fixed cartridge to extract a fired cartridge and
10 chamber a fresh cartridge with each single pull of the trigger.
11 “Semiautomatic” does not include a pump, bolt, or lever action
12 shotgun or rifle.

13 ~~(j)~~

14 (i) “Sold as new” refers to a firearm sold by a retailer that has
15 not previously been purchased for any purpose other than for resale.

16

17 CHAPTER 2. IMPOSITION OF TAX

18

19 36011. On and after January 1, 2020, an excise tax is hereby
20 imposed on every retailer upon the sale in this state of a firearm
21 sold as new at the rate of twenty-five dollars (\$25) per firearm.

22

23 CHAPTER 3. EXEMPTIONS

24

25 36021. There are exempted from the taxes imposed by this
26 part, the sale of any firearm purchased by any peace officer or by
27 any law enforcement agency employing that peace officer, for use
28 in the normal course of employment.

29

30 CHAPTER 4. COLLECTION AND ADMINISTRATION

31

32 36031. The department shall administer and collect the taxes
33 imposed by this part pursuant to the Fee Collection Procedures
34 Law (Part 30 (commencing with Section 55001)). For purposes
35 of this part, the references in the Fee Collection Procedures Law
36 to “fee” shall include the taxes imposed by this part and references
37 to “feepayer” shall mean any person liable for the payment of the
38 taxes imposed under this part and collected pursuant to that law.

1 36032. The taxes imposed by this part are due and payable to
2 the department quarterly on or before the last day of the month
3 next succeeding each quarterly period of three months.

4 36033. On or before the last day of the month following each
5 quarterly period, a return for the preceding quarterly period shall
6 be filed with the department.

7
8
9

CHAPTER 5. DISPOSITION OF PROCEEDS

10 36041. All amounts required to be paid pursuant to Section
11 36011 shall be paid to the department in the form of remittances
12 payable to the department, and those revenues, net of refunds and
13 costs of administration, shall be deposited in the CalVIP Firearm
14 Tax Fund, established pursuant to Section ~~14131~~ 14132 of the
15 Penal Code.

16 SEC. 4. No reimbursement is required by this act pursuant to
17 Section 6 of Article XIII B of the California Constitution because
18 the only costs that may be incurred by a local agency or school
19 district will be incurred because this act creates a new crime or
20 infraction, eliminates a crime or infraction, or changes the penalty
21 for a crime or infraction, within the meaning of Section 17556 of
22 the Government Code, or changes the definition of a crime within
23 the meaning of Section 6 of Article XIII B of the California
24 Constitution.

O



Office of the Mayor

CONSENT CALENDAR
September 10, 2019

To: Honorable Members of the City Council

From: Mayor Jesse Arreguín and Councilmember Sophie Hahn

Subject: Sierra Club San Francisco Bay Chapter: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds

RECOMMENDATION

Adopt a Resolution approving the expenditure of an amount not to exceed \$1,000 per Councilmember including \$1,000 from Mayor Arreguin to the Sierra Club San Francisco Bay Chapter for sponsorship of the 2019 David Brower Dinner, a 501(c)(3) tax-deductible non-profit corporation. Funds would be relinquished to the City's General Fund for this purpose from the discretionary Council Office Budgets of Mayor Arreguin and any other Councilmembers who would like to contribute.

BACKGROUND

The Sierra Club San Francisco (SF) Bay Chapter, a 501(c)(3) tax-deductible non-profit corporation is seeking funds to support ongoing work to protect our environment and fight the growing climate emergency.

The Sierra Club SF Bay Chapter is hosting their annual David Brower Dinner on September 21, 2019 at the Delancey Street Town Hall in San Francisco. The theme of this year's event is "Explore, Enjoy and Protect" the Bay Area environment.

At the Brower Dinner, the Sierra Club is honoring a number of community leaders, and is recognizing the Berkeley Oxford Elementary School Room 22 with their Youth Award. This class made headlines for converting their class room to a zero-waste class. Recently their teacher Jackie Omania was honored by the U.S. EPA for her work to promote environmental literacy and action. These students were taught the consequences of waste on our environment and were inspired by their teacher to practice zero waste in their classroom, ultimately resulting in reducing their entire waste to a mason jar. These students also turned the knowledge they gained into political action, advocating for the passage of Berkeley's groundbreaking Single Use Disposable Foodware Ordinance. Their leadership on this environmental issue reflects a growing trend of younger generations stepping forward to address climate change.

The Sierra Club SF Bay Chapter is requesting that the Mayor and Council sponsor the 2019 David Brower Dinner at the Partner Level (\$1,000). This contribution would support the Club's ongoing environmental work and would contribute to the cost of

tickets for the students from Oxford Elementary so they attend the event to receive their award.

FISCAL IMPACTS OF RECOMMENDATION

No General Fund impact; \$1,000 is available from Mayor Arreguín's Council Office Budget discretionary account.

ENVIRONMENTAL SUSTAINABILITY

Approval of this relinquishment will support the ongoing work of the Sierra Club to protect our environment and fight the growing threat of climate change and also the students of Berkeley Oxford Elementary School, Room 22. Funds raised at the annual David Brower Dinner fund the Club's staff and advocacy agenda for environmental and coastline protection, fighting climate change, promoting renewable energy and decarbonization, and climate resiliency.

CONTACT PERSON

Mayor Jesse Arreguín 510-981-7100

Attachments:

- 1: Resolution
- 2: Email from Sierra Club

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

AUTHORIZING THE EXPENDITURE OF SURPLUS FUNDS FROM THE OFFICE
EXPENSE ACCOUNTS OF THE MAYOR AND COUNCILMEMBERS FOR THE
SIERRA CLUB SF BAY CHAPTER

WHEREAS, the Sierra Club SF Bay Chapter, the regional chapter of the national Sierra Club, is a non-profit tax-exempt corporation focused on environmental protection and advocacy in the broader Bay Area region; and

WHEREAS, the Sierra Club SF Bay Chapter is seeking funding to support their ongoing work to protect our environment and fight the growing climate emergency; and

WHEREAS, the Sierra Club SF Bay Chapter is hosting their 2019 David Brower Dinner on Saturday, September 21, 2019; and

WHEREAS, funds raised at the annual David Brower Dinner support the Club's staff and advocacy agenda for environmental and coastline protection, fighting climate change, promoting renewable energy and decarbonization, and climate resiliency; and

WHEREAS, the Sierra Club is honoring a number of community leaders, and is recognizing the Berkeley Oxford Elementary School Room 22 with their Youth Award. This class made headlines for converting their class room to a "zero-waste class"; and

WHEREAS, these students were taught the consequences of waste on our environment and were inspired by their teacher to practice zero waste in their classroom, ultimately resulting in reducing their entire waste to a mason jar; and

WHEREAS, these students also turned the knowledge they gained into political action, advocating for the passage of Berkeley's groundbreaking Single Use Disposable Foodware Ordinance; and

WHEREAS, approval of this relinquishment will support the ongoing work of the Sierra Club to protect our environment and fight the growing threat of climate change, and advance the goals and policies of the Berkeley Climate Action Plan, Climate Emergency Declaration, and Fossil Fuel Free Berkeley Resolution; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that funds relinquished by the Mayor and Councilmembers from discretionary funds up to \$1,000 per office shall be granted to the Sierra Club San Francisco Bay Chapter for sponsorship of the 2019 David Brower Dinner.

Greetings,

I am writing to follow up on my call a moment ago. As I mentioned, the S.F. Bay Chapter of the Sierra Club is requesting that all Berkeley City Council-members, the Mayor, and Vice-Mayor sponsor our annual [David Brower Dinner](#) at the [Partner level](#) or higher and donate your extra seats to Oxford Elementary Room 22.

Oxford Elementary Room 22 is being [honored](#) at this year's Dinner for their [Heirs to Our Oceans Club](#). As you know, the class initiated projects to protect oceans from plastic waste.

Of course the Berkeley City council made a bold choice in [adopting the ordinance](#) to significantly reduce plastic waste. This ordinance was supported by Oxford Elementary students who had already implemented a Zero Waste program in their school which they touted as proof that the City of Berkeley could implement similar policies.

I am particularly excited about the youth in this year's program because we are seeing youth take a leadership role in environmental advocacy around the world. They are truly fighting for their future. In light of the litigation *Juliana v. United States* as well as the advocacy of youth such as Greta Thunberg, the role of youth is essential for the fight to protect the environment and public health for future generations.

Our goal this year is to have enough members of the Berkeley City Council to sponsor and donate tickets so that we can have at least 10 seats allocated to the students and faculty of Oxford Elementary. This will allow us to provide them a full table where they can sit together when they receive their award.

We believe that it would be a great gesture for you to help make this happen and encourage your colleagues to do the same. This will be a wonderful gesture supporting the students while also reaffirming your commitment to protect the environment and public health.

You can find the sponsorship levels here:

<https://www.sierraclub.org/sites/www.sierraclub.org/files/sce-authors/u1054/2019DavidBrowerDinnerSponsorshipLevels-updated.pdf>

You can find out more about the David Brower Dinner here:

<https://www.sierraclub.org/san-francisco-bay/davidbrowerdinner2019>

I look forward to your sponsorship.

Thank you very much!

Sincerely,



Steven DeCaprio
[he/him]
Development Associate
Sierra Club, San Francisco Bay Chapter
2530 San Pablo Ave, Suite I
Berkeley, CA 94702
(510) 848-0800 ext. 302

<https://www.sierraclub.org/san-francisco-bay>



Office of the Mayor

CONSENT CALENDAR
September 10, 2019

To: Honorable Members of the City Council

From: Mayor Jesse Arreguín and Councilmember Rigel Robinson

Subject: Approval of One-Time Reimbursement for Sister City Visit to Gongju, Republic of Korea

RECOMMENDATION

Adopt a Resolution approving the reimbursement of travel expenses at up to \$6,000 from the discretionary Council Office Budgets of Mayor Arreguin and Councilmember Robinson for the purpose of visiting Berkeley's sister city, Gongju, Republic of Korea to officially commemorate the establishment of sister city relations.

Council approval of this one-time reimbursement is required under the Council Expense Reimbursement Policy (Resolution No. 67,992-N.S.) as the policy does not expressly allow reimbursement for international travel relating to city business.

BACKGROUND

Since 1967, Berkeley has established Sister City relationships with foreign cities to promote international communication and cooperation, promote cultural learning and exchange and to enable Berkeley to learn from the work of sister cities throughout the world. Berkeley currently has 17 Sister City relationships throughout the world, including two with Native American tribes. The first establishment of a Sister City was with Sakai, Japan.

Gongju, South Korea, a university town with a similar population size, approached Berkeley in 2017 with the request to become a Sister City. The City of Gongju sent two delegations to the City of Berkeley to discuss establishing a Sister City relationship. The Korean-American Community Center of San Francisco & Bay Area was also in communication with the Mayor's office in both Berkeley and Gongju regarding the creation of such a relationship.

Gongju is a historic city in South Korea with a population similar to Berkeley (116,870 in 2013). Gongju, formerly known as Ungjin, was the capital of the Baekje Dynasty from AD 475 - 538, and is home to many national cultural sites, including the Gongsanseong Fortress and Tomb of King Muryeong, which were designated as a UNESCO World Cultural Heritage site in 2015. It is located in the South Chungcheong Province of the Republic of Korea

On February 27, 2018, the City Council approved the recommendation of the Peace and Justice Commission to establish a Sister City relationship with the municipality of Gongju, to provide new opportunities to experience Korean culture and share ideas that mutually benefit the two cities.

The Sister City proposal presented by the City of Gongju called for mutual visits of delegations during festivals, for Gongju during their Baekje Cultural Festival, and for Berkeley during the Kite Festival. In addition, the City of Gongju proposed establishing student exchanges between our two cities.

Recently, Mayor Kim Jeong-seob sent an invitation to visit Gongju to participate in an event for their sister cities to exchange ideas. This event takes place from September 27 to September 30, 2019. This visit will also officially commemorate our Sister City relationship with Gongju.

The delegation consisting of Mayor Arreguin, Councilmember Robinson (Berkeley's first Korean American Councilmember) and a staff member will allow our two cities to deepen our Sister City partnership, share ideas on issues mutually beneficial to our two cities, and provide for cultural learning and exchange.

Under the Council Expense Reimbursement Policy (Resolution No. 67,992-N.S., Attachment 1), authorized activities include the following:

- Communicating with representatives of local, regional, state and national government on City policy positions; and
- Participating in local, regional, state and national organizations of cities whose activities affect the city's interest.

While this trip aligns with the description of these activities to enable communication and collaboration with different governmental entities, the Resolution does not explicitly mention communicating or visiting "international" governments as a category eligible for reimbursement. However, the Policy does state that "*expenditures for all other activities require prior approval by the City Council and must meet an articulated municipal purpose that must be recited in the report proposing the expenditure and the resolution authorizing the expenditure.*" This item seeks Council approval for reimbursement of travel expenses to Gongju, South Korea under this specific provision.

Similar to ongoing work communicating with regional, state and national officials, international exchange and cooperation is beneficial for the City of Berkeley by educating foreign governments about City of Berkeley policies and programs and promoting greater cultural awareness and diplomacy which enhances relations between respective countries. Given the current political climate surrounding the Korean Peninsula, it is even more important to form a relationship that will promote peace and good will.

With Gongju being our newest Sister City, the City of Berkeley should send a delegation at the invitation of the City of Gongju to officially commemorate our Sister City relationship. This goodwill visit will strengthen the partnership between our two cities and our ties to our local Korean-American community.

FINANCIAL IMPLICATIONS

Up to \$6,000 from Mayor Arreguin and Councilmember Robinson's discretionary Council Office Budgets

ENVIRONMENTAL SUSTAINABILITY

Not applicable.

CONTACT PERSON

Mayor Jesse Arreguin	510-981-7100
Councilmember Rigel Robinson	510-981-7170

Attachments:

- 1: Resolution
- 2: Council Expense Reimbursement Policy, Resolution No. 67,992-N.S.
- 3: February 27, 2018 Consent Calendar Report "Establishment of a Sister City Relationship with Gongju, Republic of Korea"

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

APPROVING THE REIMBURSEMENT OF EXPENSES RELATING TO TRAVEL TO
BERKELEY'S SISTER CITY, GONGJU, REPUBLIC OF KOREA

WHEREAS, Berkeley currently has 17 Sister City relationships throughout the world. The first establishment of a Sister City was in 1967 with Sakai, Japan; and

WHEREAS, on February 27, 2018, the City Council approved the recommendation of the Peace and Justice Commission to establish a Sister City relationship with the municipality of Gongju, in the South Chungcheong Province of the Republic of Korea; and

WHEREAS, the City Council established a Sister City relationship with the City of Gongju in recognition of the Korean-American community in Berkeley, and to provide new opportunities to experience Korean culture and share ideas that can mutually benefit our two cities; and

WHEREAS, given the current political climate surrounding the Korean Peninsula, it is even more important to form a relationship that will promote peace and good will; and

WHEREAS, the Sister City proposal presented by the City of Gongju called for mutual visits of delegations during festivals, for for Gongju during their Baekje Cultural Festival, and for Berkeley during the Kite Festival; and

WHEREAS, recently, Mayor Kim Jeong-seob sent an invitation to visit Gongju where they will be hosting an event for their sister cities to exchange ideas. This event takes place from September 27 to September 30, 2019; and

WHEREAS, the delegation consisting of Mayor Arreguin, Councilmember Robinson (Berkeley's first Korean American Councilmember) and a staff member will allow our two cities to deepen our Sister City partnership, share ideas on issues mutually beneficial to our two cities, and provide for cultural learning and exchange; and

WHEREAS, the Council Expense Reimbursement Policy, approved under Resolution No. 67,992-N.S., allows for communicating with representatives of local, regional, state and national government on City policy positions, and participating in local, regional, state and national organizations of cities whose activities affect the city's interest; and

WHEREAS, while this does not include international visits, the Policy does allow the City Council to approve expense reimbursements if it meets an articulated municipal purpose; and

WHEREAS, since 1967, Berkeley has established Sister City relationships with foreign cities to promote international communication and cooperation, promote cultural learning and exchange and to enable Berkeley to learn from the work of sister cities throughout the world; and

WHEREAS, similar to ongoing work communicating with regional, state and national officials, international exchange and cooperation is beneficial for the City of Berkeley by educating foreign governments about City of Berkeley policies and programs and promoting greater cultural awareness and diplomacy which enhances relations between respective countries; and

WHEREAS, in order to send a goodwill delegation to Gongju Korea, associated costs would need to be reimbursed, consistent with city policy.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it hereby authorizes the reimbursement of expenses of up to \$6,000 from Mayor Arreguin and Councilmember Robinson's discretionary Council Office Budgets for the purpose of traveling to Berkeley's Sister City, Gongju, Republic of Korea to officially commemorate the establishment of sister city relations and to participate in the 65th Annual Baekje Cultural Festival.

RESOLUTION NO. 67,992–N.S.

CITY COUNCIL EXPENDITURE AND REIMBURSEMENT POLICIES

WHEREAS, each fiscal year, the City Council appropriates funds in the Mayor and Councilmember's departmental budgets to cover the costs of Mayor and Council staff and non-personnel expenditures which are reasonable and necessary for the performance of the duties of Mayor and Councilmember; and

WHEREAS, the Council needs to ensure that the expenditures are incurred and paid in conformity with the requirements of the City Charter; and

WHEREAS, AB 1234, adopted in 2005 and codified as Government Code Sections 53232, et. seq., requires that all cities adopt an expense reimbursement policy for Mayor and Council expenses; and

WHEREAS, on July 25, 2006, the City Council adopted Resolution No. 63,412–N.S. to establish the expenditure and reimbursement policy required by state law; and

WHEREAS, on September 10, 2103, the City Council rescinded Resolution No. 63,412–N.S. and replaced it with Resolution No. 66,295–N.S., which revised the expenditure and reimbursement policy required by state law.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Councilmember Office Budget Relinquishment and Grant Policy enumerated in Exhibit A is incorporated by reference into the policy for City Expenditures and Expense Reimbursement for Mayor and Council.

BE IT FURTHER RESOLVED that Resolution No. 66,295–N.S. and any amendments thereto are hereby rescinded.

BE IT FURTHER RESOLVED that the policy concerning City Expenditures and Expense Reimbursement for Mayor and Council departments is hereby adopted to read as follows:

CITY EXPENDITURES AND EXPENSE REIMBURSEMENT FOR MAYOR AND COUNCIL DEPARTMENTS

I. City Expenditures for Mayor and Council

The Mayor and Council members shall purchase all office supplies, office equipment, furniture, computers, or any other product, good, or service for the actual and necessary expense of their office in the manner normally applicable to all other purchases of goods and services by the City. Such expenses may include membership in organizations of elected officials and the purchase of newspapers and periodicals that provide information needed for the performance of official duties.

II. Reimbursement of Actual and Necessary Expense of Office

The Mayor and Council members and their staff may be reimbursed for the actual and necessary expenses for the categories of activities set forth below under "Authorized Activities."

A. Authorized Activities.

Travel, meals and lodging incurred in connection with the following types of activities set forth below constitute authorized expenses, as long as the other requirements of this Resolution are fulfilled:

1. Communicating with representatives of local, regional, state and national government on City policy positions;
2. Attending educational seminars designed to improve officials' skill and information levels, provided that a brief report of such seminar shall be made by the Mayor and Council at a subsequent Council meeting;
3. Participating in local, regional, state and national organizations of cities whose activities affect the City's interests;
4. Recognizing service to the City (for example, thanking a longtime employee with a retirement gift or celebration of nominal value and cost);
5. Attending City events; or events sponsored by organizations or entities whose activities affect the City's interests where the primary purpose of the event is to discuss subjects which relate to City business;
6. Implementing City approved policies;
7. Meals where the primary purpose of the meal is to conduct City-related business (other than simply meeting constituents) as long as the amount of such meal does not exceed the daily maximum as set forth in this Resolution and meets applicable federal and state standards as to when meal reimbursement may be allowed; and
8. Expenditures for these purposes approved in advance by a Mayor or Council member and undertaken by that person's staff.

Expenditures for all other activities require prior approval by the City Council and must meet an articulated municipal purpose that must be recited in the report proposing the expenditure and the resolution authorizing the expenditure. Most frequently, prior approval by the City Council is given in items to authorize relinquishment of Council office budget fund to general fund and grant of such funds for charitable events, which would be unauthorized expenses if not pre-approved by Council. The policy for relinquishments and grants from Councilmember office budgets is enumerated in Exhibit A.

B. Unauthorized Expenses

The following personal expenditures incurred by City officials shall not be reimbursed:

1. The personal portion of any trip, such as where the official is on his/her own vacation activities;
2. Political contributions or attendance at political or charitable events;
3. Family expenses, including partner's expenses when accompanying official on agency-related business, as well as children or pet-related expenses;

4. Entertainment expenses, including theater, movies (either in-room or at the theater), sporting events (including gym, massage and/or golf related expenses), or other recreational and cultural events;
5. Alcoholic beverages;
6. Non-mileage personal automobile expenses, including repairs, traffic citations, insurance or gasoline; and
7. Personal losses incurred while on City business.

Any questions regarding the propriety of a particular type of expense should be resolved by the City Council before the expense is incurred.

C. Particular Types of Authorized Expenditures Defined

To conserve City resources and keep expenses within community standards for public officials, expenditures should adhere to the following guidelines. In the event that expenses are incurred which exceed these guidelines, the cost borne or reimbursed by the City will be limited to the costs that fall within the guidelines.

1. **Registration.** Registration fee charged for any authorized convention, conference, seminar or meeting is reimbursable.
2. **Transportation.** The most economical mode and class of transportation reasonably consistent with scheduling needs and cargo space requirements must be used, using the most direct and time-efficient route. Charges for rental-vehicles may be reimbursed under this provision if more than one City official is attending an out of town conference, and it is determined that sharing a rental vehicle is more economical than other forms of transportation. In making such determination, the cost of the rental vehicle, parking and gasoline will be compared to the combined cost of such other forms of transportation. Government and group rates must be used when available.
3. **Airfare.** Airfares that are equal to or less than those available through the California Department of General Services (DGS) Statewide Travel Program offered through the League of California Cities, www.dgs.ca.gov/travel¹, are presumed to be the most economical and reasonable for purposes of reimbursement under this policy. If DGS rates are not available, reimbursement for airfare must not exceed 110% of either the state DGS rates or the Federal rates published by the U.S. General Services Administration (GSA) rates, www.gsa.gov², whichever is greater. Any exceptions to these rates must be approved at a public Council meeting before the expense is incurred.

¹ California Department of General Services Statewide Travel Program (DGS): www.dgs.ca.gov/travel

² U.S. General Services Administration (GSA): www.gsa.gov

4. **Automobile.** Automobile mileage is reimbursed at Internal Revenue Service rates presently in effect. These rates are designed to compensate the driver for gasoline, insurance, maintenance, and other expenses associated with operating the vehicle. This amount does not include bridge and road tolls, which are also reimbursable. The Internal Revenue Service rates will not be paid for rental vehicles; only receipted fuel expenses will be reimbursed.
5. **Car Rental.** Rental rates that are equal or less than those published by the California Department of General Services (DGS) Statewide Travel Program available through the League of California Cities shall be considered the most economical and reasonable for purposes of reimbursement under this policy. If DGS rates are not available, reimbursement for car rental must not exceed 110% of either the state DGS rates or the Federal GSA rates, whichever is greater. Any exceptions to these rates must be approved at a public Council meeting before the expense is incurred.
6. **Taxis/Ride Shares/Shuttles.** Taxis, ride shares, or shuttles fares may be reimbursed, including a 15 percent gratuity per fare, when the cost of such fares is equal or less than the cost of car rentals, gasoline and parking combined, or when such transportation is necessary for time-efficiency.
7. **Lodging.** Lodging expenses will be reimbursed or paid for when travel on official City business reasonably requires an overnight stay. If such lodging is in connection with a conference, lodging expenses must not exceed the group rate published by the conference or activity sponsor, provided that lodging at the group rate is available to the Council member at the time of booking. If lodging at the group rate is not available, or if travel is not in connection with a conference, rates that are equal to or less than those available through the California Department of General Services (DGS) Statewide Travel Program offered through the League of California Cities, are presumed to be the most economical and reasonable for purposes of reimbursement under this policy. If DGS rates are not available, reimbursement for lodging must not exceed 120% of the state DGS rates or 100% of the Federal rates published by the GSA, whichever is greater. Any exceptions to these rates must be approved at a public Council meeting before the expense is incurred. **Meals.** Meal expenses and associated gratuities will be reimbursed at the rate set forth in Administrative Regulation 3.9. "Meals which are served at regular meetings of associations to which the city belongs (i.e. Alameda County Mayors' Conference, league of California Cities, or ABAG) shall be exempt from this policy.
8. **Telephone/Fax/Cellular.** Council members will be reimbursed for actual telephone and fax expenses incurred on City business. Telephone bills should identify which calls were made on City business. For calls made on an official's personal cell phone, the official may obtain reimbursement for business calls based on the following formula: minutes used on public business divided by the total minutes allowed under a monthly plan, plus

- long-distances charges for those calls.
- 9. **Airport Parking.** Short-term airport parking may not be used for travel exceeding 24-hours.
- 10. **Other Travel Related Expenses.** Reasonable baggage fees given the duration of the travel will be reimbursed. Expenses for which City officials receive reimbursement from another agency are not reimbursable.
- 11. **Miscellaneous Office Products.** Notwithstanding the requirement in Section I, occasionally an elected officer or officer's staff may need to make an immediate small out of pocket purchase of office supplies that are normally ordered by the City for which payment is paid directly to the vendor. In accordance with the applicable City Manager Administrative Regulation concerning petty cash refunds, the City may reimburse such purchases.

D. Cash Advance Policy for Airfare and Hotel Only (per A.R. 3.9)

From time to time, it may be necessary for an official to request a cash advance to cover anticipated expenses while traveling or doing business on the City's behalf. Such request for an advance should be submitted to the City Auditor, and copied to the City Manager, ten (10) working days prior to the need for the advance with the following information:

- 1. The purpose of the expenditure(s);
- 2. Whether the expenditure is for an authorized activity;
- 3. The benefit to the residents of the City;
- 4. The anticipated amount of the expenditure(s) (for example, hotel rates, meal costs, and transportation expenses); and
- 5. The dates of the expenditure(s).

Any unused advance must be returned to the City within five (5) working days of the official's return, along with an expense report and receipts documenting how the advance was used in compliance with this expense policy.

E. Expense Report Content and Submission Deadline

- 1. A statement of expense must be completed, signed and submitted to the City Auditor for review and forwarded to the Finance Department for payment. The statement of expense must document that the expense in question met the requirements of this Resolution. For example, if the meeting is with a legislator, the local agency official should explain whose meals were purchased, what issues were discussed and how those relate to the City's adopted legislative positions and priorities.
- 2. Officials must submit their statement of expense reports to the Auditor's Office within 60 days of an expense being incurred, accompanied by receipts documenting each expense. Itemized restaurant receipts, including number of individuals served, in addition to any credit card receipts, are also part of the necessary documentation. Receipts for gratuities and tolls under \$5 are not required.
- 3. Inability to provide such documentation in a timely fashion may result in the expense being borne by the official.

F. Audits of Expense Reports

All expenses are subject to verification by the City Auditor of compliance with this policy.

G. Reports

At the following City Council meeting, each official shall briefly report on meetings attended at City expense. If multiple officials attended, a joint report may be made.

H. Compliance with Laws

City officials should keep in mind that some expenditures may be subject to reporting under the Political Reform Act and other laws. All agency expenditures are public records subject to disclosure under the Public Records Act.

I. Violation of This Policy

Use of public resources or falsifying expense reports in violation of this policy may result in any or all of the following:


1. loss of reimbursement privileges;
2. a demand for restitution to the City;
3. the City's reporting the expenses as income to the elected official to state and federal tax authorities;
4. civil penalties of up to \$1,000 per day and three times the value of the resources used; and
5. prosecution for misuse of public resources.

The foregoing Resolution was adopted by the Berkeley City Council on May 30, 2017 by the following vote:

Ayes: Bartlett, Davila, Droste, Hahn, Harrison, Maio, Wengraf, Worthington and Arreguin.

Noes: None.

Absent: None.



 Jesse Arreguin, Mayor

Attest: 

 Mark Numalville, City Clerk

Councilmember Office Budget Relinquishment and Grant Policy

Introduction – Limitations on the Expenditure of Public Funds

The basic purpose of the City as an entity is to exist and function as a *municipality*. This is also reflected in the Charter, which limits the Council's powers only to those "municipal affairs adequate to a complete system of local government". (Section 38.)

Exercises of this power may not be used solely to further the interests of particular individuals, although they may incidentally benefit private interests:

The exercise of the police power is available only for the purpose of promoting the general welfare, the interests of the public as distinguished from those of individuals or persons. It cannot be used to promote private gain or advantage, except so far as the same may also promote the public interest and welfare, and it is the latter, and not the former, effect which forms the basis of the power and warrants its exercise.
(*Binford v. Boyd* (1918) 178 Cal. 458, 461.)

The Council's basic powers circumscribe its ability to spend public funds. In other words, the Council cannot spend public funds for purposes that are beyond its authority in the first place. Thus the City may only use its funds for municipal purposes. In any given case the crucial inquiry is whether an expenditure serves such a purpose:

The determination of what constitutes a public purpose is primarily a matter for the legislature, and its discretion will not be disturbed by the courts so long as that determination has a reasonable basis.
(*County of Alameda v. Carlson* (1971) 5 Cal.3d 730, 745-746.)

If the courts find that there is a valid public purpose, they next examine whether the government's actions are reasonably related to effectuating this purpose. (*Tip Top Foods, Inc. v. Lyng* (1972) 28 Cal.App.3d 533, 541.) Public appropriations granted to private interests will not be considered unlawful diversions of public funds when the transaction serves the public interest, merely granting an incidental benefit to the private individual. (*Cane v. City and County of San Francisco* (1978) 78 Cal.App.3d 654, 660.)

Criteria for Grants of City Funds from Councilmember Office Budgets

Relinquishments and grants for purposes and recipients that fall within the categories listed in Table 1 may be "pre-approved" each fiscal year by Council resolution.

Table 1.

Recipient	Purpose
The City (e.g., the Berkeley Public Library, the Berkeley Animal Shelter)	Any purpose already being undertaken, because it already serves a public purpose. This includes both grants and attendance at fundraising events in capacity as the Mayor or a Councilmember.
BUSD and other public agencies operating in Berkeley	Any purpose already being undertaken, because it already serves a public purpose, assuming the activity is in Berkeley. This includes both grants and attendance at fundraising events in capacity as the Mayor or a Councilmember.
Entities with which the City is co-sponsoring a public event in Berkeley (e.g., Earth Day, Solano Stroll).	City co-sponsorship suggests but is not conclusive of public purpose; public purpose would need to be stated, and all such events should be open to the public at no cost. Alternatively, a list of ongoing events that have been determined to serve a public purpose could be developed.
Entities in Berkeley to which the City already contributes funds for municipal purposes (e.g., affordable housing or social service nonprofits)	To advance the same public purposes for which the entities are funded. This includes both grants and attendance at fundraising events in capacity as the Mayor or a Councilmember.

Proposed relinquishments and grants that do not meet the criteria for pre-approval, but that meet an appropriate municipal purpose, may be approved by resolution with a majority vote of the City Council.



Peace and Justice Commission

CONSENT CALENDAR
February 27, 2018

To: Honorable Mayor and Members of the City Council
 From: Peace and Justice Commission
 Submitted by: Alex Mabanta, Chairperson, Peace and Justice Commission
 Subject: Establishment of a Sister City Relationship with Gongju, Republic of Korea

RECOMMENDATION

Adopt a Resolution establishing a sister city relationship with the municipality of Gongju in the South Chungcheong Province of the Republic of Korea.

SUMMARY

The Peace and Justice Commission is tasked with recommending the establishments of new Sister Cities. Gongju, Korea, a university town with a similar population size to Berkeley, has approached Berkeley with the request of becoming a Sister City. Certain criteria must be met to become a Sister City, which Gongju meets.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

Pursuant to Resolution 56,069-N.S., the City of Berkeley has an established criteria for the establishment of a Sister City relationship. Below is a list of what the proposal must require:

- A) A description of the proposed sister city, township, or community; and
- B) A list of similarities between Berkeley and the proposed sister community;
- C) An explanation of why this particular sister city should be selected by showing how it fits the below listed criteria.

There are seven criteria points that must be met:

- 1) The Sister City relationship should benefit the human rights, health, safety, culture, and education of the citizens of Berkeley; and
- 2) New opportunities for exchange programs, cultural enrichment or curriculum enhancement should result from the relationship; and

- 3) From these new opportunities, there should accrue direct benefits to the students of the Berkeley Unified School District; and
- 4) It should be demonstrated that a sufficient number of Berkeley residents are committed to pursuing this relationship, and that such a group is also capable of representing Berkeley's interest in such a relationship; and
- 5) It should be demonstrated that a sufficient number of residents in the proposed Sister City are committed to, and capable of, sustaining the relationship; and
- 6) There should be no direct nor indirect costs to the City of Berkeley; and
- 7) The Sister City relationship should increase the harmony in Berkeley and be in the best interests of the City.

BACKGROUND

Berkeley currently has 16 Sister City relationships throughout the world, including two with Native American tribes. There are no Sister Cities in Korea. The first establishment of a Sister City was in 1967 with Sakai, Japan, and latest took place in 2002, with Palma Soriano, Cuba.

The City of Gongju has sent two delegations to the City of Berkeley over the past several months to talk about setting up a Sister City relationship. The Korean-American Community Center of San Francisco & Bay Area has also been in communication with the Mayor's office in both Berkeley and Gongju on the creation of such a relationship.

A) Description of Gongju

Gongju is a historic city in South Korea with a population similar to Berkeley (116,870 in 2013). Gongju, formerly known as Ungjin, was the capital of the Baekje Dynasty from AD 475 - 538, and is home to many national cultural sites, including the Gongsanseong Fortress and Tomb of King Muryeong, which were designated as a UNESCO World Cultural Heritage site in 2015. The City of Berkeley does not have any Sister Cities in South Korea.

B) List of similarities between Berkeley and Gongju

- 1) Similar population: Gongju had a population of 116,870 in 2013; Berkeley was 112,580 in 2010.
- 2) University town: Approximately 30% of the population are students.
- 3) Cultural preservation: Gongju is home to historic buildings which are central to its identity.
- 4) Arts/Education: There are many schools and museums located within the city.

C) List of criteria

- 1) The Sister City relationship should benefit the human rights, health, safety, culture, and education of the citizens of Berkeley**

There currently is no Sister City located in Korea. Establishing one would provide new opportunities to experience Korean culture and share ideas that can mutually benefit our cities on a variety of fronts.

- 2) New opportunities for exchange programs, cultural enrichment or curriculum enhancement should result from the relationship**

The proposal would proposal calls for mutual visits of delegations during festivals, for Gongju during their Baekje Cultural Festival, and for Berkeley during the Kite Festival. There are also several student exchange programs which are described below.

- 3) From these new opportunities, there should accrue direct benefits to the students of the Berkeley Unified School District**

Part of the proposal includes a youth homestay and culture which will involve 10 middle and high school students traveling to Gongju to learn about Korean culture, and a language training program.

- 4) It should be demonstrated that a sufficient number of Berkeley residents are committed to pursuing this relationship, and that such a group is also capable of representing Berkeley's interest in such a relationship**

The Korean American Community Center of San Francisco & Bay Area has met with the Mayor's office to discuss their involvement in maintaining a Sister City Association.

- 5) It should be demonstrated that a sufficient number of residents in the proposed Sister City are committed to, and capable of, sustaining the relationship**

Twice this year, a delegation from Gongju visited Berkeley to discuss setting up a relationship and have expressed their commitment to sustaining it.

- 6) There should be no direct nor indirect costs to the City of Berkeley**

The Korean American Community Center will provide funding for any related expenses.

7) The Sister City relationship should increase the harmony in Berkeley and be in the best interests of the City

Berkeley has a large Korean-American community, and establishing a Sister City with a city in Korea would be beneficial to promoting their culture. Given the current political climate surrounding the Korean Peninsula, it is even more important to form a relationship that will promote peace and good will.

M/S/C Bohn/Agrawal

Ayes: Agrawal, Bohn, Gorrocino, Hariri, Lippman, Meola, Mabanta, Maran, Meola, Watson

Abstain: None

Absent: Marchesini, Orozco, Rodriguez

ENVIRONMENTAL SUSTAINABILITY

No environmental effects.

RATIONALE FOR RECOMMENDATION

Establishing a new Sister City, the first in 15 years, would continue Berkeley's legacy of being an international city.

ALTERNATIVE ACTIONS CONSIDERED

None.

CITY MANAGER

The City Manager concurs with the content and recommendations of the Commission's Report.

CONTACT PERSON

Shallon Allen, Secretary, Peace and Justice Commission, 510-981-7071

Attachments:

1: Resolution

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

ESTABLISHING A SISTER CITY RELATIONSHIP WITH THE MUNICIPALITY OF GONGJU IN THE SOUTH CHUNGCHEONG PROVINCE OF THE REPUBLIC OF KOREA

WHEREAS, the Peace and Justice Commission has been charged by the Berkeley City Council with reviewing proposals for new Sister City relationships; and

WHEREAS, the Korean-American Community Center of San Francisco & Bay Area has presented a proposal for a Sister City relationship with the Municipality of Gongju in the South Chungcheong Province of the Republic of Korea; and

WHEREAS, Gongju is an educational hub and University town, with an emphasis on culture and historic preservation, like Berkeley; and

WHEREAS, the Peace and Justice Commission has concluded that the proposal meets the City's criteria for establishing a Sister City, namely:

1. The Sister City relationship should benefit the human rights, health, safety, culture and education of the citizens of Berkeley; and
2. New opportunities for exchange programs, cultural enrichment, or curriculum enhancement should result from the relationship; and
3. From these new opportunities there should accrue direct benefits to the students of the Berkeley Unified School District; and
4. It should be demonstrated that a sufficient number of Berkeley residents are committed to pursuing this relationship, and that such a group is also capable of representing Berkeley's interest in such a relationship; and
5. It should be demonstrated that a sufficient number of residents in the proposed Sister City are committed to, and capable of, sustaining the relationship; and
6. There should be no direct or indirect costs to the City of Berkeley; and
7. The Sister City relationship should increase the harmony in Berkeley and be in the best interest of the City; and

WHEREAS, officials of the Municipality of Gongju have expressed their own desire for a Sister City relationship with Berkeley.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley hereby approves the establishment of a Sister City relationship with the Municipality of Gongju in the South Chungcheong Province of the Republic of Korea.

ESTABLISHING THE CRITERIA FOR THE SELECTION OF SISTER CITIES TO THE CITY OF BERKELEY

WHEREAS, on March 5, 1991, the City Council voted to direct the Peace and Justice Commission to develop the criteria for selection of Sister Cities; and

WHEREAS, on July 15, 1991, the subcommittee made a recommendation to the Peace and Justice Commission who approved the recommended criteria;

NOW THEREFORE, BE IT RESOLVED by the City Council that a Sister City proposal include the following: A) A description of the proposed sister city, township, or community; B) a list of similarities between Berkeley and the proposed sister community; C) an explanation of why this particular sister city should be selected by showing how it fits the below listed criteria.

FURTHER RESOLVED that the criteria used by the City Council to select a Sister City include the following: 1) The sister city relationship should benefit the human rights, health, safety, culture and education of the citizens of Berkeley; 2) New opportunities for exchange programs, cultural enrichment or curriculum enhancement should result from the relationship. 3) From these new opportunities, there should accrue direct benefits to the students of the Berkeley Unified School District; 4) It should be demonstrated that a sufficient number of Berkeley residents are committed to pursuing this relationship, and that such a group is also capable of representing Berkeley's interest in such a relationship; 5) It should be demonstrated that a sufficient number of residents in the proposed sister city are committed to, and capable of, sustaining the relationship; 6) There should be no direct nor indirect costs to the City of Berkeley; and 7) The Sister City relationship should increase the harmony in Berkeley and be in the best interests of the City.

Copies sent 9/17/91

To: Peace and Justice Commission

RESOLUTION

No. 56,069 N.S.

Dated September 10, 1991

Adopted by the Council of the City of Berkeley by the following vote:

Ayes: Councilmembers Chandler, Collignon, Dean, Goldfarb, Shirek, Skinner, Wainwright, Woodworth, and President Hancock.

Noes: None.

Abstaining: None.

Absent: None.

LONI HANCOCK
Mayor and President of the Council

Attest MARIE MCKECHNIE
City Clerk and Clerk of the Council



Cheryl Davila

Councilmember
District 2

CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council

From: Councilmember Cheryl Davila

Subject: Berkeley Community Fund Annual Gala and Benefit Event: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds

RECOMMENDATION

Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember including \$250 from Councilmember Cheryl Davila, to support the Berkeley Community Fund Annual Gala and Benefit Event on September 28, 2019, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Davila, the Mayor and any other Councilmembers who would like to contribute.

BACKGROUND

We are proposing that the City Council make a minimum grant of \$100 to this awards program honoring this organization which is perennially supportive of our local youth. The funds raised at this event are used through their High Hopes Scholarship program to make assistance grants toward college expenses. This is just one among many ways Berkeley Community Fund enables Berkeley youth to succeed in college as it works to provide them with opportunities to develop their talents and be a positive force in our community.

FISCAL IMPACTS OF RECOMMENDATION

No General Fund impact; \$250 is available from Councilmember Cheryl Davila's Council Office Budget discretionary account (011-11-102-000-0000-000-411).

ENVIRONMENTAL SUSTAINABILITY

No impact.

CONTACT PERSON

Cheryl Davila, Councilmember
District 2
510.981.7120
cdavila@cityofberkeley.info

ATTACHMENTS:

1. Resolution.
2. <https://berkfund.org/event/2019-annual-gala/>

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

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

WHEREAS, Councilmember Cheryl Davila has surplus funds in her office expenditure account (budget code 011-11-102-000-0000-000-411); and

WHEREAS, a California non-profit tax-exempt corporation Berkeley Community Fund, a community-serving non-profit is seeking donations of support in the amount of \$250 for the Berkeley Community Fund Annual Gala and Benefit Event on September 28, 2019; and

WHEREAS, Berkeley Community Fund provides broad support to college students that demonstrates to other similarly situated youth that they can also overcome obstacles to achieving their academic success and realizing life goals;

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that funds relinquished by the Mayor and Councilmembers from their Council Office Budget up to \$250 per office shall be granted to Berkeley Community Fund Annual Gala and Benefit.

2019 Annual Gala

[View this email in your browser](#)

BERKELEY COMMUNITY FUND

Advancing the futures of Berkeley youth



Dear Cheryl,

This year we're thrilled to be honoring **Frances Dinkelspiel, Lance Knobel, and Tracey Taylor**—the founders of [Berkeleyside](#)—with the **2019 Wheeler Award**. It will be a fabulous evening that includes a cocktail reception, an elegant dinner, award presentation, and music.

The Berkeleyside founders are **driven by a desire to make an impact in their local community—much like the Berkeley Community Fund High Hopes and Promise scholars**. Thanks to the Berkeleyside team, well-respected reporters cover city council and school board meetings, public safety issues, local elections, and the changing landscape of our city. Our Annual Gala will honor them for the impact they have made over the last decade, and raise funds for the scholars who will make an impact in the next decade.

We hope you will join us in honoring Frances, Lance, and Tracey on Saturday, September 28, 2019 at the UC Berkeley Pauley Ballroom.

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Shop on [AmazonSmile](#) and support our High Hopes and Promise scholarship programs. [AmazonSmile](#) is a website operated by Amazon with the same products, prices, and shopping features as Amazon.com. The difference is that when you shop on [AmazonSmile](#), the AmazonSmile Foundation will donate 0.5% of the purchase price of eligible products to the charitable organization of your choice. To get started, select “Berkeley Community Fund” as your charity of choice.

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Cheryl Davila

Councilmember
District 2

CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council

From: Councilmember Cheryl Davila

Subject: Berkeley Youth Alternatives 1st Golf Tournament Supporting Education and Sports Activities: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds

RECOMMENDATION

Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember including \$250 from Councilmember Cheryl Davila, to support the Berkeley Youth Alternatives 1st Golf Tournament Supporting Education and Sports Activities on September 30, 2019, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Davila, the Mayor and any other Councilmembers who would like to contribute.

BACKGROUND

We are proposing that the City Council make a minimum grant of \$250 to the September 30, 2019, fundraising event of this organization which has served the Berkeley community since 1971, with programs that focus on academic success, health and well-being, and economic self-sufficiency of our local youth. The funds raised at this event are used to provide services to approximately 1200 youth and their families per year through a variety of activities.

FISCAL IMPACTS OF RECOMMENDATION

No General Fund impact. \$250 is available from Councilmember Cheryl Davila's Council Office Budget discretionary account (011-11-102-000-0000-000-411).

ENVIRONMENTAL SUSTAINABILITY

The protection of life under all circumstances is itself an act of environmental sustainability.

CONTACT PERSON

Cheryl Davila, Councilmember
District 2
510.981.7120
cdavila@cityofberkeley.info

ATTACHMENT:

1. Resolution.
2. Berkeley Youth Alternatives Sponsor Application Packet.

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

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

WHEREAS, Councilmember Cheryl Davila has surplus funds in her office expenditure account (budget code 011-11-102-000-0000-000-411); and

WHEREAS, a California non-profit tax-exempt corporation Berkeley Youth Alternatives, a community-serving non-profit is seeking donations of support in the amount of \$250 for the 1st Golf Tournament on September 30, 2019; and

WHEREAS, Berkeley Youth Alternatives provides broad support to Berkeley youth and their families to achieve academic success, sound health and well-being, and economic self-sufficiency;

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that funds relinquished by the Mayor and Councilmembers from their Council Office Budget up to \$250 per office shall be granted to Berkeley Youth Alternatives 1st Golf Tournament.

Berkeley Youth Alternatives

Invest in our children, Invest in our future!



July 10, 2019

To whom it may concern:

As a member of the East Bay community, Berkeley Youth Alternatives (BYA) is seeking your support to make our **1st Golf Tournament on September 30, 2019** a success.

BYA has served the Berkeley community since 1971, with programs that focus on academic success, health and well-being, and economic self-sufficiency for children, youth, and young adults ages 6-24. BYA serves approximately 1,200 youth and their families per year through a variety of activities.

As a supporter, you will be recognized according to the level of sponsorship. You will also be recognized in the Golf Tournament brochure, in the Berkeley Times as well as at the annual Crab Feed on February 27, 2020.

Sincerely,

Niculia Williams
Executive Director
510-845-9010 ext 204
nwilliams@byaonline.org

1255 Allston Way
Berkeley, CA 94702
510-845-9010
Fax 510-849-1421
www.byaonline.org

Niculia Williams
Executive Director

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Administration
EXT 201

Afterschool Center
EXT 217

Career Development
EXT 219

Counseling
EXT 203

Urban Garden
EXT 254

Health Programs
EXT 255

Sports
EXT 231



BYA FACT SHEET

- The Mission of BYA is to help youth and their families address issues and problems via *Prevention* -- reaching youth before their problems become crises, and *Intervention* -- providing support services to youth who are entangled in the juvenile justice system. BYA helps build capacity within individuals to reach their innate potential.
- BYA was **founded in 1969** and **incorporated in 1971** as a Runaway Youth House as part of a national network to work with homeless, runaway, and street youth.
- Since 1971, BYA has grown and now offers programs that focus on **academic success, health and well-being, and economic self-sufficiency** for children, youth, and young adults ages 6-24. BYA serves approximately **1200 youth** and their families per year through a variety of programs.
- With funds from the California Youth Authority, the City of Berkeley, and private funders, BYA completed a **\$1.7 million renovation** of 25,000 sq.ft. of bakery space. The space features a Commercial Kitchen, 4 classrooms, a multipurpose room, and a gym.
- Over 35 young people ages 6-14 are enrolled in the Afterschool Center which provides **academic assistance**, individual counseling, **mentoring**, sports and fitness, and **health/nutrition** education, chess, Capoeira, Zumba, and **case management**.
- BYA's **Computer Lab** was originally made possible by the Golden State Warriors. It features 10 computers that enable youth and young adults to complete vocational training, search for jobs, find housing, and complete college applications.
- BYA hosts a **Summer Day Camp**. The camp offers up to 60 children and youth with basketball instruction, outdoor games, mentoring, nutrition education, computer games, swimming, and field trips.
- BYA's Environmental Training Center provides youth with educational support and jobs afterschool and in the summer in fields such as **gardening** and **environmental justice**.
- Under contract with the Alameda County Behavioral Health Care Services Agency, the Contra Costa County Mental Health Services Plan, the Alameda County Probation Department, and the City of Berkeley, BYA's Counseling Center provides professional **mental health** services to individuals and families throughout Alameda County and Contra Costa County.
- BYA annually places up to 35 youth in paid **summer jobs** with support from the Alameda County Workforce Development Board, Clif Bar Family Foundation, Kaiser Permanente East Bay Community Benefit Program, and private employers.
- BYA Health and Wellness program trains youth as **peer advocates** and community educators to encourage them to pursue careers in **public health**.
- Every year, over 200 individuals from UC Berkeley, Cal-State East Bay, and surrounding universities, and the private sector **volunteer** in BYA programs.
- Since 1990, Niculia "Nikki" Williams, a member of the Alameda County Women's Hall of Fame, has served as BYA's Executive Director.

Academic Success

Afterschool Center serves youth ages 6-14 to improve their literacy and numeracy skills. We offer tutoring, arts and recreation, computer training, mentoring, and more!



Youth and Family Opportunity HUB focuses on expanding health and wellness services and strengthening the linkages between community-based organizations and local schools.



Economic Self-Sufficiency

Career Development and Prevention Center (CDC) provides employment readiness services to youth ages 14-24 in Berkeley, Alameda County, and Contra Costa County.



CDC prepares youth to enter the workforce equipped with skills to successfully transition from adolescence into adulthood through workshops, career training programs, and job fairs.



Health & Well-Being

Counseling Center provides culturally competent therapy and case management services to youth and families.

Environmental Training Center (ETC) maintains our Community Garden and Orchard programs.



SPARK Health offers youth-centered health programs, group circles, workshops, and annual health fairs.

Sports & Fitness help youth learn teamwork, self-confidence, and discipline.





Programs & Services

- ◆ **Extended Care Programs:**
HUB Afterschool Center & Summer Jam Program for Ages 6-14
- ◆ **Youth and Family Opportunity HUB for Ages 6-24 + Families**
- ◆ **Career Development & Prevention Center (CDC) for Ages 14-24**
- ◆ **Environmental Training Center (ETC) for Ages 14-24**
- ◆ **Sports & Fitness for Ages 5-18 + Families**
- ◆ **Counseling Center for Ages 6-24 + Families**

*Serving Youth & Families
For Over 45 Years*



Berkeley Youth Alternatives (BYA) is a community-based nonprofit organization serving Berkeley and the Bay Area since 1971.

Our **holistic** services utilize a continuum-of-care approach that emphasizes three core areas:

- ⇒ **Academic Success**
- ⇒ **Economic Self-Sufficiency**
- ⇒ **Health & Well-Being**

- ◆ We provide a secure and nurturing environment for **youth** and **families** to address issues and problems via *prevention* and *intervention*.
- ◆ We **build capacity** within individuals to reach their innate **potential**.

Berkeley Youth Alternatives



1255 Allston Way
Berkeley, CA 94702
(510) 845-9010
www.byayonline.org

 [BYAbayarea](https://www.facebook.com/BYAbayarea)  [BYAMedia](https://twitter.com/BYAMedia)

 [BYAjobs](https://www.instagram.com/BYAjobs)

*Invest in Our Children,
Invest in Our Future!*

Berkeley Youth Alternatives

Golf Tournament

Supporting Education and Sports Activities

Monday, September 30, 2019

Hiddenbrooke Golf Club

1095 Hiddenbrooke Parkway, Vallejo, CA 94591

DEADLINE TO REGISTER: August 20, 2019

- 10:30am Registration
- 11:00am Back Patio BBQ
- 12:30pm Shotgun Start
- 5:30pm Open Bar
- 6:00 Dinner Buffet

**Space is limited!
Sign-up today!**

For more information, please contact:
Nikki Williams 510-845-9010 ext. 204
nwilliams@byaonline.org
Or the Business Office 510-845-9010 ext. 201



✂ Detach this portion and return with your payment ✂ Detach this portion and return with your payment ✂

Name	Sponsorship Levels	Name of Foursome
_____	<input type="checkbox"/> Platinum \$5000	_____
Address	<input type="checkbox"/> Gold \$3000	Player One
_____	<input type="checkbox"/> Silver \$1000	_____
City	<input type="checkbox"/> Foursome \$800	Player Two
_____	<input type="checkbox"/> Individual Golfer \$200	_____
State Zip	More ways to participate	Player Three
_____	Margarita, Beer, Lunch, Long Drive, Networking, Hole Sponsor, and etc.	_____
Phone		Player Four
_____		_____
Email		

Please make checks payable to Berkeley Youth Alternatives
Attn: BYA Golf Tournament ♦ 1255 Allston Way, Berkeley, Ca. 94702
You can register and pay via credit card at www.byaonline.org

Berkeley Youth Alternatives

Invest in our children, Invest in our future!



Sponsor: _____

Contact Person: _____

Address: _____ City: _____ State: _____ Zip: _____

Phone: _____ Fax: _____ Email: _____

Platinum \$5000

Gold \$3000

Margarita \$1500

Silver \$1000

Recognition includes:

Company name will be listed in:
**BYA's Golf Tournament Brochure,
BYA's Annual Crab Feed Brochure
and The Berkeley Times**

Make Checks Payable To: Berkeley Youth Alternatives

Check Number: _____ Check Amount: _____ Date: _____

Additional Notes: _____

Donor's Signature: _____

Sponsorships **NOT** turned in before **August 28th, 2019** may **NOT** receive recognition

Thank you for your contribution!

For your records, BYA's Tax Identification # is: 94-1711728

Phone:
(510)-845-9010 ext.204

Mail to:
1255 Allston Way
Berkeley, CA 94702

Email:
nwilliams@byaonline.org

Event Location:
Hiddenbrooke Golf Club
1095 Hiddenbrooke
Parkway
Vallejo, CA 94591

Sponsorship

Platinum \$5,000

- 2 Foursomes with Carts
- 8 Complimentary Game Cards (\$160 value)
- Tee Sign w/ Company Name & Logo
- Introduction at Awards Dinner
- Company Name & Logo on Sponsor Board at Registration and Awards Dinner
- 8 Lunches and 8 Dinners

Gold \$3,000

- 1 Foursome with Carts
- 4 Complimentary Game Cards (\$80 value)
- Introduction at Awards Dinner
- Company Name & Logo on Sponsor Board at Registration and Awards Dinner
- 4 Lunches and 4 Dinners

Silver \$1,000

- 1 Foursome with Carts
- Introduction at Awards Dinner
- Company Name & Logo on Sponsor Board at Registration and Awards Dinner
- 4 Lunches and 4 Dinners

Foursome \$800

- 1 Foursome with Carts
- 4 Lunches and 4 Dinners

Beer Sponsor \$700

- Signage & Recognition Throughout the Event
- Includes 1 Dinner



More ways to participate...

Margarita Sponsor \$1,500

- Signage & Recognition Throughout the Event
- Company Name & Logo on Sponsor Board at Registration and Awards Dinner
- 4 Lunches and 4 Dinners

Lunch Sponsor \$1,500

- Signage & Recognition Throughout the Event
- Company Name & Logo on Sponsor Board at Registration and Awards Dinner
- 4 Lunches and 4 Dinners

Long Drive Sponsor \$250

- Signage & Recognition Throughout the Event
- Includes 1 Dinner

Networking Hole Sponsor \$250

- A Company Rep may Promote Your Business on the Course and Interact with Players
- Includes 1 Dinner

Hole Sponsor \$250

- Your Company Name on a Sign Displayed on the Course During the Tournament
- Includes 1 Dinner

Raffle Prizes

- Recognition at the Event

Dinner Guest \$40

- Join the Golfers for Dinner, Fun, Networking, Awards and After Golf Activities



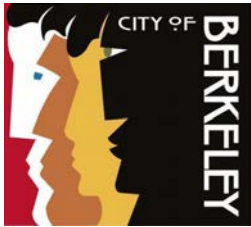
Berkeley Youth Alternatives Golf Tournament

Supporting Education and Sports Activities

Monday, September 30, 2019

Hiddenbrooke Golf Club

1095 Hiddenbrooke Parkway, Vallejo, CA 94591



Councilmember Ben Bartlett

City of Berkeley, District 3
 2180 Milvia Street, 5th Floor
 Berkeley, CA 94704
 PHONE: 510-981-7130
 EMAIL: bbartlett@cityofberkeley.info

CONSENT CALENDAR
 September 10th, 2019

To: Honorable Mayor and Members of the City Council
 From: Councilmembers Ben Bartlett
 Subject: Pavement of Derby Street and Ward Street between Telegraph Ave and Shattuck Ave

RECOMMENDATION

That the Council refers consideration of the paving of Derby St. and Ward St. between Shattuck Ave and Telegraph Ave to the Public Works Commission in order to repair these deteriorating streets that serve as a part of a major commuter corridor which both individual drivers and buses use in their daily commute.

CURRENT SITUATION

Derby and Ward Streets are part of a major commuter corridor that serves both drivers and AC Transit. However, these streets are in horrible shape and are not currently scheduled to be paved, which puts both drivers and pedestrians at risk. In order to maintain traffic and street safety, the Council should refer to the Public Works Commission to consider the most appropriate way to address the quality of Ward and Derby Street between Telegraph and Shattuck, as part of its long term consideration of the Street Repaving Plan.

BACKGROUND

A 2012 report from the City Auditor concluded that the average Berkeley Street is in “at-risk condition¹, which not only threatens the safety of drivers, cyclists, and AC Transit buses but also the cost of street rehabilitation. A poll conducted by Berkeleyside found that Derby Street was one of the worst streets in Berkeley.² Many drivers, to avoid potholes, drive down the middle of Derby Street, which puts other drivers, cyclists, and pedestrians at risk. It is crucial to take the necessary steps in improving street pavement conditions in order to maintain traffic conditions and safety. Ward Street is in similarly bad condition, and repaving both will prevent traffic from the unrepaired street from rerouting to the newly paved one.

REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES, AND LAWS

The Council adopted and renewed the 5-Year Street Rehabilitation Plan, which intends to sustain and reconstruct City streets. This policy is determined to “maintain a safe

¹ <https://www.berkeleyside.com/2011/11/16/average-berkeley-street-is-in-at-risk-condition-many-are-worse>

² <https://www.berkeleyside.com/2018/12/12/the-10-worst-streets-in-berkeley-with-one-very-clear-winner>

surface conveyance system in the public right-of-way for vehicles, bicycles, transit, and pedestrians.”³

The Street Rehabilitation Plan strives to “identify and implement integrated solutions that address the multiple demands on the street infrastructure that are designed for safety, environmentally sustainable and economically efficient over the long run.”⁴ Its outline for the basic criteria for street rehabilitation includes street condition, cost-effectiveness amount of traffic, AC Transit bus or bicycle route, and coordination with both other City programs and utility company work.⁵ If the City is dedicated to creating a community with better traffic safety and safer street conditions, the Council should direct the consideration of street pavement of Derby Street and Ward Street from Telegraph to Shattuck Ave. to the Public Works Commission.

FISCAL IMPACTS OF RECOMMENDATION

Staff time and cost associated with the construction of the crossing signal.

ENVIRONMENTAL SUSTAINABILITY

Consistent with City of Berkeley Environmental Goals.

CONTACT PERSON

Councilmember Ben Bartlett	510-981-7130
Councilmember Rigel Robinson	510-981-7170
Tyler Von Denlinger	510-981-7131

ARTICLES

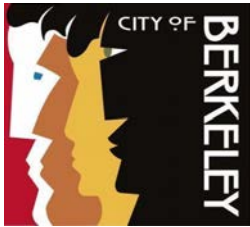
<https://www.berkeleyside.com/2011/11/16/average-berkeley-street-is-in-at-risk-condition-many-are-worse>

<https://www.berkeleyside.com/2018/12/12/the-10-worst-streets-in-berkeley-with-one-very-clear-winner>

³ https://www.cityofberkeley.info/Public_Works/Sidewalks-Streets-Utility/Street_Rehabilitation_and_Repair_Policy_updated_March_2009.aspx

⁴ https://www.cityofberkeley.info/Public_Works/Sidewalks-Streets-Utility/Street_Rehabilitation_and_Repair_Policy_updated_March_2009.aspx

⁵ <https://www.cityofberkeley.info/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=48574>



Councilmember Ben Bartlett

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 2180 Milvia Street, 5th Floor
 Berkeley, CA 94704
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CONSENT CALENDAR

September 10th, 2019

To: Honorable Mayor and Members of the City Council
 From: Councilmember Ben Bartlett
 Subject: Funding the Construction of a Pedestrian Signal at Ashby Street and Fulton Street

RECOMMENDATION

That the Council refers to the November Budget Annual Appropriations Ordinance to fund the construction of a pedestrian crossing signal at the intersection of Ashby and Fulton Street in order to address inadequate traffic control and stopping, reduce traffic accidents, and further safeguard the community.

CURRENT SITUATION

The intersection at Ashby Street and Fulton Street only has two ground stoplights that control the flow of traffic. However, the ground lights are not easily visible and are often ignored by drivers, leading to many close-calls and accidents. In order to cultivate a culture of traffic and pedestrian safety, the Council should refer to the November Budget Annual Appropriation Ordinance its proposal for the budget process to fund the construction of the more effective pedestrian crossing signal.

BACKGROUND

In this district, even with streets with stoplights, cars tend to exceed the speed limit or even ignore the stoplight itself. This not only threatens the safety of drivers but children and seniors as well. On March 5th, a 73-year-old cyclist was riding south down Fulton Street when he was struck by a westbound vehicle. The stoplights that were posted there were not visible and failed to control the flow of traffic and resulted in a fatal accident.¹ It is crucial to take the necessary steps in improving pedestrian safety and traffic conditions at this dangerous intersection by constructing a more visible pedestrian crossing signal.

REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES, AND LAWS

The Council adopted a Complete Streets Policy in 2013, which intends to create and sustain street designs and repairs. This policy is determined to create a “comprehensive, integrated transportation network with infrastructure and design that allows safe and convenient travel”² for all users. This includes pedestrians, persons with disabilities, motorists, bicyclists, users and operators of public transportation, seniors, children, youth, and families.

¹ <https://www.berkeleyinsider.com/2019/03/02/cyclist-seriously-injured-in-hit-and-run-crash-on-ashby>

² <https://www.cityofberkeley.info/completestreetspolicy/>

This Complete Streets Policy, resolves to “provide safe, comfortable, and convenient travel along and across streets.”³

ACTIONS/ALTERNATIVES CONSIDERED

Alternatives include replacing the existing traffic signal with a more visible one or installing the crosswalk LED lights to flash while a pedestrian or cyclist crosses the street. However, this will still require additional funding and possible paving.

RATIONALE FOR RECOMMENDATION

If the Council is dedicated to ensuring safety in the neighborhoods for all people, they should refer to the construction of a pedestrian signal at the intersection of Ashby and Fulton to the November Budget Annual Appropriations Ordinance process. There have been many auto-related accidents throughout the City of Berkeley, especially at the relevant intersection that can be prevented with further action. The Council must keep their commitment to ensuring the safety of our drivers and pedestrians by preventing future accidents from occurring through the construction of more visible crossing signals.

IMPLEMENTATION, ADMINISTRATION AND ENFORCEMENT

The Council should refer to the Department of Public Works Transportation Division to create a plan for the installation of a crossing sign. The Council should also refer the plan to the November Budget Annual Appropriations Ordinance process to insure its implementation.

FISCAL IMPACTS OF RECOMMENDATION

Staff time and cost associated with the construction of the crossing signal.

ENVIRONMENTAL SUSTAINABILITY

No adverse effects to the environment. Slower traffic and safer street crossings.

OUTCOMES AND EVALUATION

It is expected that the City of Berkeley will recognize the importance of funding the construction of a visible pedestrian crossing signal for the residents who live in this neighborhood.

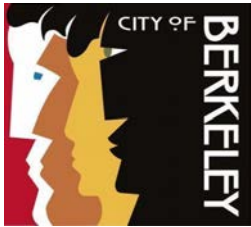
CONTACT PERSON

Councilmember Ben Bartlett	510-981-7130
Tyler Von Denlinger	510-981-7131

ARTICLES

<https://www.berkeleyside.com/2019/03/02/cyclist-seriously-injured-in-hit-and-run-crash-on-ashby>

³https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Transportation/Berkeley%20Complete%20Street%20Resolution%2012%2011%2012.pdf



Councilmember Ben Bartlett

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 EMAIL: bbartlett@cityofberkeley.info

CONSENT CALENDAR September 10, 2019

To: Honorable Mayor and Members of the City Council
 From: Councilmember Ben Bartlett
 Subject: Funding for Pedestrian Crossing Signal at the intersection of Shattuck and Prince

RECOMMENDATION

That the Council refers to the November Budget Annual Appropriations Ordinance to fund pedestrian crossing signals on all directions of the Shattuck Avenue and Prince Street intersection in order to address inadequate traffic control and ensure the safety of travelers along these streets.

CURRENT SITUATION

The intersection currently has only an unlit crosswalk in all directions, making crossing during darker hours of the day dangerous for pedestrians, bicyclists, and motorists. This danger can be ameliorated through the installation of pedestrian crossing signals. These signals, consisting of bright flashing lights, will be activated by a button pressed by the pedestrian. This will ensure that the risk of pedestrian-involved accidents will be decreased, but will also enable traffic to flow smoothly when no pedestrians are in the vicinity.

BACKGROUND

This intersection has experienced a number of accidents involving pedestrians and motorists alike in the past, with the latest occurring on June 3, 2019, at 9:20 PM. In this incident, a 75-year-old man was crossing Shattuck Avenue when he was struck by a Toyota Highlander. Despite suffering serious injuries, the man survived the accident. Unfortunately, not all pedestrians survive these preventable collisions and thus, it is the responsibility of the City of Berkeley to mitigate the dangers of simply crossing the street at night by installing pedestrian crossing signals.

REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES, AND LAWS

On December 11, 2013, the Council adopted a Complete Streets Policy, which aims to create and sustain a “comprehensive, integrated transportation network with infrastructure and design that allows safe and convenient travel along and across streets for all users.”¹ These users include pedestrians, bicyclists, persons with disabilities, seniors, youth, families, and more.

¹ <https://www.cityofberkeley.info/completestreetspolicy/>

In the resolution of the policy, it states that “the City of Berkeley expresses its commitment to creating and maintaining Complete Streets that provide safe, comfortable, and convenient travel along and across streets.”² If the City is committed to cultivating a culture of traffic safety that protects pedestrians from auto-related accidents, the Council should fund the installation of street lights at the intersection of MLK and Stuart.

FISCAL IMPACTS OF RECOMMENDATION

Staff time and cost associated with the installation of pedestrian crossing signals.

RATIONALE FOR RECOMMENDATION

This high-traffic intersection is frequently by used by motorists, bicyclists, and pedestrians alike, and thus is at a relatively higher risk of collisions between these groups. Due to a lack of any form of signage or traffic controls, this risk is even higher. Installation of a pedestrian crossing signal will lower this risk.

ENVIRONMENTAL SUSTAINABILITY

No adverse effects to the environment.

OUTCOMES AND EVALUATION

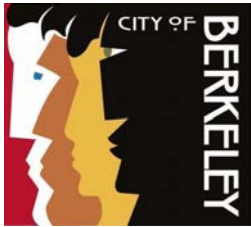
It is expected that the City of Berkeley will recognize the importance of installing a pedestrian crossing signal at the intersection of Shattuck and Prince in order to ensure the safety of its citizens.

CONTACT PERSON

Councilmember Ben Bartlett
Brian Gan

510-981-7130
510-981-7131

² https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Transportation/Berkeley%20Complete%20Street%20Resolution%2012%2011%2012.pdf



Councilmember Ben Bartlett

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 EMAIL: bbartlett@cityofberkeley.info

CONSENT CALENDAR
 September 10, 2019

To: Honorable Mayor and Members of the City Council
 From: Councilmember Ben Bartlett
 Subject: Funding Streetlight Near South East Corner of Otis Street

RECOMMENDATION

That the Council refers to the City Manager to fund construction of a streetlight on the corner of Otis near Ashby.

CURRENT SITUATION

Currently, there is no street lighting at the corner of Otis and Ashby Ave. This leaves the area dark and unsafe, which has led to an increase in robberies and accidents near this intersection. The residents of Otis street have petitioned and gathered 40 signatures requesting the installation of a streetlight. As of now, there are no funds available to construct stop signs in these neighborhoods. However, in the past, this area was under consideration for the City of Berkeley Streetlight Repair or Retrofit Program, which would have replaced the old dim streetlights with more energy efficient LED lights. In order to promote a safe environment, the Council should refer to the City Manager to fund a street light at this corner.

BACKGROUND

On April 23, 2019, Lt. David Lindenau found a car with two people sitting in it without license plates. Both were on probation, so the police searched them and their vehicle. The police found burglary tools, heroin, and a taser, along with multiple checkbooks, checks, debit/credit cards, fraudulent identifications, packaging materials, and multiple digital scales.¹ The two suspects were Neddy Castellanos, 44, and Elicia Alvarez, 35. A thorough search of Castellanos and Alvarez found more than 10 instances of identity theft. Castellanos had been previously convicted of identity theft. On May 25, 2019, on Otis and Ashby, a vehicle break-in occurred at 8 a.m.² On July 16, 2019, there was another vehicle break-in near Otis Street and Ashby Street.³ Furthermore, on July 22, 2019, police responded to a vehicle break-in on Russell Street and Otis Street.⁴ These vehicle break-ins point to the need for a streetlight at Otis and Ashby.

¹<https://www.berkeleyside.com/2019/05/29/berkeley-police-man-dragged-in-elmwood-robbery-tesla-camer-a-helps-solve-burglary-series-more>

² <https://www.crimemapping.com/Share/90c11ecaf2e64414b2b1131fa17c864b>

³ <https://www.crimemapping.com/Share/85baa0222d294a3385497f18d44d48ff>

⁴ <https://www.crimemapping.com/Share/776814206a6346f18a471a971c77fa3b>

REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES, AND LAWS

The Council adopted a Complete Streets Policy in 2013, which intends to create and sustain street designs and repairs.

RATIONALE FOR RECOMMENDATION

If the Council is truly dedicated to ensuring safety in the neighborhoods for all people, then they should fund the necessary streetlight near the corner of Otis. This could decrease the amount of break-ins and help residents of the neighborhood feel safer. The addition of a streetlight could also decrease accidents at night and ensure the safety of pedestrian crossing at crosswalks.

FISCAL IMPACTS

Estimated cost of \$4500 per light plus staff time for an energy efficient solar powered light.

ENVIRONMENTAL SUSTAINABILITY

Berkeley has been transitioning to clean and energy efficient lighting because of their Climate Action Plan, which was initiated in 2013. Thus a new streetlight would run on solar power and contribute to the continued reduction of greenhouse gas emissions in the City of Berkeley.

CONTACT PERSON

Councilmember Ben Bartlett
James Chang
Reequanza McBride

510-981-7130
jchang@cityofberkeley.info
510-981-7131



Councilmember Ben Bartlett

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 2180 Milvia Street, 5th Floor
 Berkeley, CA 94704
 PHONE: 510-981-7130
 EMAIL: bbartlett@cityofberkeley.info

CONSENT CALENDAR
 September 10, 2019

To: Honorable Mayor and Members of the City Council
 From: Councilmembers Ben Bartlett and Kate Harrison
 Subject: Request for Information Regarding Current Status and Progress on Traffic Mitigations at Dwight Way and California Street

RECOMMENDATION

Refer to the City Manager a request for information regarding the current status and progress on traffic mitigations and pedestrian safety improvements at the intersection of Dwight Way and California Street.

BACKGROUND

On April 21, 2017, a Berkeley teenager biking to school was in a collision with a car at the intersection of Dwight and California and was hospitalized. On September 26, 2017, a different middle schooler biking to school was hit at the same intersection and was hospitalized. In response to these collisions, the City Council allocated \$400,000 in November 2017 towards infrastructure improvements, specifically the installation of traffic lights, HAWK lights, or stop signs.

The intersection at Dwight Way and California Street does not meet the prior municipal requirements for a stop sign. Last year, Councilmembers Harrison, Bartlett, and Droste submitted a referral to change the criteria for stop signs by including elements such as the presence of bike boulevards and to allow a simpler process for requesting stop signs in the future. In March 2019, the Transportation Commission recommended expanded stop sign criteria, but the accompanying staff report has not been completed. Hence, the Council has not yet had the opportunity to approve the new criteria, which would allow the installation of a stop sign at this intersection. Installing a HAWK light or Rectangular Rapid Flash Beacon (RRFB) would not require any changes to the current traffic policy.

On May 8, 2019, volunteers and bicycle advocates with Walk Bike Berkeley hosted a “safe crossing event” at Dwight and California, where they would stop traffic along Dwight Way with whistles, signs, and their own bodies whenever a pedestrian or bicyclist needed to cross. Other volunteers collected data on how the intersection is used between 8:00-9:00 am and tallied 84 adults and 24 children biking, and 12 adults and 4 children walking. Still, more volunteers gathered 58 signatures petitioning the City to make appropriate safety improvements.

The Transportation Department has developed plans for the intersection in the form of an extended median that can facilitate a two-stage crossing but without a stop sign or HAWK light. However, some constituents have expressed concern regarding the effectiveness of this plan, stating that a stop sign or HAWK light at the crosswalk would be more effective in providing

needed safety. Two-stage crossings are useful for pedestrians, but bicyclists move through intersections at a much faster pace and need vehicular traffic to slow or stop in both directions before crossing is safe. As volunteers with Walk Bike Berkeley demonstrated, the intersection experiences far more bicycle traffic than pedestrian and thus the needs of bicyclists are key in all future traffic mitigations.

REVIEW OF EXISTING PLANS AND POLICIES

The 2017 Bicycle Plan is an ambitious plan to turn Berkeley into “a model bicycle-friendly city where cycling is a safe, comfortable, and convenient form of transportation for people of all ages and abilities.” The first goal of the Bike Plan is to achieve zero bicycle-related fatalities by 2025 and zero bicycle-related injuries by 2035.

Dwight Way is considered a major arterial street (see Attachment 3), though it has only two lanes. If we assume a “medium” traffic volume for this arterial, the 2017 Bicycle Plan as seen in Attachment 4 calls for the installation of an RRFB, HAWK light, or traffic light to achieve a low-stress designation (LTS 1). California Street is a bicycle boulevard and a Tier 2 priority project for bicycle improvements. The Plan explicitly calls for the installation of RRFB at the intersection of Dwight and California.

CURRENT SITUATION AND ITS EFFECTS

The Berkeley City Council approved funds over two years ago for significant traffic improvements most appropriate to the 2017 Bicycle Plan and the needs of cyclists, and it is unclear how these directives are being implemented.

RATIONALE FOR RECOMMENDATION

It is in the best interest that City Council understand the process in order to create the safest possible intersection and street for pedestrians and bicyclists with maximum community and policy input.

ENVIRONMENTAL SUSTAINABILITY

Unsafe streets discourage Berkeley residents from walking and biking. Hastening safety improvements will encourage people to reduce the usage of their cars and reduce transportation emissions.

FISCAL IMPACTS

None. \$400,000 has previously been allocated to address this intersection.

CONTACT PERSON

Councilmember Ben Bartlett
Reequanza McBride
James Chang

(510) 981-7130
(510) 981-7131
jchang@cityofberkeley.info

ATTACHMENTS

- 1: Item 28, May 30th, 2017: “Expedite the construction of Beacon Lights at Dwight Way and California Street to take place at the onset of Phase 1 of the Berkeley Bicycle Plan”
- 2: Item 16, October 31st, 2017: “Budget Referral: Prioritize Installation of Traffic Lights, HAWK Lights, or Stop Signs at the Intersection of Dwight Way and California Street in the 2017 Mid-Year Budget Process”
- 3: City of Berkeley Traffic Engineering Average Total Daily Traffic Volume
- 4: Excerpts from 2017 Berkeley Bicycle Plan



Councilmember Ben Bartlett
City of Berkeley, District 3

CONSENT CALENDAR
May 30, 2017

To: Honorable Mayor and Members of the City

From: Councilmembers Ben Bartlett and Kate Harrison

SUBJECT: Expedite the construction of Beacon Lights at Dwight Way and California Street to take place on the onset of Phase 1 of the Berkeley Bicycle Plan

RECOMMENDATION

Refer to the Transportation Department to expedite the construction of Beacon Lights at Dwight Way and California Street as part of Phase 1 of the Berkeley Bicycle Plan

FISCAL IMPACTS OF RECOMMENDATION

Cost of improvements to be determined.

ENVIRONMENTAL SUSTAINABILITY

No ecological impact.

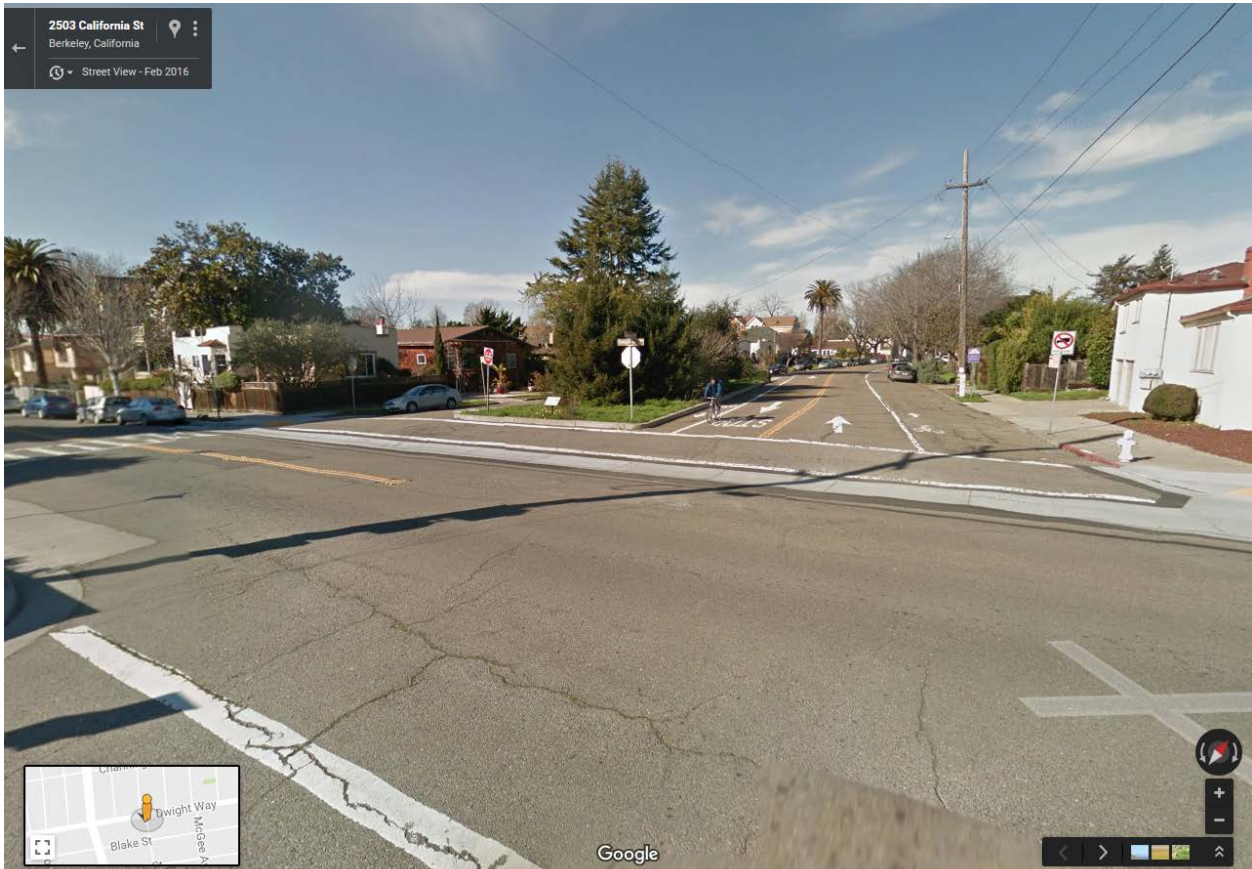
BACKGROUND

On April 21, 2017, a young child riding his bike sustained moderate injuries at this intersection after colliding into a moving car. The incident highlighted the need to improve pedestrian safety at Dwight and California. Numerous senior citizens who live nearby have voiced safety concerns.

California St. is a designated bicycle boulevard, as well as a corridor that many students use to get to two separate schools. Given the high volume of vulnerable traffic and the history of accidents at this intersection, further safety features would be a significant benefit.

California Street routinely carries a high volume of traffic traveling at high speed. Many children ride down California in both directions during rush hour, on their way to school. This beacon light would enable people riding their bicycles down the heavily trafficked bike boulevard on California to more safely cross Dwight Way. This intersection is of particular concern since as one approaches California Street, a bicycle boulevard from

the North, there is no crosswalk at the southbound lane.



CONTACT PERSON:
Councilmember Ben Bartlett

510-981-7130



Kate Harrison
Councilmember District 4

CONSENT CALENDAR
October 31th, 2017

To: Honorable Mayor and Members of the City Council
 From: Councilmembers Kate Harrison, Ben Bartlett and Cheryl Davila
 Subject: Budget Referral: Prioritize Installation of Traffic Lights, HAWK Lights, or Stop Signs at the Intersection of Dwight Way and California Street in the 2017 Mid-Year Budget Process

RECOMMENDATION

1. Refer to the 2017 Mid-year budget process the installation of Traffic Lights, HAWK Lights, or Stop Signs at the intersection of Dwight Way and California Street. If such an installation is approved in the budget process, direct the City Manager and Transportation staff to prioritize and expedite said installation.
2. Request that the stoplights on Dwight at the intersections on either side of the Dwight and California intersection be coordinated.

FISCAL IMPACTS OF RECOMMENDATION

\$10,000-\$400,000 and staff time.

BACKGROUND

On September 16, 2017, the most recent in a series of crashes involving young bicyclists occurred at the intersection of Dwight and California, a bicycle boulevard and route to a nearby middle and elementary school. Due both to its unusual layout and high levels of youth bicycle traffic, this intersection has proven repeatedly to be a danger to young bicyclists.

Prior to installation of either Traffic Lights, HAWK Lights or Stop Signs in this location, a traffic study and public hearing must be held to consider the impacts of the proposed improvements. This item urges staff to prioritize completion of all steps necessary to install the improvements immediately after the budget referral is approved. Further, this item requests that staff coordinate the stoplights at the intersections of Spaulding Ave and Dwight Way and Jefferson Ave and Dwight Way, in order to limit two way traffic at the Dwight and California intersection.

ENVIRONMENTAL SUSTAINABILITY

Consistent with the City's environmental goals by removing disincentives to bicycling.

CONTACT PERSON

Councilmember Kate Harrison, (510) 981-7140

CITY OF BERKELEY TRAFFIC ENGINEERING

AVERAGE TOTAL DAILY TRAFFIC VOLUME

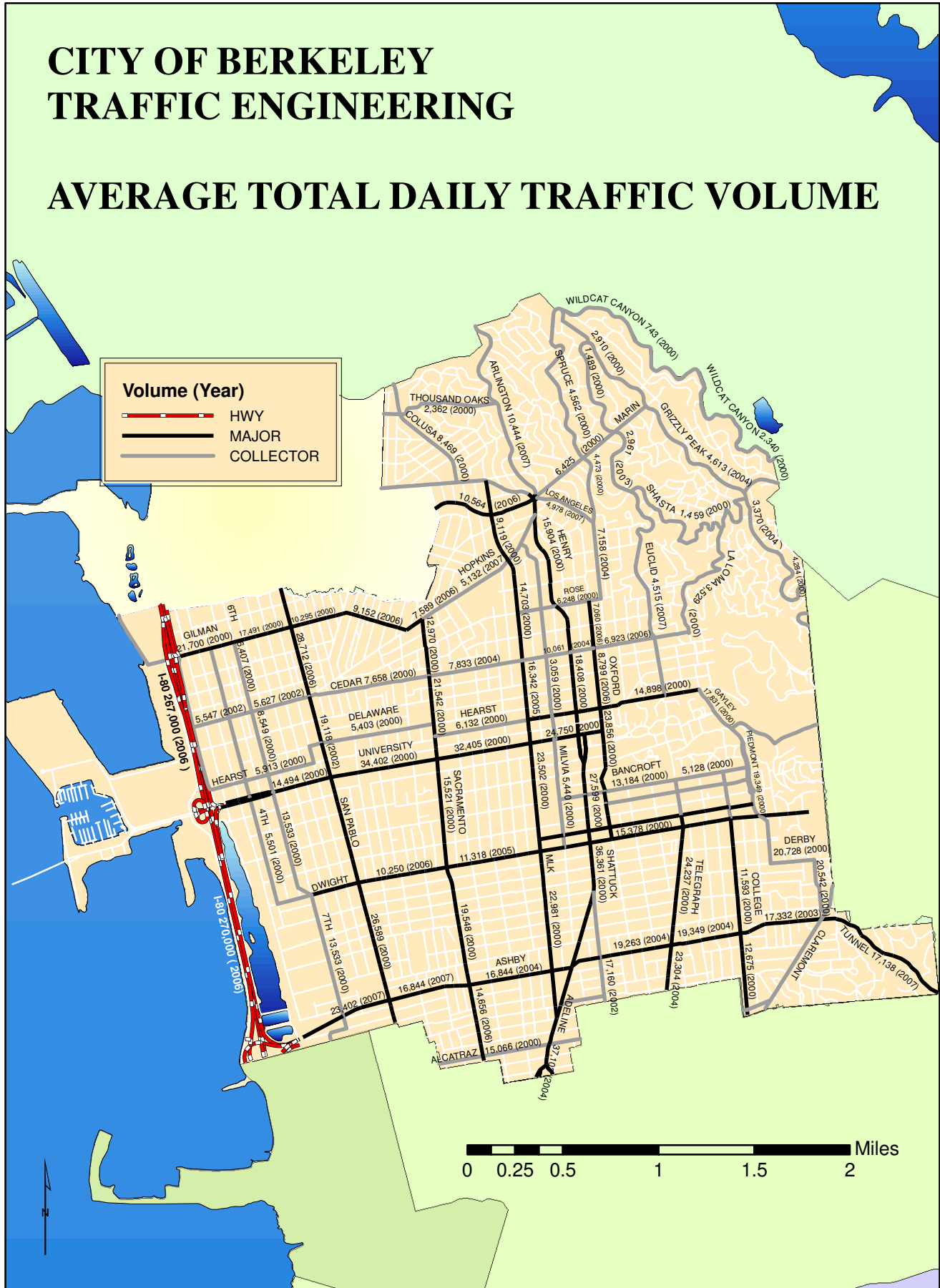









FIGURE ES-6: PROJECT PRIORITIZATION CORRIDORS

	TIER 1 PRIORITY PROJECTS		TIER 2 PRIORITY PROJECTS		TIER 3 PRIORITY PROJECTS
		COMPLETE STREET CORRIDORS			
	PARK/REC		RAILROAD		BART STATION
			AMTRAK STATION		

Complete Street Corridors shown in yellow are proposed studies, not proposed projects. Class 4 Cycletracks and other bikeways that might impact parking, transit operations or roadway capacity that are recommended as part of Complete Street Corridors will not be implemented without further study, traffic and environmental analysis, public process, and coordination with all affected agencies. For further information, see Section 5.7 of the Berkeley Bicycle Plan.

Table 5-2: Unsignalized Bikeway Crossing Treatment Progression

CROSSING TREATMENT	TRAFFIC VOLUMES						
	VERY LOW	LOW		MEDIUM		HIGH	
	Up to 3 lanes	Up to 3 lanes	4 lanes	Up to 3 lanes	4 or 5 lanes	Up to 3 lanes	4 or 5 lanes
Marked Crossing	LTS 1	LTS 1 or 2	LTS 2	LTS 3	LTS 3	LTS 4	LTS 4
Median Refuge Island ¹	LTS 1	LTS 1	LTS 2	LTS 2	LTS 3	LTS 3	LTS 4
RRFB ^{2, 3}	X	LTS 1	LTS 1	LTS 2	LTS 3	LTS 3	LTS 3
RRFB with median ^{1, 2, 3}	X	LTS 1	LTS 1	LTS 1	LTS 2	LTS 2	LTS 3
Pedestrian Hybrid Beacon (HAWK) ²	X	X	LTS 1	LTS 1	LTS 1	LTS 1	LTS 1
Traffic Signal ²	X	X	X	LTS 1	LTS 1	LTS 1	LTS 1

X No additional benefit

1. Minimum 6-ft wide median

2. Subject to successful warrant analysis

3. 4-Way Stop Signs may be considered as an alternative to RRFBs

LTS refers to Level of Traffic Stress

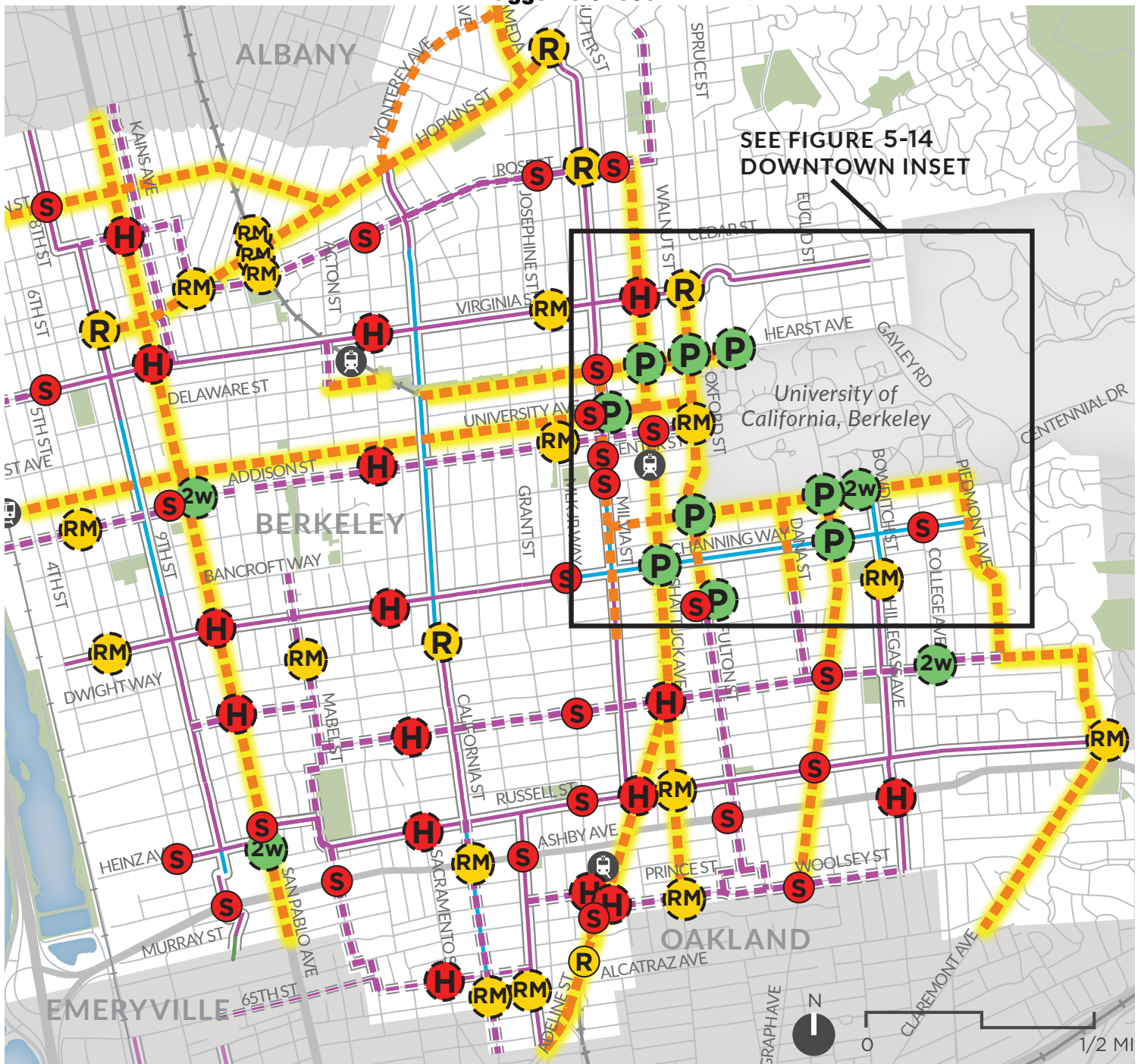


FIGURE 5-13: RECOMMENDED LOW STRESS BIKEWAY INTERSECTION CONTROL IMPROVEMENTS




TRAFFIC CALMING IMPROVEMENTS

- 
PROTECTED INTERSECTION
- 
2-WAY CYCLETRACK CONNECTOR
- 
RRFB
- 
RRFB + MEDIAN
- 
PEDESTRIAN HYBRID BEACON
- 
TRAFFIC SIGNAL

EXISTING TRAFFIC CALMING FACILITIES

- 
TRAFFIC SIGNAL
- 
RRFB

NETWORK IMPROVEMENTS

-  **BIKEWAY BOULEVARD [3E]**
-  **CYCLETRACK [4B]**
-  **COMPLETE STREET CORRIDORS**

EXISTING BIKEWAY NETWORK

-  **PAVED PATH [1A]**
-  **STANDARD BIKE LANE [2A]**
-  **BIKEWAY BOULEVARD [3E]**

Complete Street Corridors shown in yellow are proposed studies, not proposed projects. Class 4 Cycletracks and other bikeways that might impact parking, transit operations or roadway capacity that are recommended as part of Complete Street Corridors will not be implemented without further study, traffic and environmental analysis, public process, and coordination with all affected agencies. For further information, see Section 5.7 of the Berkeley Bicycle Plan.



Kate Harrison
Councilmember District 4

CONSENT CALENDAR
September 10th, 2019

To: Honorable Mayor and Members of the City Council

From: Councilmembers Kate Harrison, Ben Bartlett, Sophie Hahn,
and Rigel Robinson

Subject: Resolution in Support of Congresswoman Barbara Lee's Resolution (H. Res. 429): Affirming the Right of All Renters to a Safe, Affordable, and Decent Home.

RECOMMENDATION

Adopt a resolution in support of H. Res. 429, a resolution introduced by Congresswoman Barbara Lee. Send a letter of support to Congresswoman Lee.

BACKGROUND

The Department of Housing and Urban Development's nationwide survey found that 552,830 individuals were homeless on a single night in 2018.¹ In the city of Berkeley itself, there are 1,200 homeless individuals.² Additionally, there were 2.3 million evictions in 2016 alone, according to National Public Radio.³

The underlying cause of this epidemic is rising housing costs. The Brookings Institute finds in 2018 that housing prices are triple the annual household income in median U.S. neighborhoods. In fact, while income levels have remained the same for roughly the last decade, housing prices have exponentially increased with median asking rents increasing by 70 percent.⁴

Additionally, these high rates of eviction disproportionately affect low income residents and minority populations. In a study conducted by Harvard University which looked at

¹ "State of Homelessness in America"

<https://endhomelessness.org/homelessness-in-america/homelessness-statistics/state-of-homelessness-report/>

² "Homelessness in Berkeley: The Fact Sheet"

<https://www.berkeleyside.com/2016/06/29/homelessness-in-berkeley-the-fact-sheet>

³ "First Ever Evictions Database Shows: 'We're in the Middle of a Housing Crisis'"

<https://www.npr.org/2018/04/12/601783346/first-ever-evictions-database-shows-were-in-the-middle-of-a-housing-crisis>

⁴ "Housing in the U.S. is too expensive, too cheap, and just right. It just depends on where you live"

<https://www.brookings.edu/research/housing-in-the-u-s-is-too-expensive-too-cheap-and-just-right-it-depends-on-where-you-live/>

over 300,000 evictions across the United States between 2004 and 2014, 80 percent of those evicted were people of color.⁵

Congresswoman Lee's H. Res. 429, first introduced in 2017 as H. Con. Res. 74, and reintroduced in 2019, supports significant federal funding in housing resources, supports renters' rights, and reaffirms housing as a basic human right. In 2018, Berkeley City Council unanimously approved a resolution supporting H. Con. Res. 74, and it is reaffirming its support for H. Res. 429 in the new legislative cycle.

FISCAL IMPACTS OF RECOMMENDATION

No impact. Clerk time necessary to send letter.

ENVIRONMENTAL SUSTAINABILITY

No impact.

CONTACT PERSON

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

ATTACHMENTS

- 1: Resolution
- 2: Letter
- 3: Previous Council Resolution Supporting H. Con Res. 74

⁵ "Discrimination in Evictions: Empirical Evidence and Legal Challenges"
https://scholar.harvard.edu/files/mdesmond/files/greenberg_et_al_.pdf

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

RESOLUTION IN SUPPORT OF H. RES. 429: AFFIRMING THE RIGHT OF ALL
RENTERS TO A SAFE, AFFORDABLE, AND DECENT HOME

WHEREAS, roughly 2.3 million people were evicted from their homes in 2016; and

WHEREAS, median rent prices have increased by 70 percent in the past decade; and

WHEREAS, people of color are more likely to get evicted from a home; and

WHEREAS, The Department of Housing and Urban Development's nationwide survey found that roughly 500,000 individuals experience homelessness on a given night; and

WHEREAS, Congresswoman Barbara Lee's resolution supports significant federal funding in housing resources, including affordable housing, supports renters' rights, and reaffirms housing as a basic human right;

NOW, THEREFORE BE IT RESOLVED that the City of Berkeley urges Congress to pass and the President to sign into law H. Res. 429; and

BE IT FURTHER RESOLVED that copies of this resolution be sent to Congresswoman Barbara Lee.

The Honorable Barbara Lee
2470 Rayburn House
Office Building
Washington, DC 20515

Re: Support from Berkeley City Council for H. Res. 429: Affirming the Right of All Renters to a Safe, Affordable, and Decent Home

Dear Congresswoman Lee,

We, the Berkeley City Council, wish to express our support for H. Res. 429, which supports the bolstering of housing resources and affordable housing and affirms that everyone has a right to decent, affordable housing.

The HUD's nationwide survey found that 552,830 individuals were homeless on a single night in 2018. In our city of Berkeley, there are 1,200 homeless individuals. Additionally, there were 2.3 million evictions in 2016 alone, according to National Public Radio. This crisis is driven by rising housing costs. The Brookings Institute finds in 2018 that housing prices are triple the annual household income in median U.S. neighborhoods. In fact, while income levels have remained the same for roughly the last decade, housing prices have exponentially increased, with median asking rents increasing by 70 percent.

Low income and minority populations are disproportionately affected. A Harvard University study examining over 300,000 evictions across the U.S. between 2004 and 2014 found 80 percent of those evicted were people of color.

H. Res. 429 addresses these problems by supporting significant federal funding in housing resources, supporting renters' rights, and reaffirming housing as a basic human right. The Council supports H. Res. 429 and believes it is crucial towards making housing more affordable for everyone.

Thank you for your leadership on affordable housing.
Sincerely,

Berkeley City Council
Mayor Arreguin,
Councilmembers



Councilmember Ben Bartlett
City of Berkeley, District 3

CONSENT CALENDAR
March 13, 2018

To: Honorable Mayor and Members of the City Council

From: Councilmembers Ben Bartlett, Sophie Hahn, and Cheryl Davila

Subject: Support for the Congresswoman Barbara Lee's Resolution (H. Con. Res. 74) Affirming the Right of All Renters to a Safe, Affordable, and Decent Home

RECOMMENDATION

Adopt a Resolution of support for H.Con.Res.74 of 2017, a resolution that has been introduced by Congresswoman Barbara Lee. Send a copy of the resolution to Congresswoman Barbara Lee.

BACKGROUND

Approximately 2.5 million peoples are evicted in the United States each year.¹ Approximately 12 million renters and homeowner households pay over 50% of in their incomes for housing.² The Department of Housing and Urban Development's 2016 point-in-time count found that over 500,000 people experienced homelessness every night in the United States, including over 120,000 children.

Despite growing inequality and stubbornly high poverty rates, the number of affordable apartments continues to decline. According to a study by the Federal Home Loan Mortgage Corporation³ (FHLMC), the number of affordable apartments designated for low-income families dropped over 60% between 2010 and 2016.

Rapidly rising rents across the country have pushed many long-time residents and families out of the communities they call home.

¹ Frontline. "In America's Affordable Housing Crisis, More Demand but Less Supply" Frontline. Retrieved February 13, 2018. <https://www.pbs.org/wgbh/frontline/article/in-americas-affordable-housing-crisis-more-demand-but-less-supply/>

² The Department of Housing and Urban Development. "Affordable Housing" The Department of Housing and Urban Development. Retrieved February 13, 2018. https://www.hud.gov/program_offices/comm_planning/affordablehousing/

³ Federal Home Loan Mortgage Corporation. "Rental Affordability Is Worsening" Federal Home Loan Mortgage Corporation. Retrieved February 13, 2018. http://www.freddiemac.com/multifamily/pdf/rental_affordability_worsening.pdf

Congresswoman Lee's H. Con. Res. 74 of 2017 would support increasing federal funding in order to expand access to affordable housing and help address homelessness, oppose federal funding cuts to affordable housing, support efforts to preserve and rehabilitate existing affordable housing, support strengthened federal fair housing laws, support expansion of renters' rights, and affirm that housing is a basic human right.

CONTACT PERSON

Councilmember Ben Bartlett, 510-981-7130

Attachments:

- 1: Resolution in support of Congresswoman Barbara Lee's Resolution (H. Con. Res. 74) Affirming the Right of All Renters to a Safe, Affordable, and Decent Home
- 2: Text of H. Con. Res. 74

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

SUPPORT FOR THE CONGRESSWOMAN BARBARA LEE'S RESOLUTION (H. CON. RES. 74) AFFIRMING THE RIGHT OF ALL RENTERS TO A SAFE, AFFORDABLE, AND DECENT HOME

WHEREAS, approximately 2.5 million peoples are evicted in the United States each year; and

WHEREAS, approximately 12 million renters and homeowner households pay over 50% of in their incomes for housing; and

WHEREAS, the Department of Housing and Urban Development's 2016 point-in-time count found that over 500,000 people experienced homelessness every night in the United States, including over 120,000 children; and

WHEREAS, despite growing inequality and stubbornly high poverty rates, the number of affordable apartment continues to decline; and

WHEREAS, according to a study by the Federal Home Loan Mortgage Corporation (FHLMC), the number of affordable apartments designated for low-income families dropped over 60% between 2010 and 2016; and

WHEREAS, rapidly rising rents across the country have pushed many long-time residents and families out of the communities they call home; and

WHEREAS, Congresswoman Barbara Lee's resolution (H. Con. Res. 74) affirms the rights of all renters to a safe, affordable, and decent home by supporting increasing funding in order to expand access to affordable housing and help address homelessness, opposing federal funding cuts to affordable housing, supporting efforts to preserve and rehabilitate existing affordable housing, supporting strengthened federal fair housing laws, supporting expansion of renters' rights, and affirming that housing is a basic human right.

NOW THEREFORE, BE IT RESOLVED that the City of Berkeley calls upon Congress to pass and the President to sign H. Con. Res. 74.

115TH CONGRESS
1ST SESSION

H. CON. RES. 74

Affirming the right of all renters to a safe, affordable, and decent home.

IN THE HOUSE OF REPRESENTATIVES

JULY 27, 2017

Ms. LEE (for herself, Ms. MAXINE WATERS of California, Mrs. BEATTY, Ms. VELÁZQUEZ, Mr. AL GREEN of Texas, and Mr. ELLISON) submitted the following concurrent resolution; which was referred to the Committee on Financial Services, and in addition to the Committees on the Budget, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

CONCURRENT RESOLUTION

Affirming the right of all renters to a safe, affordable, and decent home.

Whereas housing is a basic human right;

Whereas evidence-based research has shown that families with safe, decent, and affordable homes are better able to find employment, achieve economic mobility, perform better in school, and maintain improved health;

Whereas investing in affordable housing strengthens our economy, creates jobs, boosts families' incomes, and encourages further development;

Whereas far too many families living in urban, suburban, and rural communities struggle to afford their rent each

month, putting them at increased risk of eviction and homelessness;

Whereas according to the Department of Housing and Urban Development (HUD) point-in-time count of 2016, there were 549,928 people in the United States experiencing homelessness on any given night, including over 120,000 children;

Whereas homelessness has become so pervasive that some States and cities have declared that homelessness has reached a state of emergency;

Whereas major progress towards the national goals for ending homelessness in our Nation has stalled in the absence of increased funding;

Whereas a shortage of affordable housing exists in every State and major metropolitan area;

Whereas a full-time worker earning the Federal minimum wage cannot afford a modest two-bedroom apartment in any State, metropolitan area, or county in the United States;

Whereas over half of all renters are cost-burdened, paying more than 30 percent of their income for housing, and 71 percent of extremely low-income households are severely cost-burdened, paying more than half of their income for housing;

Whereas rapidly rising rents across the country have pushed many long-time residents and families out of the communities they call home;

Whereas closed waiting lists and long waits mean only a quarter of the families who qualify for housing assistance actually receive it;

Whereas the role of Federal affordable housing investments is even more important given the limited ability of the private market alone to address these needs;

Whereas various programs at the Department of Housing and Urban Development help to subsidize housing for more than 4,000,000 low-income families, including the Public Housing program, the Section 8 Housing Choice Vouchers (HCV) program, the Section 8 Project-Based Rental Assistance program, the Section 202 Supportive Housing for the Elderly program, the Section 811 Supportive Housing for Persons with Disabilities program, and the Housing Opportunities for Persons with AIDS (HOPWA) program;

Whereas despite leveraging billions of dollars in private resources to preserve and expand the supply of affordable housing, affordable housing programs continue to be chronically underfunded despite their success at providing safe housing to families in need;

Whereas chronic underfunding of the Public Housing Capital Fund has led to a backlog of more than \$26,000,000,000 in capital repairs and deteriorating conditions for residents;

Whereas without Federal investments, many more families would be homeless, living in substandard or overcrowded conditions, or struggling to meet other basic needs because too much of their limited income would be used to pay rent;

Whereas low Federal spending caps required by the Budget Control Act of 2011 (Public Law 112–25) have decreased funding for affordable housing and community development programs;

Whereas these austere spending caps threaten affordable housing and community development for millions of low income families;

Whereas even renters with housing subsidies often face barriers to finding housing providers willing to rent to them;

Whereas under current Federal law, housing discrimination against a renter is illegal if it is based on race, color, religion, sex, familial status, national origin, or disability;

Whereas renters should be protected against housing discrimination through stronger enforcement of fair housing laws; and

Whereas despite various clarifying memos from HUD, the re-entry community continues to face barriers in trying to secure access to federally assisted housing: Now, therefore, be it

1 *Resolved by the House of Representatives (the Senate*
 2 *concurring)*, That the House of Representatives—

3 (1) supports lifting the spending caps required
 4 by the Budget Control Act of 2011 and robustly
 5 funding programs to increase access to affordable
 6 housing and address homelessness at the Depart-
 7 ment of Housing and Urban Development (HUD)
 8 and other Federal agencies;

9 (2) opposes any cuts to Federal investments in
 10 affordable housing programs at the Department of
 11 Housing and Urban Development and other Federal
 12 agencies;

1 (3) supports increased funding to the Public
2 Housing Capital Fund to address the backlog of
3 capital repairs for public housing;

4 (4) supports expanded funding for the National
5 Housing Trust Fund to boost the supply of afford-
6 able housing available to extremely low-income fami-
7 lies;

8 (5) supports efforts to preserve and rehabilitate
9 existing housing to maintain and increase the avail-
10 able stock of affordable housing and proposals by
11 local entities to prevent any net loss of overall af-
12 fordable housing units receiving Federal subsidies;

13 (6) supports strengthened Federal fair housing
14 laws;

15 (7) affirms that renters may not be barred from
16 federally assisted housing solely on the basis of a
17 criminal record;

18 (8) supports expansion of renters' rights, in-
19 cluding the right of tenants to organize tenant asso-
20 ciations; and

21 (9) affirms that housing is a basic human right.

○



Kate Harrison
Councilmember District 4

CONSENT CALENDAR
September 10th, 2019

To: Honorable Mayor and Members of the City Council
From: Councilmembers Kate Harrison and Ben Bartlett
Subject: Resolution Endorsing the United Nations Convention on the Rights of the Child

RECOMMENDATION

1. Adopt a resolution endorsing the United Nations Convention on the Rights of the Child.
2. Send a letter of support to Acting U.S. Ambassador to the United Nations, Jonathan Cohen.

BACKGROUND

On November 20, 1989, the United Nations General Assembly adopted the United Nations Convention on the Rights of the Child (CRC). The CRC outlines the civil, political, economic, social, health and cultural rights of children. It includes, but is not limited to, the right to an adequate standard of living (such as food, water, and healthcare), the right to education, freedom from discrimination and bigotry, and protections in the justice system. Ratifying governments must periodically report to the United Nations Committee on the Rights of the Child to be evaluated on the progress it has made on advancing the implementation of the CRC.

Thirty years later, the U.S. is the only country in the United Nations that has not ratified the CRC, despite playing an active role in drafting it. According to The Atlantic, the U.S. has a child poverty rate of 43% and its infant mortality rate is uncharacteristically high among developed nations.¹ The ACLU adds that American juvenile prisons often lack proper rehabilitation services, 14 states have no minimum age for a child to be prosecuted for a crime as an adult, and 2,500 people were sentenced to life in prison without parole as children and are incarcerated today.²

¹ "Is America Holding Out on Protecting Children's Rights?"

<https://www.theatlantic.com/education/archive/2017/05/holding-out-on-childrens-rights/524652/>

² "There's Only One Country That Hasn't Ratified the Convention on Children's Rights: US"

<https://www.aclu.org/blog/human-rights/treaty-ratification/theres-only-one-country-hasnt-ratified-convention-childrens>

Most recently, the U.S. has adopted a policy of detaining immigrant children in border detention centers and separating them from their families. More than 2,000 children are being held by the U.S. Border Patrol for days, sometimes weeks, without basic necessities like food, soap and toothpaste, and medical care.³ These developments make the ratification of the CRC more critical than ever, to prevent this infringement on the basic rights of immigrant children within American borders.

Ratifying the CRC would put the U.S. on par with the international community and help align our laws and practices with international law, improving the quality of life of American children.

FISCAL IMPACTS OF RECOMMENDATION

No impact. Clerk time necessary to send letter.

ENVIRONMENTAL SUSTAINABILITY

No impact.

CONTACT PERSON

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

ATTACHMENTS

- 1: Resolution
- 2: Letters

³ "The horrifying conditions facing kids in border detention, explained"
<https://www.vox.com/policy-and-politics/2019/6/25/18715725/children-border-detention-kids-cages-immigration>

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

RESOLUTION ENDORSING THE UNITED NATIONS CONVENTION OF THE RIGHTS
OF THE CHILD

WHEREAS, the United Nations Convention on the Rights of the Child (CRC) is a comprehensive human rights treaty protecting the rights of children, including "the right to survival, to develop to the fullest; to protection from harmful influences, abuse and exploitation; and to participate fully in family, cultural and social life"; and

WHEREAS, the United States is the only country in the United Nations that has not ratified the CRC; and

WHEREAS, the CRC would ensure children's right to access basic necessities like food, water, healthcare, and education; and

WHEREAS, the CRC guarantees fairness and equal treatment to all children despite their race, ethnicity, religious beliefs, parents, and background; and

WHEREAS, the convention provides protections for children in the juvenile justice system; and

WHEREAS, child poverty and infant mortality rates in the United States are some of the highest in the developed world, and its juvenile justice policies often do not offer adequate protection to children accused or convicted of crimes; and

WHEREAS, thousands of children are currently being held in U.S. Border Patrol custody for days or weeks at a time without their families, as well as basic necessities like food, hygienic products, and medical care; and

WHEREAS, ratifying the convention would allow for more U.S. global leadership and international collaboration on the issue of children's rights; and

WHEREAS, ratifying the convention would provide a framework for U.S. laws and practices affecting children;

NOW THEREFORE, BE IT RESOLVED that the Berkeley City Council urges the United States Ambassador to the United Nations and the United States Senate to ratify the United Nations Convention on the Rights of the Child; and

BE IT FURTHER RESOLVED that copies of this Resolution will be sent to the Acting Ambassador to the United Nations Jonathan Cohen.

The Honorable Jonathan Cohen
United States Mission to the United Nations
799 United Nations Plaza
New York, NY 10017

Re: Support from Berkeley City Council for the United Nations Convention on the Rights of the Child

Dear Acting Ambassador Cohen,

We, the Berkeley City Council, wish to endorse the United Nations Convention on the Rights of the Child (CRC), a comprehensive human rights convention that protects the well-being of children worldwide.

The CRC was first adopted by the United Nations General Assembly in 1989. The CRC guarantees the civil, political, economic, social, health and cultural rights of children. It includes, but is not limited to, the right to an adequate standard of living (such as food, water, healthcare, legal protections) the right to education, freedom from discrimination, and protections in the justice system. However, despite taking a key leadership role in drafting the CRC, 30 years later the U.S. remains the only country in the United Nations not to ratify it. The Atlantic finds in 2017 that the U.S. has a child poverty rate of 43% and its infant mortality rate is uncharacteristically high among developed nations. The ACLU furthers in 2015 that the criminal justice system also harms children; 14 states have no minimum age for a child to be prosecuted for a crime as an adult, and 2,500 people are serving life in prison without parole for crimes they committed as children. Most recently, Vox finds in June that 2,000 immigrant children are being detained by the U.S. Border Patrol, separated from their families for days or weeks and denied basic needs like healthcare, food, and hygienic products like soap and toothpaste. These developments make the ratification of the CRC more critical than ever, to prevent this infringement on the basic rights of immigrant children within American borders.

Ratifying the CRC would bring the U.S. up to standard with the rest of the international community and improve global cooperation on children's rights. It would also help the U.S. align its own laws and practices with the standards outlined in the CRC, helping our children grow and thrive. We believe this convention is crucial towards the well-being of future generations of Americans.

Thank you for your leadership on children's rights in the international community.

Sincerely,

Berkeley City Council

**SOPHIE HAHN**

Berkeley City Council, District 5
 2180 Milvia Street, 5th Floor
 Berkeley, CA 94704
 (510) 981-7150
 shahn@cityofberkeley.info

CONSENT CALENDAR

September 10, 2019

To: Honorable Mayor and Members of the City Council
 From: Councilmember Sophie Hahn
 Subject: Co-Sponsorship of 2019 East Bay Community Emergency Prep Fair and Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds

RECOMMENDATION

Adopt a resolution approving the co-sponsorship by the City of Berkeley of the 2019 East Bay Community Emergency Prep Fair (“Emergency Prep Fair”) to be held at James Kenney Park on Saturday, October 12, 2019, and approving the expenditure of an amount not to exceed \$500 per councilmember, including \$300 from Councilmember Hahn, to the Berkeley Disaster Preparedness Neighborhood Network (BDPNN), a 501(c)(3) non-profit organization, for administrative fees, event production, and advertising in support of the Emergency Prep Fair, with funds relinquished to the City’s general fund for this purpose from the discretionary Council office budget of Councilmember Hahn, and any other Councilmembers who would like to contribute.

BACKGROUND

The East Bay Community Emergency Prep Fair is an annual grass-roots effort planned and executed by a coalition of community groups and individuals, featuring demonstrations of disaster response techniques, and information on how best to prepare for various scenarios. The event focuses not on fear but on the positive power of community.

Scheduled to be held at James Kenney Park in Berkeley, the Emergency Prep Fair will be a family-friendly event, with a focus on seniors and people with disabilities. The Emergency Prep Fair will include giveaways, raffles, games, and food, with presentations by Berkeley resident CERT instructors (Community Emergency Response Training); Berkeley Disaster Prep Neighborhood Network; East Bay Disaster and Disability Rights Group; Berkeley Medical Reserve Corp (Cal student EMTs): Stop the Bleed!; Easy Does It Emergency Services (for people with disabilities and seniors); NALCO (ham radio); BeCERTAINN (radio operators); Animal Disaster Prep and Care; P&GE and EBMUD; and others.

The Berkeley Disaster Preparedness Neighborhood Network (BDPNN) is a volunteer organization formed in 2009 by neighborhood leaders to address the gap between the training and support capabilities of the City of Berkeley and the needs of neighborhoods preparing for disasters. BDPNN is a 501(c)(3) non-profit organization registered with the state of California. Its mission is to assist Berkeley households and neighborhoods to respond effectively to disasters by further developing organizational skills, human and material resources, and

responsiveness by sharing experiences, seeking expert advice, enhanced training and information sharing.

The Emergency Prep Fair is scheduled to be held at James Kenney Park, 1780 Eighth Street, Berkeley, on Saturday, October 12, 2019, from 10:00am to 3:00pm. More information can be found at <https://bdpnnetwork.org/event/community-based-dp-demofair-2019/>.

FISCAL IMPACTS

A total of up to \$4,500 from Councilmembers' discretionary budgets.

ENVIRONMENTAL SUSTAINABILITY

This item is consistent with the City's vision on sustainability and the environment.

CONTACT: Sophie Hahn, District 5: (510) 981-7150

ATTACHMENTS:

1: Resolution

RESOLUTION #####-N.S.

CO-SPONSORING THE 2019 EMERGENCY PREP FAIR AT JAMES KENNEY PARK
AND AUTHORIZING THE EXPENDITURE OF SURPLUS FUNDS FROM
THE OFFICE EXPENSE ACCOUNTS OF THE MAYOR AND COUNCILMEMBERS
FOR A GRANT TO PROVIDE SUPPORT FOR A MUNICIPAL PUBLIC PURPOSE

WHEREAS, the 2019 East Bay Community Emergency Prep Fair will take place at James Kenney Park in Berkeley on Saturday, October 12, 2019; and

WHEREAS, the East Bay Community Emergency Prep Fair plays a critical role in demonstrating disaster response techniques and information on how best to prepare for various disaster and emergency scenarios.

WHEREAS, the East Bay Community Emergency Prep Fair is organized and supported by Berkeley Disaster Preparedness Neighborhood Network (BDPNN), a volunteer organization formed by neighborhood leaders to address the gap between the training and support capabilities of the City of Berkeley and the needs of neighborhoods preparing for disasters.

WHEREAS, the BDPNN seeks funds for administrative fees, event production and advertising to support the 2019 East Bay Community Emergency Prep Fair.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City of Berkeley hereby co-sponsors the 2019 East Bay Community Emergency Prep Fair, and the Fair has permission to use the City's name and logo in the event's promotional materials and signage naming the City of Berkeley as a co-sponsor solely for the purpose of the City indicating its policy endorsement of the event.

BE IT FURTHER RESOLVED, by the Council of the City of Berkeley that funds relinquished by Councilmember Hahn of \$300 and any funds, up to \$500 per Council Office Budget, from the Mayor and other Councilmembers shall be granted to the 2019 East Bay Community Emergency Prep Fair, to fund the following services: administrative fees, event production and advertising.



Susan Wengraf
Councilmember District 6

CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council
From: Councilmember Susan Wengraf
Subject: Letter of Support for HR-3001 (Meng)

RECOMMENDATION

Send a letter of support for HR-3001, "The Quiet Communities Act of 2019," to Representative Grace Meng, with copies to Representative Barbara Lee, and Senators Dianne Feinstein and Kamala Harris.

HR-3001 will reinstate the Federal Office of Noise Abatement and Control, tasked with developing State and Local noise control programs and carrying out research on airport, airplane and vehicular noise.

FISCAL IMPACTS OF RECOMMENDATION

None

CURRENT SITUATION AND ITS EFFECTS

Approximately ten million Americans are afflicted with hearing loss at least partially due to noise exposure damage. Noise from aircraft, vehicular traffic, and a variety of other sources is a constant source of torment for millions of Americans. Chronic exposure to noise has been linked to increased risk of cardiovascular disorders, learning deficits in children, stress, and diminished quality of life.

Berkeley is directly impacted by the FAA's new NexGen program which eliminates dispersed flight patterns from our airports and replaces them with concentrated paths flying over just a few neighborhoods. Since the passage of NextGen, aircraft have been directed to fly over homes in Berkeley as they take off or land at both Oakland and San Francisco airports.

As population growth and air and vehicular traffic continue to increase, noise pollution is likely to become an even greater problem in the future. The health and welfare of our residents demands that the Environmental Protection Agency, the lead Federal agency for the protection of public health and welfare, once again assume a role in combating noise pollution.

BACKGROUND

The Federal Government terminated all funding for the Office of Noise Abatement in 1982. This bill would reestablish that Office, to the tune of \$21M annually through 2024, giving the Noise Control Act of 1972 teeth again.

The Office of Noise Abatement would promote effective noise control program development; carry out national noise control research; carry out an environmental assessment program to identify trends in noise and effective noise abatement actions; and develop educational and training material and programs to support incentives for compliance rather than penalties. The Office of Noise Abatement would also examine the FAA's noise threshold, and the effectiveness of noise abatement programs at airports around the Nation.

ENVIRONMENTAL SUSTAINABILITY

HR-3001 will reduce noise pollution.

CONTACT PERSON

Councilmember Susan Wengraf

District 6

510-981-7160

Attachments:

- 1: Letter of Support
- 2: HR-3001

September 10, 2019

The Honorable Grace Meng
House of Representatives
2209 Rayburn HOB
Washington, DC 20515

**RE: HR-3001 (Meng) “Quiet Communities Act of 2019”
Support from the Berkeley City Council**

Dear Representative Meng,

The City Council of the City of Berkeley officially expresses our support on HR-3001 (Meng), the Quiet Communities Act of 2019.

Since the Federal Government terminated all funding for the Office of Noise Abatement in 1982, noise control programs, research and enforcement have not been as strong as needed.

In the City of Berkeley, and neighboring Albany, Oakland, Emeryville and Alameda, residents are suffering from NextGen flight paths condensing air traffic over their homes, often at elevations below requirements. They live with sleep disturbances, increased stress and a reduction in quality of life. Chronic exposure to noise has also been linked to increased risk of cardiovascular disorders and learning deficits in children.

As population growth and air and vehicular traffic continue to increase, noise pollution is likely to become an even greater problem in the future. The health and welfare of our residents demands that the Environmental Protection Agency, the lead Federal agency for the protection of public health and welfare, once again assume a role in combating noise pollution.

The Council thanks you for your leadership on this important policy topic.

Sincerely,

Berkeley City Council

CC: Representative Barbara Lee
Senator Dianne Feinstein
Senator Kamala Harris

116TH
CONGRESS

1ST SESSION

H. R. 3001

To reestablish the Office of Noise Abatement and Control in the Environmental Protection Agency, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 23, 2019

Ms. MENG (for herself, Mrs. NAPOLITANO, Ms. SCHAKOWSKY, Ms. NORTON,

Ms. MOORE, Mr. ROUDA, Ms. LEE of California, Mr. LYNCH, Ms. SPEIER, Mr. SUOZZI, Mr. GALLEGRO, Mr. LIPINSKI, Ms. BROWNLEY of

California, Miss RICE of New York, Mr. RUPPERSBERGER, Mr. CASE, Mr. FITZPATRICK, Mr. RASKIN, Mrs. LOWEY, Ms. JAYAPAL, Mr. SAR- BANES, Mr. BEYER, Mr. SHERMAN, Mr. PETERS, Mr. TED LIEU of Cali-

fornia, Ms. JUDY CHU of California, Ms. CLARKE of New York, Mr. BROWN of Maryland, Ms. CLARK of Massachusetts, and Mr. ESPAILLAT) introduced the following bill; which was referred to the Committee on En- ergy and Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To reestablish the Office of Noise Abatement and Control in the Environmental Protection Agency, and for other purposes.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,

2

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Quiet Communities
3 Act of 2019”.

4 **SEC. 2. FINDINGS.**

5 Congress finds that:

6 (1) Approximately 28,000,000 Americans are
7 afflicted with some hearing loss and it has been esti-
8 mated that 10,000,000 of these impairments are at
9 least partially attributable to damage from exposure
10 to noise.

11 (2) For millions of Americans, noise from air-
12 craft, vehicular traffic, and a variety of other
13 sources is a constant source of torment. Millions of
14 Americans are exposed to noise levels that can lead
15 to sleep loss, psychological and physiological damage,
16 and work disruption.

17 (3) Chronic exposure to noise has been linked
18 to increased risk of cardiovascular disorders, learn-
19 ing deficits in children, stress, and diminished qual-
20 ity of life.

21 (4) Excessive noise leading to sleep deprivation
22 and task interruptions can result in untold costs on
23 society in diminished worker productivity.

24 (5) Pursuant to authorities granted under the
25 Clean Air Act of 1970, the Noise Control Act of
26 1972, and the Quiet Communities Act of 1978, the

•HR 3001 IH

3

1 Environmental Protection Agency established an Of-
2 fice of Noise Abatement and Control. Its responsibil-
3 ities included promulgating noise emission stand-
4 ards, requiring product labeling, facilitating the de-
5 velopment of low emission products, coordinating
6 Federal noise reduction programs, assisting State
7 and local abatement efforts, and promoting noise
8 education and research. However, funding for the
9 Office of Noise Abatement and Control was termi-
10 nated in 1982 and no funds have been provided
11 since.

12 (6) Because the Environmental Protection
13 Agency remains legally responsible for enforcing reg-
14 ulations issued under the Noise Control Act of 1972
15 even though funding for these activities were termi-
16 nated, and because the Noise Control Act of 1972
17 prohibits State and local governments from regu-
18 lating noise sources in many situations, noise abate-
19 ment programs across the country lie dormant.

20 (7) As population growth and air and vehicular
21 traffic continue to increase, noise pollution is likely
22 to become an even greater problem in the future.
23 The health and welfare of our citizens demands that

24 the Environmental Protection Agency, the lead Fed-
25 eral agency for the protection of public health and

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4

1 welfare, once again assume a role in combating noise
2 pollution.

3 **SEC. 3. REESTABLISHMENT OF OFFICE OF NOISE ABATE-**
4 **MENT AND CONTROL.**

5 (a) REESTABLISHMENT.—The Administrator of the
6 Environmental Protection Agency shall reestablish within
7 the Environmental Protection Agency an Office of Noise
8 Abatement and Control.

9 (b) DUTIES.—The responsibilities of the Office in-
10 clude the following:

11 (1) To promote the development of effective
12 State and local noise control programs by providing
13 States with technical assistance and grants to de-
14 velop the programs, including the purchase of equip-
15 ment for local communities.

16 (2) To carry out a national noise control re-
17 search program to assess the impacts of noise from
18 varied noise sources on mental and physical health.

19 (3) To carry out a national noise environmental
20 assessment program to identify trends in noise expo-
21 sure and response, ambient levels, and compliance

22 data and to determine the effectiveness of noise
23 abatement actions, including actions for areas
24 around major transportation facilities (such as high-
25 ways, railroad facilities, and airports).

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5

1 (4) To develop and disseminate information and
2 educational materials to the public on the mental
3 and physical effects of noise and the most effective
4 means for noise control through the use of materials
5 for school curricula, volunteer organizations, radio
6 and television programs, publications, and other
7 means.

8 (5) To develop educational and training mate-
9 rials and programs, including national and regional
10 workshops, to support State and local noise abate-
11 ment and control programs.

12 (6) To establish regional technical assistance
13 centers which use the capabilities of university and
14 private organizations to assist State and local noise
15 control programs.

16 (7) To undertake an assessment of the effec-
17 tiveness of the Noise Control Act of 1972.

18 (c) PREFERRED APPROACHES.—In carrying out its
19 duties under this section, the Office shall emphasize noise

20 abatement approaches that rely on local and State activi-
21 ties, market incentives, and coordination with other public
22 and private agencies.

23 (d) STUDY.—

24 (1) IN GENERAL.—Using funds made available
25 to the Office, the Administrator shall carry out a

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1 study of airport noise. The Administrator shall carry
2 out the study by entering into contracts or other
3 agreements with independent scientists with exper-
4 tise in noise measurements, noise effects, and noise
5 abatement techniques to conduct the study.

6 (2) CONTENTS.—The study shall examine the
7 selection of noise measurement methodologies by the
8 Federal Aviation Administration, the threshold of
9 noise at which health impacts are felt, and the effec-
10 tiveness of noise abatement programs at airports
11 around the Nation.

12 (3) REPORT.—Not later than 24 months after
13 the date of enactment of this Act, the Administrator
14 shall transmit to Congress a report on the results of
15 the study, together with specific recommendations
16 on new measures that can be implemented to miti-
17 gate the impact of aircraft noise on surrounding

18 communities.

19 **SEC. 4. GRANTS UNDER QUIET COMMUNITIES PROGRAM.**

20 Section 14(c)(1) of the Noise Control Act of 1972
21 (42 U.S.C. 4913(c)(1)) is amended—

22 (1) by striking “and” at the end of subpara-
23 graph (C); and

24 (2) by adding at the end the following:

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7

•HR 3001 IH

1 “(E) establishing and implementing train-
2 ing programs on use of noise abatement equip-
3 ment; and

4 “(F) implementing noise abatement
5 plans;”.

6 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

7 There is authorized to be appropriated for each of
8 fiscal years 2020 through 2024 \$21,000,000 for activities
9 of the Office of Noise Abatement and Control reestab-
10 lished under section 3.

Æ



CITY COUNCILMEMBER
RIGEL ROBINSON
 DISTRICT 7

CONSENT CALENDAR
 September 10, 2019

To: Honorable Mayor and Members of the City Council

From: Councilmembers Rigel Robinson, Cheryl Davila, Sophie Hahn, and Lori Droste

Subject: Voluntary Time Off on Statewide Election Days for City Employees

RECOMMENDATION

Refer to the City Manager to designate Statewide Election Days as VTO days, and refer to the 2x2 Committee to discuss coordinating City and District policy on holidays, in particular Election Day.

POLICY COMMITTEE RECOMMENDATION

On July 11, 2019, the Budget and Finance Committee adopted the following action: M/S/C (Droste/Davila) to send the item to the full Council with a Positive Recommendation. Vote: All Ayes.

BACKGROUND

Under current election law, Election Day occurs on the Tuesday after the first Monday in November of each even-numbered year, with the corresponding Primary Day occurring on the Tuesday after the first Monday of March. Special Statewide Elections may generally be held on any Tuesday that is not after a State holiday, with the corresponding Special Primary Election generally occurring on the 9th Tuesday preceding the Special Election.¹ Special, Primary, and General Statewide Elections are not on the list of Federal, State, or City holidays. Since Statewide Elections fall on weekdays, getting to the polls can be difficult for people who have to attend school or work. The City of Berkeley has endorsed California Assembly Bill 177, which would make Election Day a State holiday. Sandusky, a small city in Ohio, recently made national headlines by switching Columbus Day (Indigenous People's Day in Berkeley) and Election Day as local holidays. Taking similar steps in Berkeley would make voting easier and more accessible for many City employees, and would reinforce the City's commitment to the importance of democracy.

In order to facilitate expanding voter participation and civic engagement, the City should designate any Statewide Election, including Primary and Special Statewide Elections, as VTO days. A VTO day already occurs in both March and November; this could be moved to the respective Primary and General Election Day, or an additional day could

1

http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=ELEC&division=10.&title=&part=6.&chapter=1.&article=

be added. Likewise with Special Elections; a VTO day could be moved to correspond with the election or an additional VTO day could be added.

Staff should begin any necessary meetings with union representation allowing enough time for the proposed changes to come into effect for the 2020 primary election on March 3, 2020.

State law requires that all employees be given up to 2 hours of paid leave time on Election Day to vote.² Making Election Day a VTO would not eliminate this option for employees. Those who choose to work on Election Day would still be able to take up to two hours of paid time to vote.

The topic of coordinating policy on holidays between the City of Berkeley and Berkeley Unified School District should also be referred to the 2x2 Committee for discussion. These discussions should occur separately from the City's process of designating Election Day and Primary Day as VTO days, and should include consideration of the future designation of Election Day as a paid holiday.

FINANCIAL IMPLICATIONS

Analysis from the Budget Office has estimated that each VTO day will save approximately \$31,142.³ If a VTO day is moved from a Friday to a Tuesday, the City may realize lower savings because fewer employees may elect to take a Tuesday off than a Friday. Therefore, there could be a likelihood of a slight decrease in the \$31,142 of current savings.

If an additional VTO day is added to cover the Tuesday of an Election Day, potential immediate savings are as high as the estimated and aforementioned \$31,142. This figure may be reduced, as previously discussed, if fewer employees opt to take off a Tuesday compared to a Friday. Further, VTO days generate the need for overtime in some departments, as work not done on VTO days must still be completed. Even with these considerations, an additional VTO day will still result in savings.

ENVIRONMENTAL SUSTAINABILITY

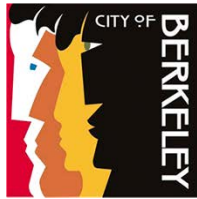
No impact.

CONTACT PERSON

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

² http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=ELEC§ionNum=14000.

³ http://www.ci.berkeley.ca.us/Clerk/City_Council/2019/06_June/Documents/2019-06-25_Item_43_Voluntary_Time_Off_Program_for_FY_2020.aspx



CITY COUNCILMEMBER
RIGEL ROBINSON
 DISTRICT 7

CONSENT CALENDAR
 September 10, 2019

To: Honorable Mayor and Members of the City Council
 From: Councilmembers Rigel Robinson and Cheryl Davila
 Subject: Decriminalizing Entheogenic Plants

RECOMMENDATION

Refer to the Community Health Commission for feedback regarding the aAdoption of a Resolution decriminalizing Entheogenic Plants and Fungi such as mushrooms, cacti, iboga containing plants, and/or extracted combinations of plants similar to Ayahuasca; and limited to those containing the following types of compounds: indole amines, tryptamines, phenethylamines, by restricting any city funds or resources to assist in the enforcement of laws imposing criminal penalties for the use and possession of Entheogenic Plants by adults age 21 and over.

POLICY COMMITTEE RECOMMENDATION

On July 17, 2019, the Public Safety Committee adopted the following action: M/S/C (Robinson/Wengraf) to send the item to the full Council with a Qualified Positive Recommendation that the author revise the report to refer the item to the Community Health Commission for further discussion. Vote: All Ayes.

BACKGROUND

Currently, Psilocybe mushrooms, peyote, and other hallucinogens are classified as schedule 1 drugs in the United States. This categorization indicates that there is “no currently accepted medical use [for them] and a high potential for abuse.” However, the federal drug schedule does not align with current medical research or scientific consensus; this is evident when considering that marijuana, which has been used for years by over 900,000 Californians in the legitimate treatment of mental and physical health conditions, is still a schedule 1 substance. In recent years numerous studies have provided promising evidence for the usefulness of Entheogenic Plants in treating addiction, depression, recidivism, trauma, post-traumatic stress symptoms, chronic depression, severe anxiety, end-of-life anxiety, grief, diabetes, cluster headaches, and other conditions. This research comes at a crucial time when addiction and mental health issues such as veteran suicides are becoming an increasingly pressing problem (Cox, Billy). Many of these therapies are even able to improve psychological health in patients whose conditions are extremely treatment-resistant, making them a vital innovation for numerous struggling citizens.

Restrictions on natural psychedelics are not internationally consistent. The official position of the United Nations is that “No plants are currently controlled under the

Conventions. Preparations made from plants containing those active ingredients are also not under international control... Examples of such plants or plant material include ayahuasca, a preparation made from plants indigenous to the Amazon basin of South America, mainly a jungle vine (*Banisteriopsis caapi*) and another tryptamine-rich plant (*Psychotria viridis*) containing a number of psychoactive alkaloids, including DMT; the peyote cactus (*Lophophora williamsii*), containing mescaline; *Psilocybe* mushrooms, which contain psilocybin and psilocin; and iboga (*Tabernanthe iboga*), a plant that contains ibogaine and is native to the western part of Central Africa.” Additionally, different Entheogenic plants are decriminalized or legalized in various countries, such as Brazil, Jamaica, Portugal, Gabon, New Zealand, South Africa, Mexico, Costa Rica, and the Netherlands. In particular, Portugal’s decriminalization of all drugs in 2001 decreased addiction and drug-related deaths without leading to a significant increase in drug usage, and can be used as an informative model for how to effectively treat drug issues in society (Felix, Sonia et. al).

In the U.S., Denver voters recently passed Initiative 301 decriminalizing *Psilocybin*-containing mushrooms, and Oakland recently passed a resolution similar to this proposal decriminalizing involvement with and usage of Entheogenic Plants. In New Mexico, the cultivation of mushrooms is not prohibited by law as a result of the 2005 court case *State v. Pratt*. Certain groups also have explicit permission to use Entheogenic Plants for ceremonial and sacramental use under the Religious Freedom Restoration Act of 1993 and various court decisions, including *O Centro Espírita Beneficente União do Vegetal* (ayahuasca), the Church of the Holy Light of the Queen (ayahuasca), and the Native American Church (peyote).

In October of 2018, the FDA granted breakthrough therapy designation to psilocybin, acknowledging that it shows promise for treating resistant conditions such as depression and allowing more involved study. Internationally, investment is growing quickly in research companies focusing on psychedelic therapies for mental health such as that being done by Compass, which supports scientific and academic research into such therapies (Farr, Christina). This signals a paradigm shift in the way the global community regards the medical viability of psychedelics, as well as a promising future for further federal and international deregulation. Domestically Similarly, New York, Vermont, and Iowa have all proposed bills in the past four years allowing further research on Ibogaine as an addiction treatment, demonstrating that American attitudes towards psychedelics as therapeutic medicines are evolving nationwide as well.

Though currently illegal in the U.S., Entheogenic Plants are increasingly showing promise in clinical research for treating myriad serious conditions. Recent research on *Psilocybin* for depression shows that it significantly reduces symptoms, and has promise for treating alcohol and drug addiction as well as general and end of life anxiety. Mushrooms have also historically been used to facilitate beneficial personal and spiritual growth: a John Hopkins study on neurotypical participants revealed that over 75% of the respondents considered their psilocybin experience to be among the top five most meaningful experiences of their lives. Mushrooms are also fairly low risk, with no noted addictive properties and direct overdose practically impossible, and a

2000 study by the Center for Assessment and Monitoring of New Drugs concluded that the risk to public order, individual health, and public health was low.

Other Entheogens are also showing promise for the treatment of various health issues. Ibogaine, the active ingredient in Iboga, is already used with medical supervision in countries like Mexico as an opioid addiction treatment, and a 2016 study (Brown, Thomas Kingsley and Alper, Kenneth) found that withdrawal symptoms and opioid use were significantly lessened in addicts that underwent ibogaine therapy. Ayahuasca can have profound impacts on mental outlook and hopefulness, and a 2013 study (Thomas, Gerald et. al) showed that usage significantly reduced tobacco, alcohol, and cocaine dependence as well. Peyote has been used without harm in Native American religious ceremonies for decades, and research (Halpern, John H. et. al) has shown that such usage did not result in neurophysiological impairment. Anecdotally, peyote use is associated with reduced rates of alcoholism in Native American populations, providing a promising avenue for further research into the use of peyote in treating alcohol abuse. Other promising directions for Entheogenic Plants as medicinal aids include the treatment and amelioration of cluster headaches, recidivism and intimate partner violence, diabetes, grief, and PTSD.

Unfortunately, laboratory produced compounds based on Entheogens are not yet a viable treatment for those suffering from physical and mental conditions. Furthermore, if and when they do become available they are likely to be prohibitively expensive--synthetic psilocybin can range from \$7,000-10,000 per gram--raising concerns about access and equity for low income and uninsured populations. Decriminalizing the use, possession, cultivation, distribution, and transportation of Entheogens allows individuals rather than the pharmaceutical establishment to control their interaction with these powerful psychedelics, empowering and bonding communities as a result.

In this process, the organization Decriminalize Nature (decriminalizenature.org) has worked with Oakland, and now Berkeley, to further the movement to decriminalize natural Entheogens. Their mission is to enable every person to decide on their own how to engage with traditional Entheogenic Plants, and help restore the connection between nature, individuals, and communities in the process. It is intended that this resolution empowers Berkeley residents to be able to grow their own entheogens, share them with their community, and choose the appropriate setting for their intentions instead of having to rely exclusively on the medical establishment, which is slow to adapt and difficult to navigate for many. As this national conversation on entheogens grows, it is essential to influence the debate and take a stand now for disenfranchised communities who may be left out of the dominant model by opening a way for individual and community access.

FINANCIAL IMPLICATIONS

Adoption of the resolution may slightly reduce ongoing City expenditures associated with the enforcement of criminal penalties relating to Entheogenic Plant usage by adults. Some staff time to implement the resolution.

ENVIRONMENTAL SUSTAINABILITY

Small to none, although allowing personal cultivation of peyote specifically could help to counteract its current classification as a vulnerable endangered plant, contributing to long-term ecological sustainability.

CONTACT PERSON

Councilmember Robinson, Council District 7, 510-981-7170

Courtney Baldwin, Intern for District 7, cbaldwin@cityofberkeley.info

Attachments:

1: Resolution

2: References

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

RESOLUTION SUPPORTING ENTHEOGENIC PLANT PRACTICES AND
DECLARING THAT THE INVESTIGATION AND ARREST OF INDIVIDUALS
INVOLVED WITH THE ADULT USE OF ENTHEOGENIC PLANTS ON THE FEDERAL
SCHEDULE 1 LIST BE AMONGST THE LOWEST PRIORITY FOR THE CITY OF
BERKELEY

WHEREAS, Entheogenic Plants, based on the term "entheogen", were originally conceived by Ott, Ruck, and other colleagues from a working group of anthropologists and ethnobotanists in 1979; ~~and defined herein as to include~~ the full spectrum of plants, fungi, and natural materials ~~deserving reverence and respect from the perspective of the individual and the collective,~~ that can inspire personal and spiritual well-being¹, can benefit psychological² and physical³ wellness, and can reestablish human's inalienable and direct relationship to nature; and

WHEREAS, substance abuse⁴, addiction, recidivism⁵, trauma, post-traumatic stress symptoms, chronic depression, severe anxiety⁶, end-of-life anxiety, grief⁷, diabetes⁸, cluster headaches⁹, and other conditions are plaguing our community and that the use of Entheogenic Plants has been shown to be potentially beneficial to the health and well-being of individuals and communities in addressing these afflictions via scientific and clinical studies and within continuing traditional practices, which can catalyze profound experiences of personal and spiritual growth; and

WHEREAS, practices with Entheogenic Plants have long existed and have been considered to be sacred to human cultures and human interrelationships with nature for thousands of years¹⁰, and continue to be enhanced and improved to this day by religious and spiritual leaders, practicing professionals, mentors, and healers throughout the world, many of whom have been forced underground; and

WHEREAS, those seeking to improve their health and well-being through the use of Entheogenic Plants use them in fear of arrest and prosecution; and

WHEREAS, the Entheogenic Plant practices of certain groups are already explicitly protected in the U.S. under the doctrine of religious freedom -- the Native American

¹ See [Entheogens for Personal and Spiritual Growth](#)

² See [Entheogens and Psychological Wellness](#)

³ See [Entheogens and Physical Wellness](#)

⁴ See [Entheogens and Substance Abuse](#)

⁵ See [Entheogens and Recidivism](#)

⁶ See [Entheogens and Anxiety](#)

⁷ See [Entheogens and Grief](#)

⁸ See [Ayahuasca and Diabetes](#)

⁹ See [Entheogens and Cluster Headaches](#)

¹⁰ See [Historical Use of Entheogens](#)

Church's use of peyote and the use of ayahuasca by two other churches, a Santo Daime congregation and the Uniao do Vegetal; and

WHEREAS, The United Nations considers Entheogenic Plant material used for ritual purposes as excluded from Schedule 1 substances; and

WHEREAS, Entheogenic plants containing ibogaine, for example, have been shown to alleviate treatment resistant cases of opiate and methamphetamine addiction even when other treatments have been ineffective¹¹. In addition, ibogaine is reported to be beneficial for addiction therapy related to specific work-related PTSD encountered by first responders such as EMT, police, and firefighters, as well as military veterans; and

WHEREAS, Entheogenic Plants or combinations of plants such as ayahuasca that contain forms of DMT, a naturally occurring compound in the human body that is listed as a Schedule 1 substance, can lead to experiences that are reported as mystical or experientially similar to near death experiences,¹² and that can be demonstrably beneficial in treating addiction¹³, depression¹⁴, and PTSD¹⁵, and ~~in that some have found to catalyzing-catalyze~~ profound experiences of personal¹⁶ and spiritual¹⁷ growth; and

WHEREAS, Entheogenic cacti that contain phenethylamine compounds such as mescaline can be beneficial in healing drug and alcohol addiction¹⁸ and for individual spiritual growth¹⁹, and have been utilized in sacred initiation and community healing by diverse religious and cultural traditions for millennia and continuing use as religious sacraments in modern times; and

WHEREAS, psilocybin, naturally occurring in Entheogenic mushrooms, can alleviate end-of-life anxiety for hospice and terminal cancer patients²⁰, can reduce prison recidivism²¹, and can effectively treat substance abuse, depression²², cluster headaches²³; and

¹¹ See [Iboga/Ibogaine for Addiction Therapy](#)

¹² See [Ayahuasca Experience Similar to Near-Death Experience](#)

¹³ See [Ayahuasca for Addiction Therapy](#)

¹⁴ See [Ayahuasca and Depression](#)

¹⁵ See [Ayahuasca and PTSD](#)

¹⁶ See [Ayahuasca and Personal Growth](#)

¹⁷ See [Ayahuasca and Spiritual Growth](#)

¹⁸ See [Peyote for treatment of alcohol and drug dependence](#)

¹⁹ See [Peyote](#)

²⁰ See [Psilocybin for End-of-Life Anxiety](#)

²¹ See [Entheogens and Reduced Recidivism](#)

²² See [Psilocybin and Treatment-Resistant Depression](#)

²³ See [Psilocybin and Cluster Headaches](#)

~~WHEREAS, a Johns Hopkins University study on "healthy normals" found that psilocybin can occasion mystical-type experiences, which were considered one of the top five most meaningful experiences in a subject's life for over 75% of their subjects within the first year after the study, and found continuing positive life-style changes after a 14-month follow-up; and~~

~~WHEREAS, the following principles, when adhered to, help to ensure safe and responsible use of entheogenic plants:~~

- ~~1. **Entheogens are not for everyone.** Knowledgeable clinicians caution that some people should not take entheogenic plants or fungi, including people with a personal or family history of schizophrenia or bipolar disorder or who are taking certain medications or using other recreational drugs. See <https://adf.org.au/drug-facts/psychedelics/> for more information.~~
- ~~2. **Always conduct thorough research before using entheogens or other drugs.** Side effects, interactions, and long term consequences are possible with any drug, including but not limited to permanent brain and personality changes.~~
- ~~3. **If someone has a serious condition like major depression or PTSD, they would do well to get serious, professional help before using an entheogen** and to ask that caregiver's advice. Some counselors and therapists are glad to work with a client before and after an entheogenic journey.~~
- ~~4. **Unless you have expert guidance, it's best to start with small amounts,** using more only after you become familiar with the material and the terrain.~~
- ~~5. **Don't go solo.** Have at least one trusted friend (called sitter, guide, or facilitator) be with you, sober during the entire journey, and commit in advance to honor that person's instructions if he or she tells you not to do something. Entheogens can amplify the whole range of human emotions, including anxiety, which can sometimes lead to panic. Having a sitter gives you a certain comfort and mental freedom, and can help keep things safe.~~
- ~~6. **Reverence reduces risks and can help lead to positive outcomes.** In cultures that have long used entheogenic substances beneficially, that use is approached with great respect, not haphazardly, and for life-enhancing purposes.~~

~~;~~ and

WHEREAS, the City of Berkeley wishes to declare its desire not to expend City resources in any investigation, detention, arrest, or prosecution arising out of alleged violations of state and federal law regarding the use of Entheogenic Plants.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Mayor and City Council hereby declare that it shall be the policy of the City of Berkeley

that no department, agency, board, commission, officer or employee of the city, including without limitation, Berkeley Police Department personnel, shall use any city funds or resources to assist in the enforcement of laws imposing criminal penalties for the use and possession of Entheogenic Plants by adults of at least 21 years of age. For the purposes of this resolution, Entheogenic Plants are defined as plants and natural sources such as mushrooms, cacti, iboga containing plants and/or extracted combinations of plants similar to ayahuasca; and limited to those containing the following types of compounds: indole amines, tryptamines, phenethylamines.

BE IT FURTHER RESOLVED that this resolution does not authorize or enable any of the following activities: commercial sales or manufacturing of these plants and fungi, possessing or distributing these materials in schools, driving under the influence of these materials; or public disturbance.

BE IT FURTHER RESOLVED that the Council urges all those who decide to use entheogenic plants to consult their doctor beforehand and take the utmost medical precaution when doing so, and that no part of this resolution constitutes medical advice or a recommendation or endorsement of any drug or product.

BE IT FURTHER RESOLVED that the City Council directs the City Manager to work with the City's lobbyists to support the decriminalization of all Entheogenic Plants and plant-based compounds that are listed on the Federal Controlled Substances Schedule 1.

BE IT FURTHER RESOLVED that the City Council hereby declare that it shall be the policy of the City of Berkeley that the investigation and arrest of adult persons for planting, cultivating, purchasing, transporting, distributing, engaging in practices with, and/or possessing Entheogenic Plants or plant compounds on the Federal Schedule 1 list shall be amongst the lowest law enforcement priority for the City of Berkeley.

BE IT FURTHER RESOLVED that the City Council call upon the Alameda County District Attorney to cease prosecution of persons involved in the use of Entheogenic Plants or plant-based compounds on the Federal Schedule 1 List.

~~BE IT FURTHER RESOLVED that the City Council directs the City Manager to return to Council and present an assessment of community impacts and benefits within a year of passage of this resolution.~~

BE IT FURTHER RESOLVED that if any provision of this resolution is declared by a court of competent jurisdiction to be contrary to any statute regulation or judicial decision or its applicability to any agency person or circumstances is held invalid the validity of the remainder of this resolution and its applicability to any other agency person or circumstance shall not be affected.

BE IT FURTHER RESOLVED that a copy of this resolution shall be sent to Alameda County Supervisor Keith Carson, Assemblymember Buffy Wicks, State Senator Nancy Skinner, Congresswoman Barbara Lee, Senator Dianne Feinstein, and Senator Kamala Harris, and that the Berkeley City Council formally requests that they take action to decriminalize Entheogenic plants through their respective legislative bodies.

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Lori Droste
Berkeley City Council District 8

CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council

From: Councilmember Lori Droste and Mayor Jesse Arreguin

Subject: Game Day Parking - Minor Update to include RPP area K

RECOMMENDATION

Refer to the City Manager the modification of parking restrictions in specified RPP Zones on UC Berkeley home football game days as follows: establish “Enhanced Fine Areas” to prohibit parking without a valid RPP permit to include RPP Zone K; and install new RPP signs in zone K to clearly indicate UC Berkeley home football game day parking prohibitions.

BACKGROUND

On May 14, 2019, Council adopted a [“Residential Preferential Parking Program Reform and Expansion Phase II: Recommendations for Increased Staffing, Enhanced Football Game Day Enforcement, and Expansion”](#) item that included updated fines and expanded prohibitions on UC Berkeley home football game day parking.

These new rules were adopted for portions of RPP areas B, D, F, G, and I. Since that time, there is growing concern that RPP Area K should have been included in those new regulations. This item amends the current rules to include Area K, which encompasses Panoramic Hill, a neighborhood directly east of the football stadium that is negatively impacted on UC Berkeley home football game days.

FISCAL IMPACTS OF RECOMMENDATION

Staff time and signage

ENVIRONMENTAL SUSTAINABILITY

None

CONTACT PERSON

Lori Droste, Berkeley City Council, District 8, 510-981-7180

ATTACHMENTS

MAY 2019 Game Day Parking Item



Office of the City Manager

PUBLIC HEARING
May 14, 2019

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Phillip Harrington, Director, Public Works
 Subject: Residential Preferential Parking Program Reform and Expansion Phase II: Recommendations for Increased Staffing, Enhanced Football Game Day Enforcement, and Expansion

RECOMMENDATION

Conduct a public hearing and upon conclusion:

1. Adopt first reading of an Ordinance amending Berkeley Municipal Code Chapter 14.72 to allow Residential Preferential Parking (RPP) in areas zoned Mixed Use-Light Industrial;
2. Adopt a Resolution to expand and enhance the RPP Program, raising permit fees for cost neutrality while increasing parking enforcement staff and equipment to augment RPP enforcement, improving UC Berkeley home football game parking enforcement, allowing more residents to opt-in, and rescinding Resolution 68,344-N.S.;
3. Adopt a Resolution modifying parking restrictions in specified RPP Zones on UC Berkeley home football game days as follows: establish “Enhanced Fine Areas” to prohibit parking without a valid RPP permit in portions of RPP Zones B, D, F, G, and I; and install new RPP signs in zones B, D, F, G, and I to clearly indicate UC Berkeley home football game day parking prohibitions; and
4. Adopt a Resolution establishing a new Parking Fine Schedule, including parking fines of \$225 per violation of BMC 14.40.090 in new Enhanced Fine Areas on posted UC football game days, and rescinding Resolution No. 68,466-N.S.

SUMMARY

The recommended actions constitute a package of “mid-term” changes to the RPP Program, developed in response to previous Council direction. These changes include: 1) hiring (7) seven more parking enforcement personnel to augment enforcement in existing and new RPP Zones, particularly on UC Berkeley home football game days; 2) instituting new parking restrictions and increased fines on football game days; 3) allowing blocks currently ineligible for RPP to opt-in to the Program; and 4) increasing permit fees to make the Program cost-neutral.

FISCAL IMPACTS OF RECOMMENDATION

The recommendation would provide staffing to increase enforcement of RPP Program parking restrictions, including during UC Berkeley football games, and allow many currently ineligible residents to opt-in to the Program. The capital and operational cost and revenue elements associated with these changes are summarized below. These are new obligations, in addition to existing costs to operate the program.

Football Game Day Enforcement Cost

Implementing the recommendation for the 2019 football season will incur a one-time capital cost of \$80,000, including:

- Approximately 500 new Residential Preferential Parking (RPP) signs specifying new parking restrictions, at a unit cost of \$100 per sign, and 250 person hours to install the new signs for a one-time labor cost of \$25,000; and
- Approximately 500 decals to identify football game dates (replaced annually) at cost of \$5,000. Initial decal installation included with sign installation cost. Annual decal replacement requires 100 person hours at a cost of \$10,000.

Staff calculates the ongoing cost to be \$15,000 annually. Initial and annual costs are summarized in the table below:

		Initial Cost	Ongoing Annual Cost
Signs	Materials	\$50,000	N/A
	Labor	\$25,000	N/A
Decals	Materials	\$5,000	\$5,000
	Labor	Included in sign installation.	\$10,000
Total		\$80,000	\$15,000

Currently, the UC Berkeley Athletics Department reimburses the City for signs produced and installed to manage football game day traffic. The current signs are over 20 years old; in 2017, UC paid approximately \$18,600 for sign and decal maintenance costs. Staff recommend that City leadership coordinate with UC Berkeley to fund the recommended one-time signage/decal upgrades, plus ongoing annual costs.¹

RPP Program Enforcement Enhancement and Expansion Cost

The fiscal impact of all of these recommendations will be realized in the General Fund (011). All permit fees and citation revenues, including revenue from new enforcement staff, will be deposited in the General Fund. In turn, all new staff and equipment costs will come out of the General Fund. Costs include:

- Six (6) Parking Enforcement Officers (\$124,818 per FTE; total \$748,908/year), and one (1) Parking Enforcement Supervisor at \$138,065/year;

¹ If UC Berkeley is unable to pay this cost, then the funding would come from the General Fund.

- Six (6) parking enforcement vehicles (\$210,000 total), each equipped with standard automated license plate recognition (ALPR) systems at \$78,363 each (\$470,178), annualized over a five-year period;² and
- New RPP sign installation, including labor and materials, at \$23,000 per year.³

Estimated New Revenue

During the 2018 season, football-related RPP citations resulted in \$49,100 in revenue, and staff anticipates the new “Enhanced Fine Areas” to generate an additional \$31,650. More significantly, hiring six (6) more PEOs is expected to increase citation revenue in both new and existing RPP areas. Staff estimate that each new PEO would issue up to \$75,000/year in RPP citations, for a total of \$450,000/year.

Incremental Fiscal Impact in FY 2020

Hiring of new PEOs and procurement of associated enforcement equipment would take place over the course of FY 2020, resulting in incremental increases in new citation revenue as new staff are selected, trained, and deployed. Similarly, each opt-in petition for new areas will take time to verify and bring to Council for approval, resulting in delayed revenues from permits purchased in expansion areas. Therefore, the full fiscal impact of the Program’s expansion and enhancement will not be seen in FY 2020. Staff will continue to monitor the Program’s costs and revenues as new enforcement staff are hired.

User Fee Increases for Cost Neutrality

Per Council Budget Policies,⁴ the RPP Program should pay for itself. As of March 2019, the RPP Program still runs a deficit of approximately \$124,675. The deficit has shrunk by \$71,125 since FY 2017, when the deficit was approximately \$195,800. This deficit reduction, but not elimination, may be due in part to a decline in permit revenues following the 20% fee increase on April 1, 2018. Customers may also have reevaluated their needs in light of the new maximum of three (3) annual permits per address.

The proposed fee structure would go into effect June 1, 2019, to support increasing enforcement in FY 2020. It is estimated to generate approximately \$368,280 of additional revenue, including \$21,600 from annual permit sales in potential new opt-in areas, for the General Fund (Fund 011). The following table reflects increases for each type of permit in the RPP fee structure to result in a cost-neutral Program.

² Proposed permit fees incorporate half of PEO salary costs, and half of the one-time vehicle and equipment costs, as RPP enforcement accounts for approximately half of all parking enforcement duties. Remaining costs are expected to be covered by new revenues resulting from new staff enforcing other duties, such as street sweeping, parking meter payments, and school zones.

³ Up to twenty blocks in new areas would be allowed to join the Program per year. Staff assumes six RPP signs per block (three signs on each side of the block), and approximately \$1,150 per block.

⁴ “Council Budget Policies”: <http://bit.ly/2z4UiFY>

Permit Type	Current Fee	Proposed Fee	\$ Increase	% Increase
Annual Residential & In-Home Care	\$66.00	\$90.00	\$24.00	36.4%
1-Day Visitor	\$3.00	\$4.00	\$1.00	33.3%
14-Day Visitor	\$34.00	\$47.00	\$13.00	38.2%
Semi-Annual Residential & In-Home Care	\$33.00	\$45.00	\$12.00	36.4%
Community-Serving Facility	\$83.00	\$114.00	\$31.00	37.3%
Merchant	\$185.00	\$253.00	\$68.00	36.8%
1-Day Senior Center	\$1.00	\$1.00	N/A	N/A
Replacement of Annual, 14-Day, Community-Serving Facility, & Merchant Permits	\$15.00	\$21.00	\$6.00	40.0%

The proposed fee structure is estimated to generate approximately \$1,305,240 in revenue for the General Fund in FY 2021, once all new staff have been hired and anticipated expansion has occurred. This increase of \$368,280 in revenue would close the projected deficit, resulting in a cost-neutral Program (the \$600 difference is within the margin of approximation). With the proposed fee increase, the total Program revenue is projected to be \$3.41 million including revenue resulting from an increase in RPP-related citations due to higher staffing levels and new football fines.

RPP Program Financial Components	April 2018- March 2018 Actuals	FY 2021 Projections
Total RPP Permit Fee Revenue	\$936,960	\$1,305,240
RPP-Related Citation Revenue	\$1,573,840	\$2,023,840
Football RPP-Related Citation Revenue	\$49,100	\$80,750
Total Revenue	\$2,559,910	\$3,409,830
Total RPP Program Costs	\$2,684,580	\$3,409,230
RPP Program Deficit/Surplus	(\$124,670)	\$600

CURRENT SITUATION AND ITS EFFECTS

This report represents “mid-term” changes to the RPP Program as part of ongoing RPP Program Reform & Expansion. Building on the initial “short-term” changes enacted by Council in February 2018, described in the accompanying Information Report on this Agenda, this report recommends “mid-term” changes that respond to remaining resident requests and Council referrals.

UC Berkeley Football Game Day Parking Demand

The UC Berkeley football season typically spans twelve (12) games between September and November. Up to seven (7) games per year are played at California

Memorial Stadium (“stadium”), near the eastern end of Bancroft Avenue. Most home games occur on Saturday afternoons or evenings. Neighborhoods surrounding UC Berkeley currently have RPP. South of campus, RPP Zones A, B, D, and K are enforced Monday to Saturday, with the exception of Zones I (Telegraph) and L (Claremont), which are not enforced on Saturday. North of campus, RPP Zones F and G are enforced Monday through Friday.

Game attendees who drive and park in surrounding neighborhoods can make it difficult for some residents to find parking near their homes during games. In fall 2017, the City analyzed game day parking south of campus.⁵ The analysis found that parking occupancy in the study area increased by about 25% on a game day compared to a non-game day, with increases of approximately 35-50% closest to campus (RPP Zones B, D, and I). Anecdotal evidence from residents also suggests poor parking by visitors may impede access to residential driveways at times.

Existing Game Day Parking Restrictions

Special parking restrictions and enforcement on football game days currently includes:

- Increased fines for certain parking violations⁶ within the boundaries of Cedar Street (north), Berkeley-Oakland city limits (south and east), and Oxford and Fulton Streets (west), with double fines in RPP Zones A, B, and D; and
- Tow-away zones for all vehicles on certain streets close to campus,⁷ and additional no-parking areas at metered parking spaces in the Southside and Northside areas.

The Berkeley Police Department (BPD) requires substantial staff time and resources for football game day duties. BPD typically assigns sworn officers on overtime to patrol areas near the stadium to discourage bad behavior.⁸ Any staffing gap is filled by parking enforcement personnel. Between five and seven PEOs may be reassigned to game day duty, with one PEO specifically assigned to regulate access to the Panoramic Hill neighborhood (RPP Zone K). That leaves between two and four PEOs to enforce meter payments, curb markings, or RPP time limits elsewhere in the City. As shown in the table below, the City does not have enough PEOs to provide regular Saturday enforcement in addition to football duties on game days.

Enforcement Duties	Number of Assigned PEOs
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⁵ Specifically, Zones A, B, D, I, and L. While not explicitly studied, staff assume neighborhoods north of campus experience similar game day parking demand patterns.

⁶ Football game day defined as 9:30 a.m. to 11 p.m., regardless of game start time. Most football game day citation rates are 150% of non-game day citation rates. For example, a citation for a vehicle parked in a No Parking Zone (red curb) that is normally \$64 costs \$96 on a game day.

⁷ For example: Piedmont Avenue between the stadium and Channing Way, Bancroft Way between Warring Street and Bowditch Street, and College Avenue between Bancroft Way and Dwight Way.

⁸ UC Berkeley reimburses the City for BPD overtime costs.

	Non-Game Days	Football Game Days
Game Day Activities	0	5-7
Parking Meters, Curbs, Time Limits, and RPP	7-9	2-4

Requests for Further Program Expansion

In the past year, staff received four (4) opt-in requests from residents outside of the current RPP eligibility area, all of them in northwest Berkeley.⁹ In the previous five years, staff have received another five (5) requests from residents outside of the program boundaries.¹⁰ A map depicting these requests is provided as Attachment 5.

Recommendation: Increase and Enhance RPP Enforcement, Including on Football Game Days, and Expand RPP Eligibility

1. Enhanced Enforcement in Existing RPP Areas

Due to staffing constraints discussed in the accompanying Information Report on this Agenda, enforcement in existing RPP areas occurs only once per day. Staff recommend hiring sufficient parking enforcement staff to resume morning and afternoon patrols of existing RPP areas. This will help reinforce RPP time limits, particularly on streets near popular destinations such as public facilities or commercial districts. Increased patrols may also reduce the amount of one-off requests from residents who do not observe enforcement as frequently, which reduce PEOs’ ability to conduct regularly-scheduled beat patrols.

To further increase parking enforcement capacity, staff also recommend that PEOs should no longer accompany street sweeping vehicles. Instead, beat officers would enforce restrictions during the three-hour restriction window, before the sweeper cleans the street, to allow time for other responsibilities.¹¹ Additionally, staff strongly recommend against introducing additional permit types for resident services, e.g., ‘nanny permits’, or ‘gardener permits’, which serve as exemptions from RPP restrictions. In addition to further increasing already high parking demand in some areas, adding new permits for non-residents dilutes the Program’s effectiveness for all existing permit holders and encourages more driving, which is contrary to the City’s

⁹ Requests received in FY 2019 include: 10th Street between Cedar and Jones Streets; 10th Street from University Avenue to Allston Way, Addison Street from 10th Street to San Pablo Avenue, and Allston Way from 10th Street to San Pablo Avenue; Camelia Street from 7th to 8th Street; and Page Street from 8th to 9th Street.

¹⁰ Requests received prior to FY 2019 include: Campus Drive from Avenida Drive to the Berkeley Lab Campus; Spruce Street from Los Angeles Avenue to Eunice Street; Stannage Avenue between Gilman Street and Harrison Street; Stanton Street from Ashby Avenue to Prince Street; and various areas adjacent to Solano Avenue.

¹¹ In the future, street sweeping vehicles may be equipped with GPS beacons, which would allow residents to check when streets reopen for parking in real-time.

Climate Action Plan goals of reducing vehicular emissions.

2. Enhanced Game Day Parking Management and Enforcement

In response to Council referrals, staff has prepared a proposal for the 2019 football season to improve parking availability for residents in neighborhoods closest to campus. Illustrated in Attachment 6, this proposal builds on existing game day restrictions by adding tougher penalties for non-residents closer to the stadium:

- **New tow-away areas for vehicles without a valid RPP permit** on streets within one quarter-mile of the stadium (including portions of RPP Zones D and I), where demand was heaviest on the game day analyzed in fall 2017.
- **New “Enhanced Fine Areas”** on streets within one half-mile of the stadium (including portions of RPP Zones F and G north of campus and portions of Zones B and D south of campus), where vehicles without a valid RPP permit will be subject to a one-time fine of \$225.¹²

This proposal maximizes game day staff capacity and effectiveness in areas where residents experience the most inconvenience. While current enforcement requires two passes to determine whether a non-permitted vehicle exceeds the time limit, under this proposal a PEO will need to check only once to verify whether a vehicle has a permit.

Signage is critical to effective enforcement of parking restrictions. In addition to clearly defining expectations for visitors, signage justifies the issuance of citations that violate posted restrictions. Details about the costs and content of new signage required to implement this proposal is provided in the Fiscal Impacts section of this report.

3. Additional Strategies to Increase Parking Availability on Game Days

While some street parking spaces near the stadium are restricted on game days, metered parking is available for visitors in Downtown, Southside/Telegraph, and the Northside area.¹³ Staff will return to Council later this year with options for special events, including adjusting special event rate setting ability at City parking garages, and piloting demand-responsive special event pricing at goBerkeley parking meters.

4. Further Expansion of RPP Program Eligibility

Although there have been relatively few opt-in requests from outside the current Program boundary, they still represent a customer need that the City cannot meet with existing staffing levels. To maximize enforcement resources, currently ineligible residents would be able to opt-in under the following conditions:

¹² Staff are sensitive to low income residents and visitors who may not be able to afford this fine. Options include a payment plan (AB 503), as well as applying to perform Community Service in lieu of paying for parking citations.

¹³ Meters operate 9 a.m. to 6 p.m. Monday to Saturday. On the Northside, Hearst Avenue between Euclid Avenue and La Loma Avenue is a tow-away zone on game days.

- A. Meet all existing requirements, including petitioner obtaining agreement of 51+% of all housing units in an area, and staff verifying limited parking availability in the mid-morning and mid-afternoon;
- B. Parcels must be located within two (2) blocks of a major commercial corridor (e.g., San Pablo Avenue or Gilman Street); or be adjacent to existing RPP boundaries; and
- C. In residentially-zoned areas, at least one full block (i.e., two sides of a street) must be included in the petition.

Petitioners in areas zoned Mixed Use-Residential or Mixed-Use Light Industrial will be subject to restrictions approved by Council in 2018 for Mixed Use Area P, including a reduced maximum of two (2) annual permits available per address. While slightly more restrictive than current requirements, this expansion approach would allow all petitioners who have submitted opt-in requests to date to be eligible for RPP.

5. Staffing Requirements

Enhanced enforcement, including new football game day restrictions, requires five (5) new PEOs and one (1) Parking Enforcement Supervisor, plus standard equipment. Expansion requires one (1) additional PEO for every twenty full blocks (i.e., both sides of a street) added to the Program, plus standard equipment.

BACKGROUND

The RPP Program began in 1980 (1) to protect Berkeley residential neighborhoods from an influx of non-resident vehicles and related traffic; (2) to assure continued quality of life for residents; and (3) to provide neighborhood parking for residents. The Program limits parking for vehicles not displaying an RPP permit in most RPP areas to two hours, and reserves available daytime parking for residents, between 9:00 a.m. and 7:00 p.m. Monday through Friday, and on some blocks Saturday.

In March 2014,¹⁴ Council directed staff to evaluate expanding the RPP Program beyond its then-current geographic boundaries. At a September 2017 Council Worksession, staff discussed several challenges with the RPP Program, and proposed incremental solutions to be implemented over the next three years.¹⁵ In February 2018, staff returned to Council with a first set of “short-term” policy reforms, including increased permit fees for Program cost neutrality, a limit of three (3) annual permits per address, and an expansion of RPP eligibility to two new zones in West Berkeley.¹⁶ Improving the effectiveness of the RPP Program is a Strategic Plan Priority Project, advancing the City’s goals to:

¹⁴ March 11, 2014 *City Council Agenda: Expansion of Permit Parking to Impacted Areas*: <http://bit.ly/2vTgnqD>

¹⁵ September 19, 2017 *City Council Agenda: Residential Preferential Parking (RPP) Program Recommendations*: <https://bit.ly/2iWaPDa>

¹⁶ February 27, 2018 *City Council Agenda: Residential Preferential Parking (RPP) Program Reform and Expansion*: <https://bit.ly/2Yq6tYB>.

- Provide an efficient and financially-healthy City government; and
- Be a customer-focused organization that provides excellent, timely, easily-accessible service and information to the community.

Football Game Day Enforcement

On April 5, 2016, Councilmembers Capitelli, Droste, and Wengraf sponsored a Referral to the Transportation Commission to review game day parking fines in RPP areas around campus, and to recommend higher fees to deter visitors from parking in those areas.¹⁷ On July 25, 2017, the Transportation Commission submitted a Council Report recommending an increase of game day parking fines to \$300 for vehicles without a valid RPP permit in Zones A, B, and D south of campus, but Council did not adopt the Commission's recommendation.¹⁸ On September 25, 2018, Councilmembers Droste, Wengraf, and Mayor Arreguin submitted a referral to the City Manager to implement game day parking restrictions similar to the Transportation Commission's 2017 proposal, but taking into account additional concerns such as parking on the north side of campus.¹⁹

ENVIRONMENTAL SUSTAINABILITY

Increasing parking fines for vehicles without valid RPP permits on football game days should increase parking availability for residents in neighborhoods near campus, reducing traffic congestion and vehicle emissions as drivers spend less time searching for parking. Increased fines may also encourage the use of alternative forms of transportation to UC football games.

Expansion of the RPP Program may encourage some drivers who work in commercial areas adjacent to proposed RPP areas to consider using other modes of travel, potentially reducing parking demand and congestion. While use of these other transportation modes may result in a corresponding reduction in traffic and greenhouse gases, staff anticipate the "two-hour shuffle" (i.e., moving a vehicle every two hours to avoid a ticket) may also begin to occur in new RPP areas among commuters who continue to drive. This behavior would have an adverse impact on traffic congestion, air quality, and excess fuel consumption.

RATIONALE FOR RECOMMENDATION

At the September 19, 2017 Worksession, Council expressed support for a roadmap for RPP reform and expansion, including short-, mid-, and long-term changes to the

¹⁷ April 5, 2016 *City Council Agenda: Refer to Transportation Commission to Reassess UC Berkeley Game Day Parking Fines in RPP Areas A, B, D, F and G Surrounding Campus* <https://bit.ly/2GRoSzi>

¹⁸ July 25, 2017 *City Council Agenda: Referral Response: Reassess UC Berkeley Game Day Parking Fines in RPP Areas A, B, D, F, and G Surrounding Campus* <https://bit.ly/2fwXaEj>

¹⁹ September 25, 2018 *City Council Agenda: Refer to the City Manager UC Berkeley Game Day Parking Restrictions and Fines in RPP Surrounding Campus* <https://bit.ly/2EwSnfS>

Program. Short-term recommendations were approved by Council in February 2018. The proposals contained in this report comprise staff's "mid-term" recommendations.

In their September 25, 2018 referral, Councilmembers Droste, Wengraf, and Mayor Arreguin supported increasing parking fines to increase parking availability for residents affected by football game demand. Previously, the Transportation Commission has also supported higher fines.

ALTERNATIVE ACTIONS CONSIDERED

The following table summarizes four alternatives considered by staff:

Alternative	Estimated Annual Permit Fee
<u>Option 1: Staff Recommendation, Enhanced RPP and Football Enforcement, and Expansion, Without Changing Saturday Enforcement.</u>	\$90/year (+36% / +\$24)
<u>Option 2: Saturday Enforcement in All Areas, Enhanced RPP and Football Enforcement, and Expansion</u> <ul style="list-style-type: none"> • Implement Saturday patrols of all RPP Zones,²⁰ plus increased RPP and football enforcement, and expansion as in Option 1 • Increase permit fees to eliminate deficit and add seven (7) PEOs and one (1) supervisor for increased RPP enforcement, one (1) PEO per twenty new blocks/year, and equipment 	\$97/year (+47% / +\$31)
<u>Option 3: Expansion and Enhanced Football Enforcement</u> <ul style="list-style-type: none"> • Implement enhanced football enforcement and expansion as in Option 1 • No change to existing RPP enforcement levels/frequency • Increase permit fees to eliminate deficit and add three (3) PEOs and one (1) supervisor for football, one (1) PEO per twenty new blocks/year, and equipment 	\$88/year (+34% / +\$22)
<u>Option 4: Expansion Only</u> <ul style="list-style-type: none"> • Expand RPP Program eligibility per guidelines in Option 1 • No changes to existing RPP and football enforcement levels • Increase permit fees to eliminate deficit and add one (1) new PEO and equipment per twenty new blocks/year 	\$82/year (+24% / +\$16)

Council could also reject all options, which would maintain the status quo RPP Program, including its structural deficit.

CONTACT PERSON

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 Danette Perry, Parking Services Manager, Public Works (510) 981-7057
 Gordon Hansen, Senior Planner, Public Works (510) 981-7064

Attachments:

- 1: Ordinance
- 2: Resolution: Fees: Residential Preferential Parking Permits
- 3: Resolution: Establish “Enhanced Fine Area” and Double Fine Locations
- 4: Resolution: Modify Parking Violation Fine Schedule
 - Exhibit A: Schedule of Fines and Late Payment Penalties for Parking Violations
 - Exhibit B: List of New Parking Violations

²⁰ Adding enforcement at streets with RPP restrictions in Zones C, E, F, G, H, I, J, L, M, O, and P.

- 5: Public Hearing Notice
- 6: FY 2019 and Prior Out of Area RPP Opt-In Requests
- 7: Proposed 2019 UC Berkeley Football Game Day Parking Restrictions

ORDINANCE NO. #,###-N.S.

AMENDING BERKELEY MUNICIPAL CODE CHAPTER 14.72 TO ALLOW FURTHER EXPANSION OF THE RESIDENTIAL PREFERENTIAL PARKING (RPP) PROGRAM

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

Section 1. That Berkeley Municipal Code Section 14.72.030 is amended to read as follows:

14.72.030 Definitions.

A. "Designated residential parking permit area" means any contiguous area upon which the Council imposes parking limitations pursuant to the authority granted by this chapter.

B. "Block front" means all of the property on one side of a street between two consecutive intersecting streets.

BC. "Mixed use" means the use of a lot or building with two or more different land uses including, but not limited to, residential, commercial, retail, office or manufacturing, in a single structure or a group of physically integrated structures; in a neighborhood context, it means blocks containing single-use residences interspersed with other land uses, such as commercial or industrial.

DC. "Mixed Use-Residential" and "Mixed Use-Light Industrial" refers to the zoning designations so defined in Berkeley Municipal Code Chapters 23E.84 and 23E.80, respectively.-

ED. "Assessor's Use Code" means the code used by the Alameda County Assessor to assess property for property tax purposes. These codes cover a range of building descriptions and uses, including a variety of residential uses.

FE. "Nonresidential vehicle" means a motor vehicle not eligible to be issued a residential parking permit, pursuant to the terms and conditions of this chapter, for the specific area in which it is parked. However, it could be eligible for a local business parking permit, or any other parking permit the council shall designate.

GF. "Residential parking permit" means a permit issued under this chapter which, when displayed upon a vehicle, as described herein, shall exempt said vehicle from parking time restrictions established pursuant to this chapter.

HG. "Local business parking permit" means a permit issued under this chapter which, when displayed upon a motor vehicle, shall exempt said vehicle from parking time restrictions established pursuant to this chapter.

IH. "Trapped resident" means: 1) any resident whose dwelling is on a block that may not legally opt-in because less than 80% of the block fronts are residentially zoned and

either: a) whose address is on a block front adjacent to and/or surrounded by block fronts that are already included in the RPP program; or b) whose address is within the general boundary of a designated RPP area; or 2) any resident whose dwelling abuts controlled curb parking and either: a) whose address is on a block front adjacent to and/or surrounded by RPP areas; or b) whose address is within the general boundary of a designated RPP area.

JJ. "Neighborhood-service community facility" means churches, schools and senior centers located wholly within the general boundary of an RPP designated area.

KJ. "Neighborhood-serving business and establishment" means any business or establishment located in a neighborhood commercial district as defined in the Zoning Ordinance Section Cl a, Cl b, Cl c, Cl b(E).

LK. "One-day visitor permit" means a parking permit issued pursuant to this chapter or an ordinance enacted pursuant to authority granted herein, which shall exempt the vehicle from parking time restrictions pursuant to this chapter, for the date indicated upon the face of said permit.

LM. "Two-week visitor permit" shall mean a parking permit issued pursuant to this chapter or an ordinance enacted pursuant to authority granted herein, which shall exempt the vehicle from parking time restrictions established pursuant to this chapter for a period of 14 consecutive calendar days, beginning upon the date indicated upon the face of said permit.

NM. "Motor vehicle" shall be an automobile, truck, motorcycle or other self-propelled form of transportation not in excess of 8,000 pounds gross weight and not in excess of 20 feet in length. A trailer, trailer coach, utility trailer, motor home/(RV), or any other type of vehicle as defined in the California Vehicle Code that is not self-propelled, is not eligible for an RPP permit.

ON. "Controlled curb parking" means any on-street parking with existing parking limitations, such as meters, time restrictions, red zone, etc.

PO. "Schools" shall mean any school or other place of learning providing a pre-school, elementary or secondary level of study, and which regularly employs a staff of at least 15 certificated persons regularly employed as a classroom teacher.

QP. "Senior centers" means the three senior centers affiliated with the City: North Berkeley Senior Center, South Berkeley Senior Center and the West Berkeley Senior Center.

Section 2. That Berkeley Municipal Code Section 14.72.050 is amended to read as follows:

14.72.050 Designation of a residential permit parking area.

A. There shall be two alternative processes by which City Council could consider any area for designation as a residential permit parking area:

1. Residents petition. The City Council shall consider for designation as a residential permit parking area any proposed area for which a petition has been submitted which meets and satisfies the following requirements:

a. Prior to obtaining signatures, neighborhood organizers shall consult with City staff to assure that the proposed area meets guidelines set in the administrative regulations for the establishment of permit parking boundaries.

b. The petition shall contain a description or a map showing the proposed residential permit parking area.

c. Said description or map shall be followed in the petition by a statement describing the residential permit parking program and the current residential permit fees.

d. The statement shall be followed by a signature, printed name, address, and date of signing of the application by a number of adult residents including at least 51% of the housing units within the area.

e. For applicants in areas zoned ~~Mixed Use-Residential~~ or Mixed Use-Light Industrial, a petition shall only be deemed valid if at least 51% of the housing units on each block ~~face-front~~ have an address that has a residential Assessor's Use Code.

f. All petitions shall be the same as the standard petition form developed by City staff. Any petition form different from the standard petition form shall be deemed invalid for the purposes of this chapter.

g. In the proposed residential permit parking area, at least 80% of the block fronts with unlimited on-street parking must be residentially zoned, and at a minimum, 75% of all unlimited on-street parking spaces within the proposed area must be occupied during any two one-hour periods between 10:00 a.m. and 4:00 p.m.

h. In areas zoned ~~Mixed Use-Residential~~ or Mixed Use-Light Industrial, at a minimum, 75% of all unlimited on-street parking spaces within the proposed area must be occupied during any two one-hour periods between 10:00 a.m. and 4:00 p.m.

2. City Council initiation. City Council shall consider for designation as a residential permit parking area any area for which the following requirements have been met:

a. City Council shall initiate the area as a residential permit parking area.

b. For areas zoned ~~Mixed Use-Residential~~ or Mixed Use-Light Industrial, Council shall only initiate the area as a residential permit parking area if at least 51% of the housing

units on each block ~~face-front~~ have an address that has a residential Assessor's Use Code.

c. In the proposed residential permit parking area at least 80% of the block fronts with unlimited on-street parking must be residentially zoned, and at a minimum, 75% of all unlimited on-street parking spaces within the proposed area must be occupied during any two one-hour periods between 10:00 a.m. and 4:00 p.m. or unlimited on-street parking is projected to be impacted by parking spillover from a more congested residential permit parking area.

d. In areas zoned Mixed Use-Residential or Mixed Use-Light Industrial, at a minimum, 75% of all unlimited on-street parking spaces within the proposed area must be occupied during any two one-hour periods between 10:00 a.m. and 4:00 p.m.

e. A notice of intent to establish permit parking shall be sent to all addresses within the proposed residential parking permit area.

B. Upon receipt by the City Council of a petition as described in subsection A.1 of this section, or after Council has initiated a residential permit parking area as described in subsection A.2 of this section, the Council shall:

1. Undertake or cause to be undertaken such surveys or studies which it deems necessary.

2. Cause to be drafted a resolution which would establish a residential permit parking area based upon the aforementioned proposal and studies, including all regulations and time restrictions determined by the Council to be reasonable and necessary in such area.

C. The Council shall thereafter conduct a public hearing on said draft resolution. Notice of the hearing shall be posted at least ten days prior to the hearing on all block fronts proposed to be included in the residential permit parking area. Following the hearing, the City Council may enact, amend or reject said draft resolution in any manner, including but not limited to, modification of boundaries of the proposed area and the restrictions imposed on such proposed area. In order to grant permit parking designation, Council shall find that the designation will not be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing in the area of designation. In reaching this decision, consideration shall be given to the residents' support for residential permit parking, the existing parking conditions, the expected effectiveness of residential permit parking in improving parking conditions, and the location and size of the residential permit parking area.

Section 3. That Berkeley Municipal Code Section 14.72.090 is amended to read as follows:

14.72.090 Residential parking permit.

A. The City Manager and/or his/her designee shall issue residential parking permits with a term not to exceed one year to motor vehicles which comply with the requirements set forth in this section.

1. No more than three (3) permits may be purchased for each residential address. Applicants may request a waiver if additional permits are needed.

2. In areas zoned Mixed Use-Residential (MU-R) or Mixed Use-Light Industrial (MULI), no more than two (2) permits may be purchased for each residential address. Applicants may request a waiver if additional permits are needed.

3. The City Traffic Engineer is authorized to issue such rules and regulations necessary to grant waivers to the annual permit limits.

B. A residential parking permit may be issued for a motor vehicle only upon application of the following person:

1. The applicant must demonstrate that he or she is currently a resident of the area for which the permit is to be issued; and

2. The applicant must demonstrate that he or she has ownership or continuing custody of the motor vehicle for which the permit is to be issued; and

3. Any motor vehicle to be issued a permit must have a vehicle registration indicating registration within the area for which the permit is to be issued.

C. A residential parking permit may in addition be issued for any vehicle in the area regularly utilized by a person who owns or leases commercial property and actively engages in business activity within the particular residential permit parking area. However, no more than one parking permit, or any greater number which the City Council may determine appropriate for the particular residential permit parking involved area, may be issued for each business establishment for a motor vehicle registered to or under the control of such a person.

D. A residential parking permit may be issued for any vehicle utilized in the area by a nonresidential nonbusiness enterprise, such as a church, school, or hospital, located wholly or partially within the particular residential permit parking area. However, no more than one parking permit, or any greater number which the City Council may determine appropriate for the particular permit parking area involved, may be issued for each such enterprise within each permit area for a motor vehicle registered to or under the control of such an enterprise.

E. Any person to whom a residential parking permit has been issued pursuant to this section shall be deemed a permit holder.

Section 4. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

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

FEEES: RESIDENTIAL PREFERENTIAL PARKING PERMITS

WHEREAS, on February 27, 2018, Council adopted Resolution No. 68,344-N.S., establishing a revised fee schedule for parking permits for annual residential preferential parking; 1-Day Visitors, 2-Week Visitors, and annual in-home care, annual community-serving facility, annual merchant, 1-Day Senior Center, Semi-annual residential, and Semi-annual in-home care permits issued for the Residential Preferential Parking (RPP) Program, and rescinded Resolution No. 66,895-N.S.; and

WHEREAS, the current RPP Program is operating at an annual deficit of at least \$124,675; and

WHEREAS, staffing for the RPP Program will be increased to allow for enhanced enforcement activities in existing Program areas, a comprehensive overhaul of University of California, Berkeley football game day parking, and actively managed expansion of opt-in eligibility; and

WHEREAS, increased staffing will incur additional yearly costs, but will also deliver new citation revenue;

WHEREAS, it is necessary to increase RPP permit fees in order to operate the RPP Program as a cost-neutral program in accordance with Council Budget Policies.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the following fees for the RPP Program are hereby established:

Permit Type	Permit Fees
Annual Residential & In-Home Care	\$90.00
1-Day Visitor	\$4.00
14-Day Visitor	\$47.00
Semi-Annual Residential & In-Home Care	\$45.00
Community-Serving Facility	\$114.00
Merchant	\$253.00
1-Day Senior Center	\$1.00
Replacement of Annual, 14-Day, Community-Serving Facility, & Merchant Permits	\$21.00
Surcharge Per Additional Annual Residential Permit Over Maximum, Only If Waiver is Approved	\$100.00

BE IT FURTHER RESOLVED that these fees shall be effective June 1, 2019 for FY 2020 permit purchases and shall be deposited into the General Fund.

BE IT FURTHER RESOLVED that Resolution No. 68,344-N.S. is hereby rescinded effective June 1, 2019.

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

ESTABLISHING THE ZONES FOR “ENHANCED FINE AREAS” AND FOOTBALL GAME DAY VIOLATIONS, AND AUTHORIZING THE CITY MANAGER TO MAKE AN ANNUAL DETERMINATION AND NOTICE OF DATES ON WHICH FOOTBALL DAY VIOLATIONS WILL BE ISSUED

WHEREAS, City Council Resolution No. 65,813-N.S. restated the geographic area for football game day citations; and

WHEREAS, University of California football games attract a large number of visitors who drive to the game and park in residential neighborhoods to the north and south of campus, which typically makes it difficult for residents to find parking in close proximity to their homes on football game days; and

WHEREAS, current enforcement of the two-hour time limit for vehicles without a valid permit in portions of Residential Preferential Parking (RPP) Zones closest to the stadium is time intensive, reducing the ability of Parking Enforcement to maximize limited staff capacity on game days; and

WHEREAS, the permanent double parking fine program established by Resolution No. 63,800-N.S. has not deterred extended game day parking in portions of RPP Zones B and D, particularly in comparison to private off-street facilities in the vicinity of the stadium offering game day parking for up to \$100; and

WHEREAS, staff have confirmed with Parking Enforcement leadership that new “Enhanced Fine Areas,” in which vehicles without a valid RPP permit would not be permitted to park on football game days, would maximize limited enforcement capacity on football game days; and

WHEREAS, concurrent with this Resolution, the Council is considering adoption of another Resolution establishing a new schedule of parking violations and fines for parking violations, including in new “Enhanced Fine Areas;” and

WHEREAS, the existing “double parking fine” program would continue to be in effect on football game days in addition to the new “Enhanced Fine Areas;” and

WHEREAS, the schedule of parking violations and fines for parking violations may be revised in the future without affecting established zones for football day citations and Enhanced Fine Areas and the City Manager’s authorization to determine and provide public noticing of dates for these violations.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the established zone for the northerly Enhanced Fine Area is north to (not including) Cedar Street, west to (not including) Shattuck Avenue, south to Hearst Avenue, and east to the existing boundary of RPP Zones F and G.

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that the established zone for the southerly Enhanced Fine Area is north to Dwight Way between Telegraph Avenue and Regent Street, north to Haste Street between Regent Street and Bowditch Street, north to Dwight Way between Bowditch Street and College Avenue; east to (but not including) College Avenue between Dwight Way and Parker Street; north to (but not including) Parker Street between College Avenue and Warring Street; east to Warring Street between Parker Street and Derby Street; north to Derby Street between Warring Street and Belrose Avenue; east to (but not including) Belrose Avenue/Claremont Boulevard between Derby Street and Russell Street; south to (but not including) Russell Street between Belrose Avenue/Claremont Boulevard and Telegraph Avenue; and west to (but not including) Telegraph Avenue between Russell Street and Dwight Way.

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that the established zone for the easterly Enhanced Fine Area is north to the southern boundary of RPP Zone K between Channing Way and the Berkeley-Oakland city limits; east to the Berkeley-Oakland city limits; south to (but not including) Dwight Way between the Berkeley-Oakland city limits and Prospect Street; and west to (but not including) Prospect Street between Dwight Way and Channing Way.

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that the established zone for football day citations is north to (not including) Cedar Street, south and east to the Berkeley-Oakland city limits, and west to Oxford and Fulton Streets (including both sides of these streets).

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that the City Manager is directed to annually determine the dates during which there are higher parking fines for football day citations, and provide reasonable notice to the public of these dates.

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that Resolution No. 65,813-N.S. is hereby rescinded.

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

ESTABLISHING A NEW SCHEDULE OF PARKING VIOLATIONS AND FINES FOR PARKING VIOLATIONS AND LATE PAYMENT PENALTIES; AND RESCINDING RESOLUTION NO. 68,466-N.S.

WHEREAS, the State of California Vehicle Code Section 40203.5 states “the schedule of parking penalties for parking violations and late payment penalties shall be established by the governing body of the jurisdiction where the notice of violation is issued,” and

WHEREAS, University of California football games attract a large number of visitors who drive to the game and park in residential neighborhoods to the north and south of campus, which typically makes it difficult for residents to find parking in close proximity to their homes on football game days; and

WHEREAS, concurrent with this Resolution, the Council is considering adoption of another Resolution establishing new “Enhanced Fine Areas” in portions of Residential Preferential Parking (RPP) Zones F and G north of campus, and in portions of RPP Zones B, D, and I south of campus, wherein vehicles without a valid RPP permit would not be permitted to park on football game days; and

WHEREAS, in May 2018, the City Council adopted Resolution No. 68,466-N.S. establishing a new schedule of fines for parking violations to enable the City to properly cite vehicles in violation of new laws managing parking for electric vehicles.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that a new schedule of parking violations and late payment penalties is established, as set forth in Exhibit A, which includes fines and late penalties for violations of BMC Section 14.40.090 pertaining to parking restrictions in new “Enhanced Fine Areas” in effect on football game days only; and

BE IT FURTHER RESOLVED that Resolution No. 68,466-N.S. is hereby rescinded.

Exhibits

- A: Schedule of Fines and Late Payment Penalties for Parking Violations
- B: List of New Parking Violations

Exhibit A: Schedule of Fines and Late Payment Penalties for Parking Violations

Code	Section	Violation Description (For citations issued to a vehicle) FD = Football Game Days 9 a.m. to 11 p.m. FD fines = 50% higher on most violations & 100% higher for violations in RPP Zones A, B, D	Fine Amount	On Day 28 +\$30	On Day 47 +\$50
BMC	6.24.020	Off-St Rsrv Pkg No Permit Displayed	\$48	\$78	\$128
BMC	6.24.020	FD Off-St Rsrv Pkg No Permit Displayed			
BMC	6.24.020	Non-Electric Vehicle Parked in Electric Vehicle Space	\$35	\$65	\$115
BMC	6.24.060	Electric Vehicle Exceeding EV Parking Space Time Limit	\$30	\$60	\$110
BMC	6.24.020	Electric Vehicle Not Actively Charging in EV Parking Space	\$35	\$65	\$115
BMC	6.24.093	P&D Dispensing Mach Tkt Not Displayed	\$43	\$73	\$123
BMC	6.24.093	FD P&D Dispensing Mach Tkt Not Displayed	\$65	\$95	\$145
BMC	6.24.096	Improper Display of P&D Disp Mach Tkt	\$43	\$73	\$123
BMC	6.24.096	FD Improper Display of P&D Disp Mach Tkt	\$65	\$95	\$145
BMC	6.24.100 B	P&D Station Expired Time	\$43	\$73	\$123
BMC	6.24.100 B	FD P&D Station Expired Time	\$65	\$95	\$145
BMC	6.24.103 B	Time Limits Enforced at Inoperable P&D Sta	\$43	\$73	\$123
BMC	6.24.103 B	FD Time Limits Enforced at Inoperable P&D Sta	\$65	\$95	\$145
BMC	6.24.130	Off-St Facility: Motorcycle Zone Only	\$48	\$78	\$128
BMC	6.24.130	Off-St Facility: Pkg Outside Markings	\$48	\$78	\$128
BMC	6.24.130	FD Off-St Facility: Pkg Outside Markings	\$72	\$102	\$152
BMC	6.24.130	Off-St Facility: Disabled Zone	\$288	\$318	\$368
BMC	6.24.130	FD Off-St Facility: Disabled Zone	\$288	\$318	\$368
BMC	6.24.130	Off-St Facility: Restricted Load Zone	\$48	\$78	\$128
BMC	6.24.130	FD Off-St Facility: Restricted Load Zone	\$72	\$102	\$152
BMC	6.24.130	Off-St Facility: Unmarked Space	\$48	\$78	\$128
BMC	6.24.130	FD Off-St Facility: Unmarked Space	\$72	\$102	\$152
BMC	6.24.140	Off-St Facility: Backed-In	\$48	\$78	\$128
BMC	9.52.140	Unattended Taxi Over 5 Min	\$91	\$121	\$171
BMC	13.52.040	Unauth Pkg on Private Property	\$41	\$71	\$121
BMC	14.24.070	Unauth Vehicle on Private Prop	\$64	\$94	\$144
BMC	14.36.030 A	No Parking on Divisnl Islands	\$55	\$85	\$135
BMC	14.36.030 A	FD No Parking on Divisnl Islands	\$83	\$113	\$163
BMC	14.36.030 C	No Parking Zone (Sign Posted)	\$64	\$94	\$144
BMC	14.36.030 C	FD No Parking Zone (Sign Posted)	\$96	\$126	\$176
BMC	14.36.030 C	No Parking Zone (Red Curb)	\$64	\$94	\$144
BMC	14.36.030 C	FD No Parking Zone (Red Curb)	\$96	\$126	\$176

Code	Section	Violation Description (For citations issued to a vehicle) FD = Football Game Days 9 a.m. to 11 p.m. FD fines = 50% higher on most violations & 100% higher for violations in RPP Zones A, B, D	Fine Amount	On Day 28 +\$30	On Day 47 +\$50
BMC	14.36.030 D	No Parking Street Sweeping (sign)	\$49	\$79	\$129
BMC	14.36.030 E	No Parking on Railroad Tracks	\$64	\$94	\$144
BMC	14.36.030 F	Hazard Obstructing Traffic	\$64	\$94	\$144
BMC	14.36.030 F	FD Hazard Obstructing Traffic	\$96	\$126	\$176
BMC	14.36.030 G	Construct: No Permit on Dashboard	\$64	\$94	\$144
BMC	14.36.030 G	FD Construct: No Permit on Dashboard	\$96	\$126	\$176
BMC	14.36.050	On Street 72 or More Consec hrs	\$60	\$90	\$140
BMC	14.36.060	Repair Vehicle on Street	\$52	\$82	\$132
BMC	14.36.080	Vehicle Parked in School Zone	\$51	\$81	\$131
BMC	14.36.090	Pkg on Grade Brake/Block Wheels	\$55	\$85	\$135
BMC	14.36.110	Emerg Prkg w/o Permit (Tow CVC 22651)	\$52	\$82	\$132
BMC	14.40.010	3 min Limit Zone Overtime	\$43	\$73	\$123
BMC	14.40.010	FD 3 min Limit Zone Overtime	\$65	\$95	\$145
BMC	14.40.010	5 min Limit Zone Overtime	\$43	\$73	\$123
BMC	14.40.010	FD 5 min Limit Zone Overtime	\$65	\$95	\$145
BMC	14.40.010	10 min Limit Zone Overtime	\$43	\$73	\$123
BMC	14.40.010	FD 10 min Limit Zone Overtime	\$65	\$95	\$145
BMC	14.40.010	12 min Limit Zone Overtime	\$43	\$73	\$123
BMC	14.40.010	15 min Limit Zone Overtime	\$43	\$73	\$123
BMC	14.40.010	24 min Limit Zone Overtime	\$43	\$73	\$123
BMC	14.40.010	FD 24 min Limit Zone Overtime	\$65	\$95	\$145
BMC	14.40.020	30 min Limit Zone Overtime	\$43	\$73	\$123
BMC	14.40.020	FD 30 min Limit Zone Overtime	\$65	\$95	\$145
BMC	14.40.030	1 hr Limit Zone Overtime	\$43	\$73	\$123
BMC	14.40.030	FD 1 hr Limit Zone Overtime	\$65	\$95	\$145
BMC	14.40.030	Faulty Meter Over 1 hr Limit	\$43	\$73	\$123
BMC	14.40.040	2 hr Limit Zone Overtime	\$43	\$73	\$123
BMC	14.40.040	FD 2 hr Limit Zone Overtime	\$65	\$95	\$145
BMC	14.40.040	Faulty Meter Over 2 hr Limit	\$43	\$73	\$123
BMC	14.40.050 A	Parallel Pkg Veh Outside Markers	\$48	\$78	\$128
BMC	14.40.050 B	Veh Facing Wrong Way 1-way St	\$48	\$78	\$128
BMC	14.40.050 B	FD Veh Facing Wrong Way 1-way St	\$72	\$102	\$152
BMC	14.40.050 B	Pkg Over 18" from Curb 1-way St	\$51	\$81	\$131
BMC	14.40.050 B	FD Pkg Over 18" fr Curb 1-way St	\$77	\$107	\$157
BMC	14.40.060 A	Diagonal Pkg Veh Outside Markers	\$51	\$81	\$131
BMC	14.40.060 B	Diagonal Pkg FW Over 6" from Curb	\$51	\$81	\$131
BMC	14.40.070 A	No Stopping 4-6pm (Tow CVC 22651)	\$64	\$94	\$144
BMC	14.40.070 A	FD No Stopping 4-6pm (Tow CVC 22651)	\$96	\$126	\$176
BMC	14.40.070 A	No Stopping 7-9am (Tow CVC 22651)	\$64	\$94	\$144

Code	Section	Violation Description (For citations issued to a vehicle) FD = Football Game Days 9 a.m. to 11 p.m. FD fines = 50% higher on most violations & 100% higher for violations in RPP Zones A, B, D	Fine Amount	On Day 28 +\$30	On Day 47 +\$50
BMC	14.40.070 A	No Stopping 9pm-6am (Tow CVC 22651)	\$64	\$94	\$144
BMC	14.40.070 A	Posted No Stopping Tow Away	\$64	\$94	\$144
BMC	14.40.090	RPP Zone No RPP Permit Displayed	\$49	\$79	\$129
BMC	14.40.090	FD RPP Zone A,B,D No Permit Dsply	\$98	\$128	\$178
BMC	14.40.090	RPP Zone K No Permit Displayed	\$57	\$87	\$137
BMC	14.40.090	RPP Zone RPP Permit Expired	\$49	\$79	\$129
BMC	14.40.090	FD RPP Zone A,B,D Permit Expired	\$98	\$128	\$178
BMC	14.40.090	RPP Zone Permit Improper Display	\$49	\$79	\$129
BMC	14.40.090	FD RPP A,B,D Permit Impropr Dsply	\$98	\$128	\$178
BMC	14.40.090	No RPP Permit Displayed in Enhanced Fine Area (Football Game Days)	\$225	\$255	\$305
BMC	14.40.130	Pkg/Standing in City Lots/Spaces	\$55	\$85	\$135
BMC	14.40.130 A	City Lot No Permit Displayed	\$57	\$87	\$137
BMC	14.40.130 C	Reserved Pkg No Permit Displayed	\$49	\$79	\$129
BMC	14.40.130 E	Reserved City Hall Pkg Towable	\$64	\$94	\$144
BMC	14.40.150 A	Car Parking in Motorcycle Area	\$51	\$81	\$131
BMC	14.40.150 B	Motorcycle Zone Overtime	\$51	\$81	\$131
BMC	14.40.160	DbI-Pkd Commer Vehicle Center St	\$60	\$90	\$140
BMC	14.44.020 B	Commer Zone No Permit (yellow)	\$57	\$87	\$137
BMC	14.44.020 B	FD Commer Zone No Permit (yellow)	\$86	\$116	\$166
BMC	14.44.020 A	Commercial Zone Overtime	\$57	\$87	\$137
BMC	14.44.020 A	FD Commercial Zone Overtime	\$86	\$116	\$166
BMC	14.44.030	Passenger Load Zone (white curb)	\$57	\$87	\$137
BMC	14.44.030	FD Passgr Load Zone (white curb}	\$86	\$116	\$166
BMC	14.44.040	No Stopping Bicycle Zone	\$55	\$85	\$135
BMC	14.44.040	FD No Stopping Bicycle Zone	\$83	\$113	\$163
BMC	14.44.050	Special Passenger Load Zone only	\$57	\$87	\$137
BMC	14.44.060	Parking in Coach (bus) Zone	\$64	\$94	\$144
BMC	14.44.060	FD Parking in Coach (bus} Zone	\$96	\$126	\$176
BMC	14.44.070	Unauthorized Use of Funeral Zone	\$51	\$81	\$131
BMC	14.44.080	Taxicab Parking Only	\$51	\$81	\$131
BMC	14.44.080	Unauthorized Taxicab Stand Pkg	\$51	\$81	\$131
BMC	14.46.040 B	Non-Electric Vehicle Parked in EV Space	\$49	\$79	\$129
BMC	14.46.050 B	Electric Vehicle Exceeding EV Space Time Limit	\$43	\$73	\$123
BMC	14.46.050 C	Electric Vehicle Not Actively Charging in EV Space	\$43	\$73	\$123
BMC	14.52.050 A	Meter Street: Expired Meter	\$43	\$73	\$123
BMC	14.52.050 A	FD Meter Street: Expired Meter	\$65	\$95	\$145
BMC	14.52.050 B	Pay & Display Station Expired Time	\$43	\$73	\$123

Code	Section	Violation Description (For citations issued to a vehicle) FD = Football Game Days 9 a.m. to 11 p.m. FD fines = 50% higher on most violations & 100% higher for violations in RPP Zones A, B, D	Fine Amount	On Day 28 +\$30	On Day 47 +\$50
BMC	14.52.050 B	FD Pay & Display Sta Expired Time	\$65	\$95	\$145
BMC	14.52.060 A	Meter St: Extending Meter Time	\$43	\$73	\$123
BMC	14.52.060 A	FD Meter St: Extending Meter Time	\$65	\$95	\$145
BMC	14.52.060 B	Pay & Display Station Extend Time	\$43	\$73	\$123
BMC	14.52.060 B	FD Pay & Display Sta Extend Time	\$65	\$95	\$145
BMC	14.52.063	P&D Dispensing Mach Tkt Not Displayed	\$43	\$73	\$123
BMC	14.52.063	FD P&D Dispens Mach Tkt Not Displayed	\$65	\$95	\$145
BMC	14.52.066	Improper Display of P&D Disp Mach Tkt	\$43	\$73	\$123
BMC	14.52.066	FD Improper Display of P&D Disp Mach Tkt	\$65	\$95	\$145
CVC	4000	No Evidence Current Registration	\$50	\$80	\$130
CVC	4000	Expired Registration	\$50	\$80	\$130
CVC	4461 B	Improper Lending of DP Placard or Plate	\$550	\$580	\$630
CVC	4461 C	Improper Display of DP Placard or Plate	\$550	\$580	\$630
CVC	4461 D	Improper Use of DP Placard or Plate	\$550	\$580	\$630
CVC	4463 C	Use of Forged, Counterfeit, or False DP Placard or Plate	\$550	\$580	\$630
CVC	5200	Missing License Plates	\$25	\$55	\$105
CVC	5201	Lic Plates Improperly Positioned	\$25	\$55	\$105
CVC	5202	Hanging/Detached License Plate	\$25	\$55	\$105
CVC	5204 A	Expired Tags (read back)	\$25	\$55	\$105
CVC	5204 A	Missing Tags	\$25	\$55	\$105
CVC	21113 A	Parking on Public Grounds	\$54	\$84	\$134
CVC	21211 B	Vehicle Blocking Bicycle Lane	\$54	\$84	\$134
CVC	21718	Parking on Freeway	\$54	\$84	\$134
CVC	22500 A	Parking in an Intersection	\$60	\$90	\$140
CVC	22500 A	FD Parking in an Intersection	\$86	\$116	\$166
CVC	22500 B	Parking in Crosswalk	\$60	\$90	\$140
CVC	22500 B	FD Parking in Crosswalk	\$90	\$120	\$170
CVC	22500 C	Parking in Safety Zone	\$60	\$90	\$140
CVC	22500 C	FD Parking in Safety Zone	\$90	\$120	\$170
CVC	22500 D	Parking within 15' of Fire Station	\$60	\$90	\$140
CVC	22500 D	FD Parking within 15' of Fire Station	\$90	\$120	\$170
CVC	22500 E	Parking in Driveway	\$60	\$90	\$140
CVC	22500 E	FD Parking in Driveway	\$90	\$120	\$170
CVC	22500 F	Parking On/Across Sidewalk	\$60	\$90	\$140
CVC	22500 F	FD Parking On/Across Sidewalk	\$90	\$120	\$170
CVC	22500 G	Parking Construction No Permit	\$60	\$90	\$140
CVC	22500 G	FD Parking Construction No Permit	\$90	\$120	\$170
CVC	22500 H	Double-Parked	\$60	\$90	\$140

Code	Section	Violation Description (For citations issued to a vehicle) FD = Football Game Days 9 a.m. to 11 p.m. FD fines = 50% higher on most violations & 100% higher for violations in RPP Zones A, B, D	Fine Amount	On Day 28 +\$30	On Day 47 +\$50
CVC	22500 H	FD Double-Parked	\$90	\$120	\$170
CVC	22500 I	Parking/Stopping in Coach Zone	\$263	\$293	\$343
CVC	22500 I	FD Parking/Stopping in Coach Zone	\$263	\$293	\$343
CVC	22500 J	Parking in Tunnel	\$54	\$84	\$134
CVC	22500 K	Parking on Bridge	\$54	\$84	\$134
CVC	22500 L	Blocking Disabled Ramp	\$288	\$318	\$368
CVC	22502 A	Parking Over 18" from Curb 2-Way St	\$69	\$99	\$149
CVC	22502 A	FD Parking Over 18" from Curb 2-Way St	\$104	\$134	\$184
CVC	22503 E	Parking Over 10" from Curb 1-Way St	\$58	\$88	\$138
CVC	22507.8 A	Parking in Disabled Zone	\$317	\$347	\$397
CVC	22507.8 B	Obstructing Access Disabled Zone	\$317	\$347	\$397
CVC	22507.8 B	FD Obstructing Access Disabled Zone	\$317	\$347	\$397
CVC	22514 a	Parking within 15' of Fire Hydrant	\$78	\$108	\$158
CVC	22514 a	FD Parking within 15' of Fire Hydrant	\$117	\$147	\$197
CVC	22521	Parking within 7.5' of Railroad Tracks	\$54	\$84	\$134
CVC	22522	Parking within 3' of Wheelchair Ramp	\$317	\$347	\$397
CVC	22522	FD Parking within 3' of Wheelchair Ramp	\$317	\$347	\$397
CVC	22523 a	Abandon Vehicle on Highway	\$168	\$198	\$248
CVC	22523 b	Abandon Vehicle on Pub/Prvt Prop	\$168	\$198	\$248

Note: In addition to citation placed on vehicle, "Notice of Violation" is mailed to registered owner seven (7) days after citation and indicated when the fine penalty increases will occur: On Day 28 after citation issuance, the fine increases by \$30. If payment is not received within 45 days after issuance, on Day 47, the fine increases by an additional \$50.

Exhibit B: List New Parking Violations

Code	Section	Violation Description (For citations issued to a vehicle) FD = Football Game Days 9 a.m. to 11 p.m. FD fines = 50% higher on most violations & 100% higher for violations in RPP Zones A, B, D	Fine Amount	On Day 28 +\$30	On Day 47 +\$50
BMC	14.40.090	No RPP Permit Displayed in Enhanced Fine Area (Football Game Days)	\$225	\$255	\$305

**NOTICE OF PUBLIC HEARING
BERKELEY CITY COUNCIL**

FEES: RESIDENTIAL PREFERENTIAL PARKING PERMITS

Notice is hereby given by the City Council of the City of Berkeley that a public hearing will be conducted by said city council of the City of Berkeley at which time and place all persons may attend and be heard upon the following:

The Department of Public Works is proposing to increase the cost of annual Residential Preferential Parking (RPP) permits, effective June 1, 2019, for permits purchased for FY 2020, as summarized below:

Permit Type	Current Fee	Proposed Fee
Annual Residential & In-Home Care	\$66.00	\$90.00
1-Day Visitor	\$3.00	\$4.00
14-Day Visitor	\$34.00	\$47.00
Semi-Annual Residential & In-Home Care	\$33.00	\$45.00
Community-Serving Facility	\$83.00	\$114.00
Merchant	\$185.00	\$253.00
1-Day Senior Center	\$1.00	\$1.00
Replacement of Annual, 14-Day, Community-Serving Facility, & Merchant Permits	\$15.00	\$21.00
Surcharge Per Additional Annual Residential Permit Over Maximum, If Waiver Approved	\$100.00	\$100.00

The hearing will be held on Tuesday, May 14, 2019 at 6:00 p.m. in the School District Board Room, 1231 Addison Street.

For further information, please contact Farid Javandel, Transportation Division Manager, at (510) 981-7061.

A copy of the agenda material for this hearing will be available on the City's website at www.CityofBerkeley.info as of May 2, 2019.

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become**

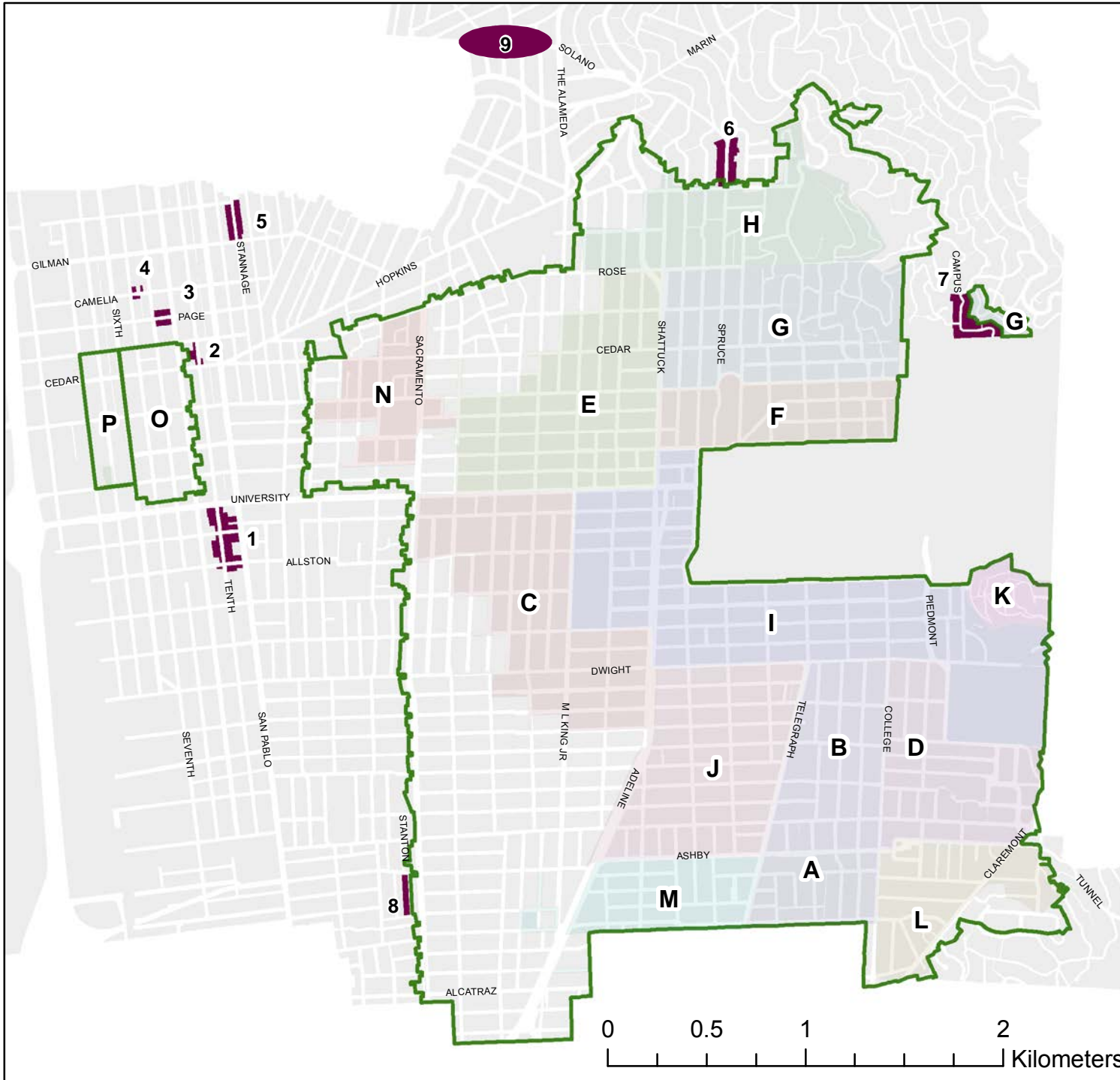
part of the public record. If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or clerk@cityofberkeley.info for further information.

If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Berkeley at, or prior to, the public hearing. Background information concerning this proposal will be available at the City Clerk Department and posted on the City of Berkeley webpage at least 12 days prior to the public hearing.

Published: May 3 and May 10, 2019 – The Berkeley Voice

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I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City’s website, on May 2, 2019.

\_\_\_\_\_  
Mark Numainville, City Clerk



# ATTACHMENT 6

## EXISTING ELIGIBILITY AND INELIGIBLE OPT-IN REQUESTS

- E Existing RPP Area Extents
- Current Eligibility Boundary
- Out of Area Opt-In Requests

### FY 2019 Requests

1. 10th between University and Allston with adjacent side streets
2. 10th between Jones and Cedar
3. Page between 8th and 9th
4. Camelia between 7th and 8th

### Requests Prior to FY 2019

5. Stannage between Gilman and Harrison
6. Spruce between Los Angeles to Eunice
7. Campus between Avenita and LBL Campus
8. Stanton between Ashby and Prince
9. Multiple requests from Solano neighborhood

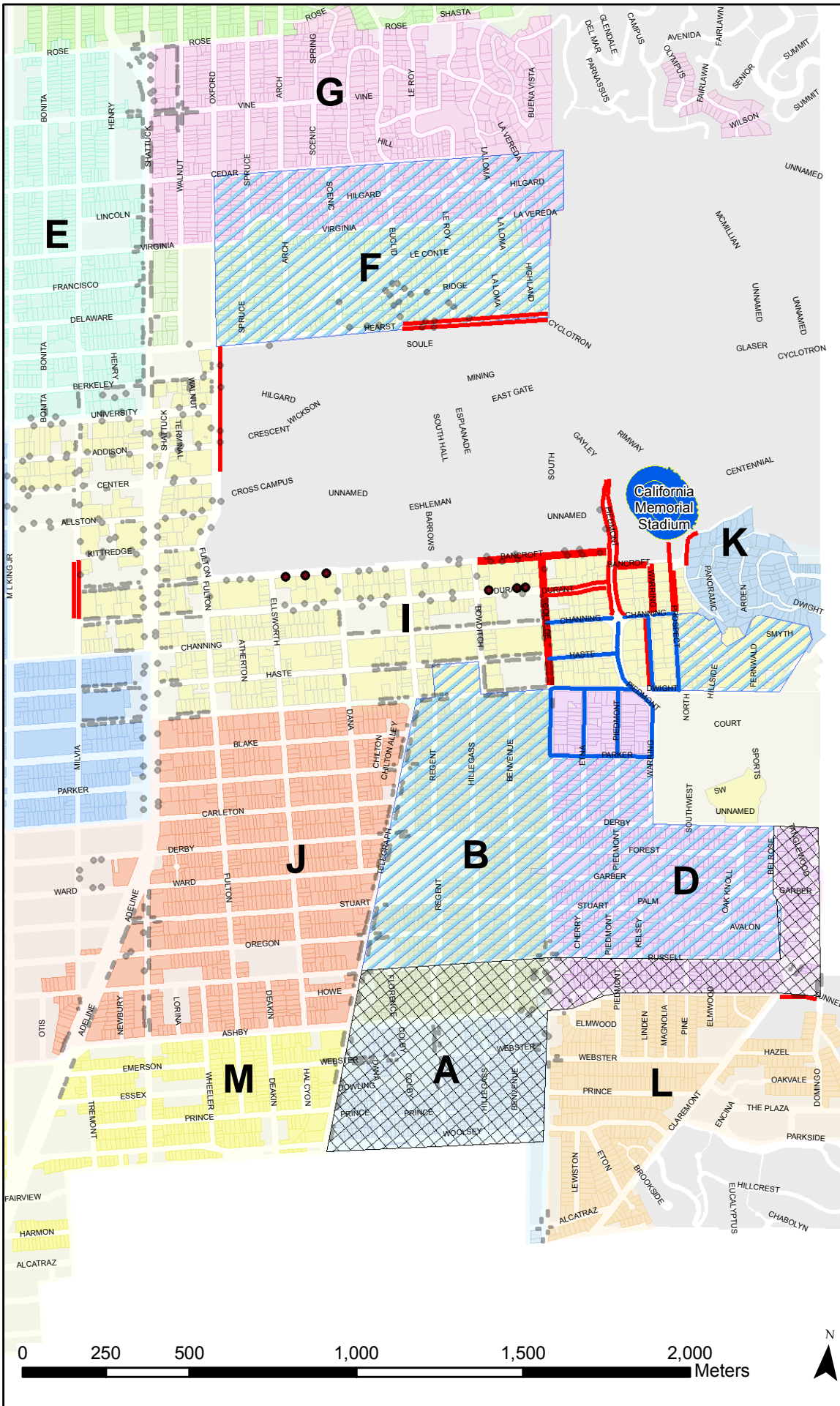
This map is for reference purposes only.

Care was taken in the creation of this map, but it is provided "AS IS". Please contact the City of Berkeley to verify map information or to report any errors.  
March 20, 2019



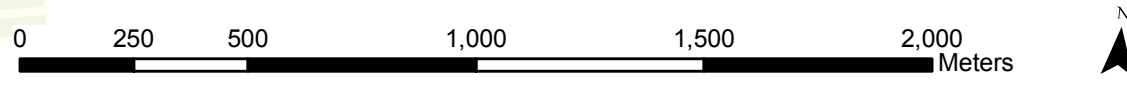
**CITY OF BERKELEY**  
 Transportation Division  
 1947 Center Street  
 Berkeley CA 94704

# ATTACHMENT 7: PROPOSED 2019 UC BERKELEY FOOTBALL GAME DAY PARKING RESTRICTIONS



- Existing Restrictions**
- Single Space Meters (9AM-6PM)
  - Pay And Display Meters (9AM-6PM)
  - Meters With Additional No Parking Restrictions
  - Double Fine Area (200%)
  - Existing Football Tow Zones
- Proposed Restrictions**
- Enhanced Fine Area for Non-Permit Holders (\$225)
  - Proposed New Tow Zone For Non-Permit Holders

This map is for reference purposes only. Care was taken in the creation of this map, but it is provided "AS IS". Please contact the City of Berkeley to verify map information or to report any errors. March 20, 2019







Office of the City Manager

PUBLIC HEARING  
September 10, 2019

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Kelly Wallace, Interim Director, Health, Housing & Community Services  
 Subject: Public Hearing and Approval of California Municipal Finance Authority Bond  
 Financing for Berkeley Way Affordable Housing

### RECOMMENDATION

- 1) Conduct the public hearing under the requirements of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) and the Internal Revenue Code of 1986, as amended; and
- 2) Adopt the resolution approving the issuance of the Bonds by the California Municipal Finance Authority (CMFA) for the benefit of BRIDGE Berkeley Way LP, a California limited partnership (the "Borrower"), to provide for the financing of the Project, such adoption is solely for the purposes of satisfying the requirements of TEFRA, the Internal Revenue Code and the California Government Code Section 6500 (and following).

### FISCAL IMPACTS OF RECOMMENDATION

The Bonds to be issued by the CMFA for the Project will be the sole responsibility of the Borrower, and the City will have no financial, legal, moral obligation, liability or responsibility for the Project or the repayment of the Bonds for the financing of the Project. All financing documents with respect to the issuance of the Bonds will contain clear disclaimers that the Bonds are not obligations of the City or the State of California but are to be paid for solely from funds provided by the Borrower.

The Board of Directors of the California Foundation for Stronger Communities, a California non-profit public benefit corporation (the "Foundation"), acts as the Board of Directors for the CMFA. Through its conduit issuance activities, the CMFA shares a portion of the issuance fees it receives with its member communities and donates a portion of these issuance fees to the Foundation for the support of local charities. With respect to the City of Berkeley, it is expected that that a portion of the issuance fee attributable to the City will be granted by the CMFA to the general fund of the City. Such grant may be used for any lawful purpose of the City.

### CURRENT SITUATION AND ITS EFFECTS

There are two TEFRA hearings and resolutions on the agenda tonight since the components of the Berkeley Way project are being financed separately. The resolution attached to this report will enable the Berkeley Way project to access \$42M in tax-exempt bond financing from the California Municipal Finance Authority (CMFA). The City will not be a borrower or a lender for this financing. Approval is needed no later than September 17, 2019 to meet the project's financing timeline.

BRIDGE Housing Corporation formed a limited partnership called BRIDGE Berkeley Way LP for the purpose of financing the 89 units of permanent affordable housing in the Berkeley Way project. This report refers to the partnership as "Borrower." The Borrower requested that the CMFA serve as the municipal issuer of the Bonds in an aggregate principal amount not to exceed \$42,000,000 of tax-exempt revenue bonds. The proceeds of the Bonds will be used for the purpose of financing the costs of the acquisition and construction of an 89 unit multifamily residential rental facility to be located at 2012 Berkeley Way in the City, currently identified as BRIDGE Berkeley Way Affordable Apartments, to be owned by the Borrower and to be operated initially by BRIDGE Property Management Company or another entity selected by the Borrower.

In order for all or a portion of the Bonds to qualify as tax-exempt bonds, the City of Berkeley must conduct a public hearing (the "TEFRA Hearing") providing for the members of the community an opportunity to speak in favor of or against the use of tax-exempt bonds for the financing of the Project. Prior to such TEFRA Hearing, reasonable notice must be provided to the members of the community. Following the close of the TEFRA Hearing, an "applicable elected representative" of the governmental unit hosting the Project must provide its approval of the issuance of the Bonds for the financing of the Project.

The Berkeley Way project, including the 89 units of affordable permanent housing addressed in this report, is a Strategic Plan Priority Project, advancing our goal to create affordable housing and housing support service for our most vulnerable community members.

### BACKGROUND

The City initiated the Berkeley Way project in 2013 after identifying the City-owned parking lot at 2012 Berkeley Way as a housing opportunity site. The BRIDGE Housing Corporation and the Berkeley Food and Housing Project with their architects Leddy Maytum Stacy (LMSA) were selected to develop the site via a competitive process in 2014. The project received its land use entitlements in December 2018. In addition to the City's committed predevelopment funding and reserved development funding, in 2019 the project has received funding awards from three California housing programs—Affordable Housing and Sustainable Communities (AHSC), No Place Like Home (NPLH), and Supportive Housing – Multifamily Housing Program (SHMHP)—in addition to project-based vouchers from the Berkeley Housing Authority.

The CMFA was created on January 1, 2004 pursuant to a joint exercise of powers agreement to promote economic, cultural and community development, through the financing of economic development and charitable activities throughout California. To date, over 300 municipalities have become members of CMFA.

The CMFA was formed to assist local governments, non-profit organizations and businesses with the issuance of taxable and tax-exempt bonds aimed at improving the standard of living in California. The CMFA's representatives and its Board of Directors have considerable experience in bond financings.

#### ENVIRONMENTAL SUSTAINABILITY

There are no environmental sustainability effects directly associated with the subject of this report.

#### RATIONALE FOR RECOMMENDATION

The proposed project is eligible for tax-exempt bonds and the Council's approval of CMFA's issuance will help move this priority project forward.

#### ALTERNATIVE ACTIONS CONSIDERED

Staff have not identified another action which is consistent with the Council's goal of bringing the Berkeley Way project to fruition.

#### CONTACT PERSON

Amy Davidson, Senior Community Development Project Coordinator, Health, Housing & Community Services, (510) 981-5406

#### Attachments:

- 1: Resolution
- 2: Public Hearing Notice

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

APPROVING THE ISSUANCE OF MULTIFAMILY HOUSING REVENUE BONDS BY THE CALIFORNIA MUNICIPAL FINANCE AUTHORITY FOR THE PURPOSE OF FINANCING AFFORDABLE MULTIFAMILY HOUSING IN THE BERKELEY WAY PROJECT

WHEREAS, pursuant Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the "Act"), certain public agencies (the "Members") have entered into a Joint Exercise of Powers Agreement, effective on January 1, 2004 (the "Agreement") in order to form the California Municipal Finance Authority (the "Authority"), for the purpose of promoting economic, cultural and community development, and in order to exercise any powers common to the Members, including the issuance of bonds, notes, or other evidences of indebtedness; and

WHEREAS, the City of Berkeley (the "City") is a member of the Authority; and

WHEREAS, the Authority is authorized to issue and sell revenue bonds for the purpose, among others, of financing or refinancing the acquisition and construction of multifamily rental housing projects; and

WHEREAS, BRIDGE Berkeley Way LP, a California limited partnership (the "Borrower") has requested that the Authority issue one or more series of revenue bonds in an aggregate principal amount not to exceed \$42,000,000 (the "Bonds"), and lend the proceeds of the Bonds to the Borrower for the purpose of financing the costs of the acquisition and construction of an 89 unit multifamily residential rental facility to be located at 2012 Berkeley Way in the City, currently identified as BRIDGE Berkeley Way Affordable Apartments (the "Project"), to be owned by the Borrower and to be operated initially by BRIDGE Property Management Company or another entity selected by the Borrower; and

WHEREAS, in order for the interest on Bonds to be tax-exempt, section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code") requires that an "applicable elected representative" of the governmental unit on behalf of which the Bonds are being issued and the governmental unit the geographic jurisdiction of which contains the site of Project to be financed approve the issuance of the Bonds following the conduct of a public hearing; and

WHEREAS, the Authority has determined that the City Council of the City (the "City Council") is an "applicable elected representative" for purposes of holding such hearing; and

WHEREAS, the Authority has requested that the City Council approve the issuance of the Bonds by the Authority in order to satisfy the public approval requirements of section 147(f) of the Code and the requirements of Section 4 of the Agreement; and

WHEREAS, notice of such public hearing has been duly given as required by the Code and the City Council has heretofore held such public hearing at which all interested persons were given an opportunity to be heard on all matters relative to the financing of the Project and the Authority's issuance of the Bonds therefore, and the City Council now desires to approve the issuance of the Bonds by the Authority.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley hereby approves the issuance of the Bonds by the Authority for the purpose of providing funds to make a loan to the Borrower to enable the Borrower to finance costs of the Project, and it is the purpose and intent of the City Council that this Resolution constitute approval of the issuance of the Bonds by the Authority for the purposes of: (a) section 147(f) of the Code, by the applicable elected representative of the governmental unit on behalf of which the Bonds are being issued and the governmental unit having jurisdiction over the area in which the Project is located, in accordance with said section 147(f), and (b) Section 4 of the Agreement; and

BE IT FURTHER RESOLVED that the issuance of the Bonds shall be subject to approval of the Authority of all financing documents relating thereto to which the Authority is a party, and the City shall have no responsibility or liability whatsoever with respect to repayment or administration of the Bonds; and

BE IT FURTHER RESOLVED that the adoption of this Resolution shall not obligate the City or any department thereof to (a) provide any financing to acquire or rehabilitate the Project; (b) approve any application or request for or take any other action in connection with any planning approval, permit or other action necessary for the acquisition, rehabilitation or operation of the Project; (c) make any contribution or advance any funds whatsoever to the Authority; or (d) take any further action with respect to the Authority or its membership therein; and

BE IT FURTHER RESOLVED that the City Manager, City Clerk and all other officers and officials of the City are hereby authorized and directed to do any and all things and to execute and deliver any and all agreements, documents and certificates which they deem necessary or advisable in order to carry out, give effect to and comply with the terms and intent of this Resolution and the financing transaction approved hereby; and

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to forward a certified copy of this Resolution to the bond counsel for the Bonds, addressed as follows:

Paul J. Thimmig, Esq.  
Quint & Thimmig LLP  
900 Larkspur Landing Circle, Suite 270  
Larkspur, CA 94939-1726

**NOTICE OF PUBLIC HEARING  
BERKELEY CITY COUNCIL**

**CALIFORNIA MUNICIPAL FINANCE AUTHORITY BOND FINANCING  
FOR BRIDGE BERKELEY WAY AFFORDABLE APARTMENTS**

The Department of Health, Housing & Community Services is proposing finance the acquisition and construction of an 89 unit multifamily rental housing facility to be located at 2012 Berkeley Way in the City of Berkeley, currently identified as BRIDGE Berkeley Way Affordable Apartments; and (2) pay certain expenses incurred in connection with the issuance of the Bonds.

NOTICE IS HEREBY GIVEN that on September 10, 2019, a public hearing as required by Section 147(f) of the Internal Revenue Code of 1986 will be held by the City Council of the City of Berkeley with respect to the proposed issuance by the California Municipal Finance Authority (the "Authority") of its revenue bonds in one or more series in an amount of approximately \$42,000,000 (the "Bonds"). The proceeds of the Bonds will be used to: (1) finance the acquisition and construction of an 89 unit multifamily rental housing facility to be located at 2012 Berkeley Way in the City of Berkeley, currently identified as BRIDGE Berkeley Way Affordable Apartments; and (2) pay certain expenses incurred in connection with the issuance of the Bonds. The facility to be financed is to be owned by BRIDGE Berkeley Way LP, a California limited partnership (the "Borrower"). All or a portion of the rental units in the facility will be rented to persons and families of low or very low income.

The Bonds and the obligation to pay principal of and interest thereon and any redemption premium with respect thereto will not constitute an indebtedness or an obligation of the Authority, the City of Berkeley, the State of California or any political subdivision thereof, within the meaning of any constitutional or statutory debt limitation, or a charge against the general credit or taxing powers of any of them, but will be payable solely from certain revenues duly pledged therefor and generally representing amounts paid by the Borrower.

The hearing will commence at 6:00 p.m. or as soon thereafter as the matter can be heard, and will be held in the City Council Chambers, located in the School District Board Room, 1231 Addison Street, Berkeley, California. Interested persons wishing to express their views on the issuance of the Bonds or on the nature and location of the facility proposed to be financed may attend the public hearing or, prior to the time of the hearing, submit written comments.

Additional information concerning the facility to be financed may be obtained from Andy Turner, Development Manager for BRIDGE Housing Corporation, phone number (415) 321-4076. For general questions regarding the proposal, please contact Amy Davidson, Senior Community Development Project Coordinator, Health, Housing & Community Services, (510) 981-5406.

A copy of the agenda material for this hearing will be available on the City’s website at [www.CityofBerkeley.info](http://www.CityofBerkeley.info) as of August 29, 2019.

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City’s electronic records, which are accessible through the City’s website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) for further information.

**Published:** Berkeley Voice, August 16, 2019  
(Published pursuant to Section 147(f) of the Internal Revenue Code of 1986)

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I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City’s website, on August 29, 2019.

Mark Numainville, City Clerk



Office of the City Manager

PUBLIC HEARING
September 10, 2019

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Kelly Wallace, Interim Director, Health, Housing & Community Services
 Subject: Public Hearing and Approval of California Municipal Finance Authority Bond
 Financing for Berkeley Way HOPE Center

RECOMMENDATION

- 1) Conduct the public hearing under the requirements of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) and the Internal Revenue Code of 1986, as amended.
- 2) Adopt the resolution approving the issuance of bonds by the California Municipal Finance Authority for the benefit of BFHP Hope Center LP, a California limited partnership (the "Borrower"), to provide for the financing of the Project, such adoption is solely for the purposes of satisfying the requirements of TEFRA, the Internal Revenue Code and the California Government Code Section 6500 (and following).

FISCAL IMPACTS OF RECOMMENDATION

The Bonds to be issued by the CMFA for the Project will be the sole responsibility of the Borrower, and the City will have no financial, legal, moral obligation, liability or responsibility for the Project or the repayment of the Bonds for the financing of the Project. All financing documents with respect to the issuance of the Bonds will contain clear disclaimers that the Bonds are not obligations of the City or the State of California but are to be paid for solely from funds provided by the Borrower.

The Board of Directors of the California Foundation for Stronger Communities, a California non-profit public benefit corporation (the "Foundation"), acts as the Board of Directors for the CMFA. Through its conduit issuance activities, the CMFA shares a portion of the issuance fees it receives with its member communities and donates a portion of these issuance fees to the Foundation for the support of local charities. With respect to the City of Berkeley, it is expected that that a portion of the issuance fee attributable to the City will be granted by the CMFA to the general fund of the City. Such grant may be used for any lawful purpose of the City.

CURRENT SITUATION AND ITS EFFECTS

There are two TEFRA hearings and resolutions on the agenda tonight since the components of the Berkeley Way project are being financed separately. The resolution attached to this report will enable the Berkeley Way project to access \$19M in tax-exempt bond financing from the California Municipal Finance Authority (CMFA). The City will not be a borrower or a lender for this financing. Approval is needed no later than September 17, 2019 to meet the project's financing timeline.

BRIDGE Housing Corporation and the Berkeley Food and Housing Project formed a limited partnership called BFHP Hope Center LP for the purpose of financing the permanent supportive housing component of the Berkeley Way project. This report refers to the partnership as "Borrower." The Borrower requested that the CMFA serve as the municipal issuer of tax exempt bonds for the project in an aggregate principal amount not to exceed \$19,000,000 of tax-exempt revenue bonds. The bonds discussed in this report are unrelated to the City's Measure O.

The proceeds of the Bonds will be used for the purpose of financing the costs of the acquisition and construction of a 53 unit multifamily residential rental facility to be located at 2012 Berkeley Way in the City, currently identified as BFHP Hope Center Permanent Supportive Housing, to be owned by the Borrower and to be managed initially by The John Stewart Company or another entity selected by the Borrower.

In order for all or a portion of the Bonds to qualify as tax-exempt bonds, the City of Berkeley must conduct a public hearing (the "TEFRA Hearing") providing for the members of the community an opportunity to speak in favor of or against the use of tax-exempt bonds for the financing of the Project. Prior to such TEFRA Hearing, reasonable notice must be provided to the members of the community. Following the close of the TEFRA Hearing, an "applicable elected representative" of the governmental unit hosting the Project must provide its approval of the issuance of the Bonds for the financing of the Project.

The Berkeley Way project, including the 53 units of permanent supportive housing addressed in this report, is a Strategic Plan Priority Project, advancing our goal to create affordable housing and housing support service for our most vulnerable community members.

BACKGROUND

The City initiated the Berkeley Way project in 2013 after identifying the City-owned parking lot at 2012 Berkeley Way as a housing opportunity site. The BRIDGE Housing Corporation and the Berkeley Food and Housing Project with their architects Leddy Maytum Stacy (LMSA) were selected to develop the site via a competitive process in 2014. The project received its land use entitlements in December 2018. In addition to the City's committed predevelopment funding and reserved development funding, in 2019 the project has received funding awards from three California housing programs—Affordable Housing and Sustainable Communities (AHSC), No Place Like Home

(NPLH), and Supportive Housing – Multifamily Housing Program (SHMHP)—in addition to project-based vouchers from the Berkeley Housing Authority.

The CMFA was created on January 1, 2004 pursuant to a joint exercise of powers agreement to promote economic, cultural and community development, through the financing of economic development and charitable activities throughout California. To date, over 300 municipalities have become members of CMFA.

The CMFA was formed to assist local governments, non-profit organizations and businesses with the issuance of taxable and tax-exempt bonds aimed at improving the standard of living in California. The CMFA's representatives and its Board of Directors have considerable experience in bond financings.

ENVIRONMENTAL SUSTAINABILITY

There are no environmental sustainability effects directly associated with the subject of this report.

RATIONALE FOR RECOMMENDATION

The proposed project is eligible for tax-exempt bonds and the Council's approval of CMFA's issuance will help move this priority project forward.

ALTERNATIVE ACTIONS CONSIDERED

Staff have not identified another action which is consistent with the Council's goal of bringing the Berkeley Way project to fruition.

CONTACT PERSON

Amy Davidson, Senior Community Development Project Coordinator, Health, Housing & Community Services, (510) 981-5406

Attachments:

- 1: Resolution
- 2: Public Hearing Notice

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

APPROVING THE ISSUANCE OF MULTIFAMILY HOUSING REVENUE BONDS BY
THE CALIFORNIA MUNICIPAL FINANCE AUTHORITY FOR THE PURPOSE OF
FINANCING PERMANENT SUPPORTIVE HOUSING IN THE BERKELEY WAY
PROJECT

WHEREAS, pursuant Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the "Act"), certain public agencies (the "Members") have entered into a Joint Exercise of Powers Agreement, effective on January 1, 2004 (the "Agreement") in order to form the California Municipal Finance Authority (the "Authority"), for the purpose of promoting economic, cultural and community development, and in order to exercise any powers common to the Members, including the issuance of bonds, notes, or other evidences of indebtedness; and

WHEREAS, the City of Berkeley (the "City") is a member of the Authority; and

WHEREAS, the Authority is authorized to issue and sell revenue bonds for the purpose, among others, of financing or refinancing the acquisition and construction of multifamily rental housing projects; and

WHEREAS, BFHP Hope Center LP, a California limited partnership (the "Borrower") has requested that the Authority issue one or more series of revenue bonds in an aggregate principal amount not to exceed \$19,000,000 (the "Bonds"), and lend the proceeds of the Bonds to the Borrower for the purpose of financing the costs of the acquisition and construction of a 53 unit multifamily residential rental facility to be located at 2012 Berkeley Way in the City, currently identified as BFHP Hope Center Permanent Supportive Housing (the "Project"), to be owned by the Borrower and to be operated initially by The John Stewart Company or another entity selected by the Borrower; and

WHEREAS, in order for the interest on Bonds to be tax-exempt, section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code") requires that an "applicable elected representative" of the governmental unit on behalf of which the Bonds are being issued and the governmental unit the geographic jurisdiction of which contains the site of Project to be financed approve the issuance of the Bonds following the conduct of a public hearing; and

WHEREAS, the Authority has determined that the City Council of the City (the "City Council") is an "applicable elected representative" for purposes of holding such hearing; and

WHEREAS, the Authority has requested that the City Council approve the issuance of the Bonds by the Authority in order to satisfy the public approval requirements of section 147(f) of the Code and the requirements of Section 4 of the Agreement; and

WHEREAS, notice of such public hearing has been duly given as required by the Code and the City Council has heretofore held such public hearing at which all interested persons were given an opportunity to be heard on all matters relative to the financing of the Project and the Authority's issuance of the Bonds therefore, and the City Council now desires to approve the issuance of the Bonds by the Authority.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley hereby approves the issuance of the Bonds by the Authority for the purpose of providing funds to make a loan to the Borrower to enable the Borrower to finance costs of the Project, and it is the purpose and intent of the City Council that this Resolution constitute approval of the issuance of the Bonds by the Authority for the purposes of: (a) section 147(f) of the Code, by the applicable elected representative of the governmental unit on behalf of which the Bonds are being issued and the governmental unit having jurisdiction over the area in which the Project is located, in accordance with said section 147(f), and (b) Section 4 of the Agreement; and

BE IT FURTHER RESOLVED that the issuance of the Bonds shall be subject to approval of the Authority of all financing documents relating thereto to which the Authority is a party, and the City shall have no responsibility or liability whatsoever with respect to repayment or administration of the Bonds; and

BE IT FURTHER RESOLVED that the adoption of this Resolution shall not obligate the City or any department thereof to (a) provide any financing to acquire or rehabilitate the Project; (b) approve any application or request for or take any other action in connection with any planning approval, permit or other action necessary for the acquisition, rehabilitation or operation of the Project; (c) make any contribution or advance any funds whatsoever to the Authority; or (d) take any further action with respect to the Authority or its membership therein; and

BE IT FURTHER RESOLVED that the City Manager, City Clerk and all other officers and officials of the City are hereby authorized and directed to do any and all things and to execute and deliver any and all agreements, documents and certificates which they deem necessary or advisable in order to carry out, give effect to and comply with the terms and intent of this Resolution and the financing transaction approved hereby; and

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to forward a certified copy of this Resolution to the bond counsel for the Bonds, addressed as follows:

Paul J. Thimmig, Esq.
Quint & Thimmig LLP
900 Larkspur Landing Circle, Suite 270
Larkspur, CA 94939-1726

**NOTICE OF PUBLIC HEARING
BERKELEY CITY COUNCIL**

**CALIFORNIA MUNICIPAL FINANCE AUTHORITY BOND FINANCING
FOR BERKELEY WAY HOPE CENTER**

The Department of Health, Housing & Community Services is proposing to finance the acquisition and construction of a 53 unit multifamily rental housing facility to be located at 2012 Berkeley Way in the City of Berkeley, currently identified as BFHP Hope Center Permanent Supportive Housing; and pay certain expenses incurred in connection with the issuance of the Bonds.

NOTICE IS HEREBY GIVEN that on September 10, 2019, a public hearing as required by Section 147(f) of the Internal Revenue Code of 1986 will be held by the City Council of the City of Berkeley with respect to the proposed issuance by the California Municipal Finance Authority (the "Authority") of its revenue bonds in one or more series in an amount of approximately \$19,000,000 (the "Bonds"). The proceeds of the Bonds will be used to: (1) finance the acquisition and construction of a 53 unit multifamily rental housing facility to be located at 2012 Berkeley Way in the City of Berkeley, currently identified as BFHP Hope Center Permanent Supportive Housing; and (2) pay certain expenses incurred in connection with the issuance of the Bonds. The facility to be financed is to be owned by BFHP Hope Center LP, a California limited partnership (the "Borrower"). All or a portion of the rental units in the facility will be rented to persons and families of low or very low income.

The Bonds and the obligation to pay principal of and interest thereon and any redemption premium with respect thereto will not constitute an indebtedness or an obligation of the Authority, the City of Berkeley, the State of California or any political subdivision thereof, within the meaning of any constitutional or statutory debt limitation, or a charge against the general credit or taxing powers of any of them, but will be payable solely from certain revenues duly pledged therefor and generally representing amounts paid by the Borrower.

The hearing will commence at 6:00 p.m. or as soon thereafter as the matter can be heard, and will be held in the City Council Chambers, located in the School District Board Room, 1231 Addison Street, Berkeley, California. Interested persons wishing to express their views on the issuance of the Bonds or on the nature and location of the facility proposed to be financed may attend the public hearing or, prior to the time of the hearing, submit written comments.

Additional information concerning the facility to be financed may be obtained from Andy Turner, Development Manager for BRIDGE Housing Corporation, phone number (415) 321-4076. For general questions regarding the proposal, please contact Amy Davidson, Senior Community Development Project Coordinator, Health, Housing & Community Services, (510) 981-5406

A copy of the agenda material for this hearing will be available on the City's website at www.CityofBerkeley.info as of August 29, 2019.

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or clerk@cityofberkeley.info for further information.

Published: Berkeley Voice, August 16, 2019
(Published pursuant to Section 147(f) of the Internal Revenue Code of 1986)

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I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on August 29, 2019.

\_\_\_\_\_  
Mark Numainville, City Clerk







Office of the City Manager

PUBLIC HEARING  
September 10, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Phillip Harrington, Director, Public Works

Subject: Implement Residential Preferential Parking (RPP) Program on Sections of McGee Street and Rose Street

### RECOMMENDATION

Conduct a public hearing and upon its conclusion, adopt a Resolution amending Resolution No. 56,508-N.S. Sections 25E and 25N by adding subsections to implement Residential Preferential Parking (RPP) on portions of two city streets.

### FISCAL IMPACTS OF RECOMMENDATION

Funding of \$1,688.80 for RPP street signage installation is available in the FY 2020 budget in the General Fund, 011-54-622-664-0000-000-431-513110 and 011-54-622-664-0000-000-431-642990.

### CURRENT SITUATION AND ITS EFFECTS

Within the past few months, residents in two RPP eligible areas submitted petitions to join the RPP Program. The two areas that would join the Program are shown in Attachment 3 and include:

1. In Area E: Both sides of the 1800 block of McGee Street between Delaware Street and Hearst Avenue; and
2. In Area N: The south side of the 1494 block of Rose Street between Keoncrest Drive and Sacramento Street.

In accordance with Berkeley Municipal Code Section 14.72.050(A)(1), staff verified that residents submitted signatures on qualifying petitions representing a numerical majority of dwellings wishing to “opt-in” to the RPP for the street sections listed in the attached Resolution. Staff verified that at least 75% of the curb spaces were occupied during mid-morning and mid-afternoon observation periods at all locations.

The addition of one block in RPP Area E, and one side of one block in Area N should have a minimal impact on enforcement capabilities. Each new addition to the RPP Program, however, tends to result in slightly diminished enforcement for all other

existing permit areas, due to parking enforcement officers having slightly larger areas to patrol.

This recommendation supports the City's Strategic Plan Priority of providing excellent, timely, easily-accessible service and information to the Community.

### BACKGROUND

The RPP Program was instituted in 1980 (1) to protect Berkeley residential neighborhoods from an influx of non-resident vehicles and related traffic; (2) to assure continued quality of life for residents; and (3) to provide neighborhood parking for residents. The Program limits parking for vehicles not displaying an RPP permit in most RPP areas to two hours, and reserves available daytime parking for residents, between 9:00 a.m. and 7:00 p.m. Monday through Friday, and on some blocks Saturday.

The RPP Program currently allows residents to petition the City to "opt-in" or "opt-out" of the Program. The process to install RPP controls requires submittal of a petition signed by residents (including tenants of rental properties) of at least 51% of dwellings sited along the affected block, and a parking survey of those blocks that shows at least 75% of available on-street parking spaces are occupied during the mid-morning and midafternoon time periods. In addition, residents of a block petitioning to opt-in should be included in existing residential Study Area boundaries covered by the EIR.

### ENVIRONMENTAL SUSTAINABILITY

Expansion of the RPP Program to include additional blocks may have a minor beneficial environmental effect. It may reduce greenhouse gases generated by commuters searching for parking who "cold start" their vehicles (i.e., moving a car without warming up the engine), or by drivers moving their cars to new locations after the two-hour parking limit expires. Incremental expansion of the RPP Program may, however, make alternative transportation options more attractive. A modal shift by commuters to walking, bicycling, public transportation, or carpooling may also lead to a decrease in greenhouse gasses.

### RATIONALE FOR RECOMMENDATION

Because the required number of households on the subject blocks have signed a petition, and as parking surveys show more than 75% occupancy of curbside parking, these blocks meet the requirements set forth by the BMC for inclusion into the RPP Program.

### ALTERNATIVE ACTIONS CONSIDERED

Council may allow unrestricted parking to remain on these streets. Yet, Council has acted previously to approve the "opting in" of blocks where the requisite number of households signed a petition requesting RPP control, and where the parking utilization exceeds 75%.

CONTACT PERSON

Farid Javandel, Transportation Manager, Public Works (510) 981-7010

Matthew Cotterill, Traffic Engineering Assistant, Public Works (510) 981-6433

Attachments:

1. Resolution
2. Public Hearing Notice
3. Map of Street Sections Opting Into Program

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

IMPLEMENT RESIDENTIAL PREFERENTIAL PARKING (RPP) PROGRAM ON TWO STREETS; SECTIONS OF MCGEE STREET AND ROSE STREET

WHEREAS, Berkeley Municipal Code Section 14.72.050.A.1, Designation of a Residential Preferential Parking (RPP)Area, allows residents to petition the City to "opt-in" or "opt-out" of the program and requires submittal of a petition containing signatures of residents of at least 51% of dwellings on the affected block; and

WHEREAS, residents of at least 51% of the dwellings on the following blocks have petitioned to "opt-in" to Residential Preferential Parking:

1. Both sides of the 1800 block of McGee Street between Delaware Street and Hearst Avenue; and
2. The south side of the 1494 block of Rose Street between Keoncrest Drive and Sacramento Street.

WHEREAS, staff has conducted field observations and determined at least 75% of available on-street parking spaces are occupied during the mid-morning and mid-afternoon time periods; and

WHEREAS, the designation of these blocks as a residential permit parking area will not be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing in the area designated; and

WHEREAS, the \$1,688.80 implementation cost is available in FY 2020 General Fund 010 for Transportation Traffic Maintenance.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the following subsections of Section 25 of Resolution No. 56,508-N.S. are hereby added to read as follows:

Section 25E MCGEE STREET, both sides between Delaware Street and Hearst Avenue

Section 25N ROSE STREET, south side between Keoncrest Drive and Sacramento Street

**NOTICE OF PUBLIC HEARING - BERKELEY CITY COUNCIL  
SCHOOL DISTRICT BOARD ROOM, 1231 ADDISON STREET,  
BERKELEY CA 94702**

**EXTEND RESIDENTIAL PREFERENTIAL PARKING PROGRAM  
TUESDAY, SEPTEMBER 10, 2019 AT 6:00 P.M.**

The Public Works Department is proposing to conduct a public hearing and, if recommendations are approved, adopt a Resolution amending Sections 25E and 25N of Resolution No. 56,508-N.S. by adding subsections to extend residential preferential parking on both sides of the 1800 block of McGee Street between Delaware Street and Hearst Avenue; and the south side of the 1494 block of Rose Street between Keoncrest Drive and Sacramento Street.

The Residential Preferential Parking (RPP) Program allows for residents to petition the City to "opt-in" or "opt-out" of the Program. Complying with program requirements, residents of the blocks under consideration for opting into the RPP Program have submitted the qualifying signatures on petitions and also have at least 75% of the curb spaces occupied during the morning and mid-afternoon observation periods. Adding blocks within the existing residential study area boundaries through evaluations by an EIR study certified on September 27, 1988, and in accordance with California Environment Quality Act (CEQA) guidelines, are categorically exempt as defined by Section 15.162(c).

A copy of the agenda material for this hearing will be available on the City's website at [www.CityofBerkeley.info](http://www.CityofBerkeley.info) as of **August 29, 2019**.

For further information, please contact **Matthew Cotterill, Assistant Planner** at (510) 981-6433.

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) for further information.

*If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Berkeley at, or prior to, the public hearing. Background information concerning this proposal will be available at the City Clerk Department and posted on the City of Berkeley webpage at least 10 days prior to the public hearing.*

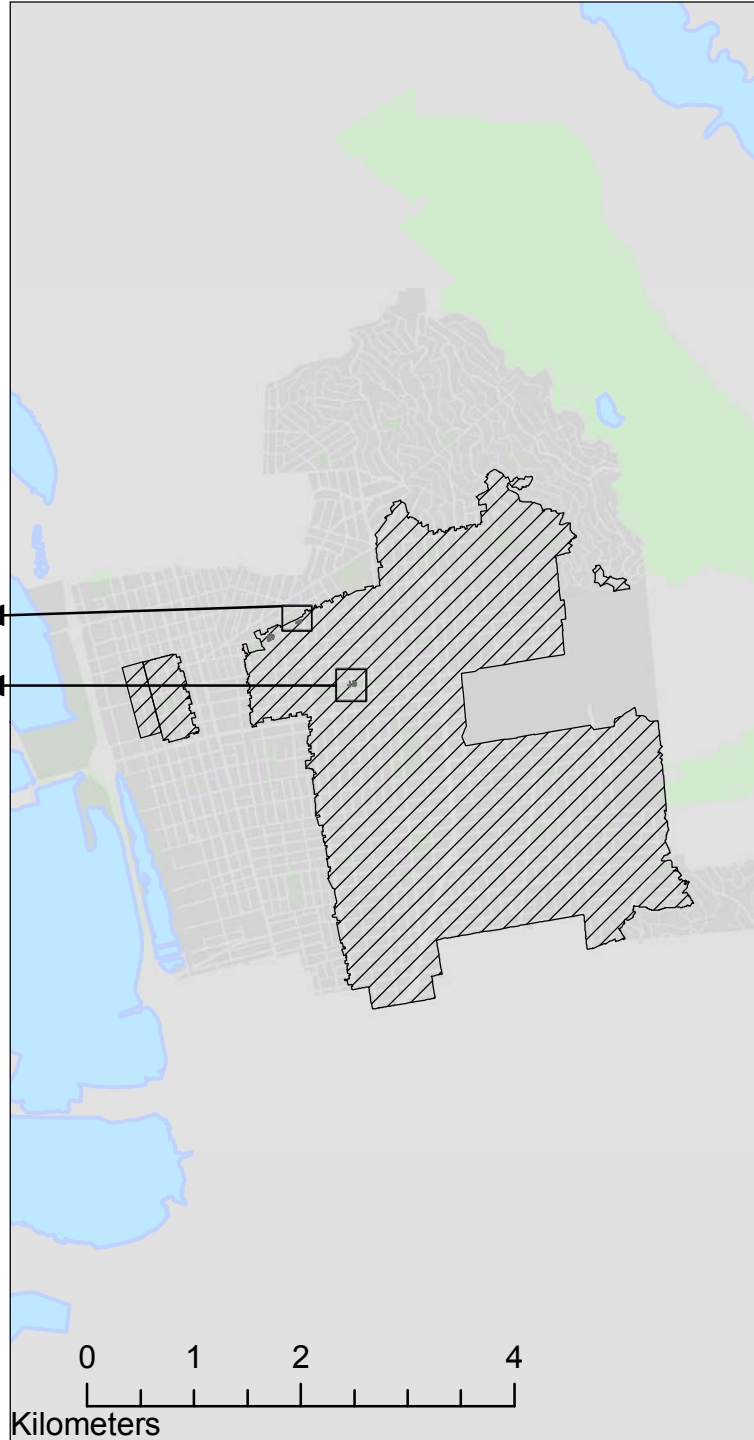
**Posted:** August 29, 2019

Posting is in accordance with Berkeley Municipal Code Chapter 14.72

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I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on August 29, 2019.

Mark Numainville, City Clerk



ATTACHMENT 3

- Parcels Opting In
- ▨ RPP Area Boundary

This map is for reference purposes only.
Care was taken in the creation of this map, but it is provided "AS IS". Please contact the City of Berkeley to verify map information or to report any errors.
March 27, 2019





Office of the City Manager

ACTION CALENDAR
September 10, 2019
(Continued from July 23, 2019)

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Phillip Harrington, Director, Public Works
 Subject: Residential Preferential Parking (RPP) Program: Summer 2019 Update

RECOMMENDATION

Direct staff to conduct analysis of Fiscal Year (FY) 2020 Residential Preferential Parking (RPP) Program costs and revenues and return to Council early 2020 with updated fee increase proposal(s) to be effective April 1, 2020 for the FY 2021 permit year, for Program enhancement and expansion.

FISCAL IMPACTS OF RECOMMENDATION

Staff time associated with the ongoing analysis is included in the FY 2020 & FY 2021 Biennial Budget as it is part of the baseline RPP Program.

CURRENT SITUATION AND ITS EFFECTS

This report summarizes changes to the RPP Program since the May 14, 2019 Council Meeting, at which staff presented a package of “mid-term” reforms to the RPP Program.¹ A summary of Council action at this meeting is provided in the Background section below, and the full report is included as Attachment 2.

RPP Program Operations

In July 2019, the City began processing annual RPP permit renewals, visitor permit sales, and new permit applications for FY 2020 using the new Passport parking and citation management system.² This system allows RPP customers to use their license plates as permits, removing the need for bumper permits, and streamlines new RPP permit applications by allowing customers to check their eligibility and submit required documentation online. Fees for FY 2020 permits remained unchanged from FY 2019.

To answer a question from Councilmember Kesarwani, staff also prepared an analysis evaluating the potential of a graduated pricing model for annual RPP permits, whereby

¹ May 14, 2019 *City Council Agenda: Residential Preferential Parking (RPP) Program Reform and Expansion Phase II: Recommendations for Increased Staffing, Enhanced Football Game Day Enforcement, and Expansion* <http://bit.ly/2ZW6Ee5>

² October 16, 2018 *City Council Agenda: Contract: Passport Labs Incorporated for a Parking Management System* <http://bit.ly/2LtRN6N>

the costs for each additional permit up to the limit of three (3) would increase incrementally. The analysis showed that this pricing model could generate revenue on par with the original staff recommendation. Graduated pricing would be more equitable since those who own more cars and have more impact on neighborhood parking would pay a greater share of the Program cost. Implementing such a pricing model is now possible using the Passport system. A summary of this proposal is provided as Attachment 2.

Unfortunately, expanding the RPP Program beyond its current boundaries is not financially possible at this time. As discussed at the May 14, 2019 meeting, additional staff are required to enforce any new areas. Permit fees are an important revenue source supporting the RPP Program, as residents and other permit holders directly benefit from the parking availability resulting from time limit enforcement. With permit renewals currently underway, the window of opportunity to affect FY 2020 permit fees has closed.

BACKGROUND

The RPP Program began in 1980 (1) to protect Berkeley residential neighborhoods from an influx of non-resident vehicles and related traffic; (2) to assure continued quality of life for residents; and (3) to provide neighborhood parking for residents. The Program limits parking for vehicles not displaying an RPP permit in most RPP areas to two hours, and reserves available daytime parking for residents, between 8:00 a.m. and 7:00 p.m. Monday through Friday, and in some areas Saturday.

In March 2014,³ Council directed staff to evaluate expanding the RPP Program beyond its then-current geographic boundaries. At a September 2017 Council Worksession, staff proposed incremental changes to be implemented over a three-year period.⁴ In February 2018, staff returned to Council with a first set of “short-term” policy reforms, including increased permit fees for Program cost neutrality, a limit of three (3) annual permits per address, and an expansion of RPP eligibility to two new zones in West Berkeley.⁵

At the May 14, 2019 Council Meeting, staff presented a package of “mid-term” reforms to the RPP Program. These recommendations included increasing permit fees to pay for new staff and equipment that would enhance enforcement in existing Program areas, particularly on UC Berkeley home football game days, and allowing expansion to new areas. Council took the following action:

³ March 11, 2014 *City Council Agenda: Expansion of Permit Parking to Impacted Areas*: <http://bit.ly/2vTgnqD>

⁴ September 19, 2017 *City Council Agenda: Residential Preferential Parking (RPP) Program Recommendations*: <https://bit.ly/2iWaPDa>

⁵ February 27, 2018 *City Council Agenda: Residential Preferential Parking (RPP) Program Reform and Expansion*: <https://bit.ly/2Yq6tYB>.

- Amended the Berkeley Municipal Code via ordinance to allow residents in areas zoned Mixed Use-Light Industrial and who meet all other requirements applicable to Mixed Use-Residential zoned areas to submit an opt-in petition to the RPP Program, which would be enforced upon hiring new enforcement staff;
- Established via resolution “Enhanced Fine Areas” in portions of RPP zones B, D, F, G, and I to prohibit parking without a valid RPP permit on UC Berkeley home football game days; and
- Established via resolution a new Parking Fine Schedule including parking fines of \$225 for not displaying a valid RPP permit in new Enhanced Fine Areas.

Council did not approve a new fee schedule for RPP permits, which would have increased all permit fees by an average of 37% to generate additional revenue for six (6) new Parking Enforcement Officers, one (1) new supervisor, and associated equipment. These staff positions would allow for enhanced enforcement in existing RPP Program areas, particularly during staff shortages on Cal football game days, and enforcing restrictions in new areas not currently within RPP Program boundaries.

Improving the effectiveness of the RPP Program is a Strategic Plan Priority Project, advancing the City’s goals to:

- Provide an efficient and financially-healthy City government; and
- Be a customer-focused organization that provides excellent, timely, easily-accessible service and information to the community.

ENVIRONMENTAL SUSTAINABILITY

This item has no discernible environmental effects.

RATIONALE FOR RECOMMENDATION

For continued RPP Program cost neutrality, staff seek to present cost and revenue analyses that reflect the most recent available data. Both the original RPP permit fee increase proposal and the alternative model are based on FY 2019 revenues. RPP revenues fluctuate from year to year, and as the City transitions to the new Passport parking management system, any permit fee increase proposals will require an assessment of FY 2020 costs and revenues to maximize accuracy and applicability.

ALTERNATIVE ACTIONS CONSIDERED

Council could schedule a public hearing to approve fee increase proposals based on FY 2019 data, but any authorized changes at this time would have no meaningful fiscal effect until the FY 2021 permit renewal period in spring 2020.

CONTACT PERSON

Farid Javandel, Transportation Manager, Public Works (510) 981-7061
Danette Perry, Parking Services Manager, Public Works (510) 981-7057
Gordon Hansen, Senior Planner, Public Works (510) 981-7064

Attachments:

- 1: Alternative Graduated RPP Fee Increase Model (Based on FY 2019 Revenues)
- 2: May 14, 2019 Council Report: "Residential Preferential Parking Program Reform and Expansion Phase II: Recommendations for Increased Staffing, Enhanced Football Game Day Enforcement and Expansion"

Proposed Alternate FY 2020 Fee Structure

The fee structure below was developed in response to an inquiry from Councilmember Kesarwani. The analysis is based in part on FY 2019 permit revenues.

Permit Type	Current Fee	Proposed Fee	Change from Current
Annual Residential & In-Home Care	\$66	\$66 first permit \$96 second permit \$126 third permit	0% first permit 45% second permit 91% third permit
Semi-Annual Residential & In-Home Care	\$33	\$33 first permit \$48 second permit \$63 third permit	“ “
1-Day Visitor	\$3	\$3	N/A
14-Day Visitor	\$34	\$34	N/A
1-Day Senior Center	\$1	\$1	N/A
Community-Serving Facility	\$83	\$108	30%
Merchant	\$185	\$241	30%
Surcharge per Additional Annual Residential Permit Over Maximum of 3 per Address, if Waiver Approved	\$100	\$100, applied to 3 rd permit fee (\$126)	N/A

Revenue Estimates

In the May 14, 2019 Council Report, the proposed permit fees resulted in a cost-neutral program. According to staff estimates, the alternate fee structure would result in the same.

RPP Fee Proposal	Description	Estimated Revenue Generated
Original 5/14/19	Raise all RPP permit fees by an average of 37%	\$1,305,240
Alternate 6/2019	Adopt graduated pricing for annual permits & 30% increase for other annual permit types	\$1,304,649
Difference from original		(\$591)

Relevant Statistics

Of nearly 9,500 accounts issued annual residential permits in FY 2019...

- 66% had one (1) permit
- 25% had two (2) permits
- 8% had three (3) permits
- Just over 1% had four (4) or more permits



Office of the City Manager

PUBLIC HEARING
May 14, 2019

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Phillip Harrington, Director, Public Works
 Subject: Residential Preferential Parking Program Reform and Expansion Phase II: Recommendations for Increased Staffing, Enhanced Football Game Day Enforcement, and Expansion

RECOMMENDATION

Conduct a public hearing and upon conclusion:

1. Adopt first reading of an Ordinance amending Berkeley Municipal Code Chapter 14.72 to allow Residential Preferential Parking (RPP) in areas zoned Mixed Use-Light Industrial;
2. Adopt a Resolution to expand and enhance the RPP Program, raising permit fees for cost neutrality while increasing parking enforcement staff and equipment to augment RPP enforcement, improving UC Berkeley home football game parking enforcement, allowing more residents to opt-in, and rescinding Resolution 68,344-N.S.;
3. Adopt a Resolution modifying parking restrictions in specified RPP Zones on UC Berkeley home football game days as follows: establish “Enhanced Fine Areas” to prohibit parking without a valid RPP permit in portions of RPP Zones B, D, F, G, and I; and install new RPP signs in zones B, D, F, G, and I to clearly indicate UC Berkeley home football game day parking prohibitions; and
4. Adopt a Resolution establishing a new Parking Fine Schedule, including parking fines of \$225 per violation of BMC 14.40.090 in new Enhanced Fine Areas on posted UC football game days, and rescinding Resolution No. 68,466-N.S.

SUMMARY

The recommended actions constitute a package of “mid-term” changes to the RPP Program, developed in response to previous Council direction. These changes include: 1) hiring (7) seven more parking enforcement personnel to augment enforcement in existing and new RPP Zones, particularly on UC Berkeley home football game days; 2) instituting new parking restrictions and increased fines on football game days; 3) allowing blocks currently ineligible for RPP to opt-in to the Program; and 4) increasing permit fees to make the Program cost-neutral.

FISCAL IMPACTS OF RECOMMENDATION

The recommendation would provide staffing to increase enforcement of RPP Program parking restrictions, including during UC Berkeley football games, and allow many currently ineligible residents to opt-in to the Program. The capital and operational cost and revenue elements associated with these changes are summarized below. These are new obligations, in addition to existing costs to operate the program.

Football Game Day Enforcement Cost

Implementing the recommendation for the 2019 football season will incur a one-time capital cost of \$80,000, including:

- Approximately 500 new Residential Preferential Parking (RPP) signs specifying new parking restrictions, at a unit cost of \$100 per sign, and 250 person hours to install the new signs for a one-time labor cost of \$25,000; and
- Approximately 500 decals to identify football game dates (replaced annually) at cost of \$5,000. Initial decal installation included with sign installation cost. Annual decal replacement requires 100 person hours at a cost of \$10,000.

Staff calculates the ongoing cost to be \$15,000 annually. Initial and annual costs are summarized in the table below:

		Initial Cost	Ongoing Annual Cost
Signs	Materials	\$50,000	N/A
	Labor	\$25,000	N/A
Decals	Materials	\$5,000	\$5,000
	Labor	Included in sign installation.	\$10,000
Total		\$80,000	\$15,000

Currently, the UC Berkeley Athletics Department reimburses the City for signs produced and installed to manage football game day traffic. The current signs are over 20 years old; in 2017, UC paid approximately \$18,600 for sign and decal maintenance costs. Staff recommend that City leadership coordinate with UC Berkeley to fund the recommended one-time signage/decal upgrades, plus ongoing annual costs.¹

RPP Program Enforcement Enhancement and Expansion Cost

The fiscal impact of all of these recommendations will be realized in the General Fund (011). All permit fees and citation revenues, including revenue from new enforcement staff, will be deposited in the General Fund. In turn, all new staff and equipment costs will come out of the General Fund. Costs include:

- Six (6) Parking Enforcement Officers (\$124,818 per FTE; total \$748,908/year), and one (1) Parking Enforcement Supervisor at \$138,065/year;

¹ If UC Berkeley is unable to pay this cost, then the funding would come from the General Fund.

- Six (6) parking enforcement vehicles (\$210,000 total), each equipped with standard automated license plate recognition (ALPR) systems at \$78,363 each (\$470,178), annualized over a five-year period;² and
- New RPP sign installation, including labor and materials, at \$23,000 per year.³

Estimated New Revenue

During the 2018 season, football-related RPP citations resulted in \$49,100 in revenue, and staff anticipates the new “Enhanced Fine Areas” to generate an additional \$31,650. More significantly, hiring six (6) more PEOs is expected to increase citation revenue in both new and existing RPP areas. Staff estimate that each new PEO would issue up to \$75,000/year in RPP citations, for a total of \$450,000/year.

Incremental Fiscal Impact in FY 2020

Hiring of new PEOs and procurement of associated enforcement equipment would take place over the course of FY 2020, resulting in incremental increases in new citation revenue as new staff are selected, trained, and deployed. Similarly, each opt-in petition for new areas will take time to verify and bring to Council for approval, resulting in delayed revenues from permits purchased in expansion areas. Therefore, the full fiscal impact of the Program’s expansion and enhancement will not be seen in FY 2020. Staff will continue to monitor the Program’s costs and revenues as new enforcement staff are hired.

User Fee Increases for Cost Neutrality

Per Council Budget Policies,⁴ the RPP Program should pay for itself. As of March 2019, the RPP Program still runs a deficit of approximately \$124,675. The deficit has shrunk by \$71,125 since FY 2017, when the deficit was approximately \$195,800. This deficit reduction, but not elimination, may be due in part to a decline in permit revenues following the 20% fee increase on April 1, 2018. Customers may also have reevaluated their needs in light of the new maximum of three (3) annual permits per address.

The proposed fee structure would go into effect June 1, 2019, to support increasing enforcement in FY 2020. It is estimated to generate approximately \$368,280 of additional revenue, including \$21,600 from annual permit sales in potential new opt-in areas, for the General Fund (Fund 011). The following table reflects increases for each type of permit in the RPP fee structure to result in a cost-neutral Program.

² Proposed permit fees incorporate half of PEO salary costs, and half of the one-time vehicle and equipment costs, as RPP enforcement accounts for approximately half of all parking enforcement duties. Remaining costs are expected to be covered by new revenues resulting from new staff enforcing other duties, such as street sweeping, parking meter payments, and school zones.

³ Up to twenty blocks in new areas would be allowed to join the Program per year. Staff assumes six RPP signs per block (three signs on each side of the block), and approximately \$1,150 per block.

⁴ “Council Budget Policies”: <http://bit.ly/2z4UiFY>

Permit Type	Current Fee	Proposed Fee	\$ Increase	% Increase
Annual Residential & In-Home Care	\$66.00	\$90.00	\$24.00	36.4%
1-Day Visitor	\$3.00	\$4.00	\$1.00	33.3%
14-Day Visitor	\$34.00	\$47.00	\$13.00	38.2%
Semi-Annual Residential & In-Home Care	\$33.00	\$45.00	\$12.00	36.4%
Community-Serving Facility	\$83.00	\$114.00	\$31.00	37.3%
Merchant	\$185.00	\$253.00	\$68.00	36.8%
1-Day Senior Center	\$1.00	\$1.00	N/A	N/A
Replacement of Annual, 14-Day, Community-Serving Facility, & Merchant Permits	\$15.00	\$21.00	\$6.00	40.0%

The proposed fee structure is estimated to generate approximately \$1,305,240 in revenue for the General Fund in FY 2021, once all new staff have been hired and anticipated expansion has occurred. This increase of \$368,280 in revenue would close the projected deficit, resulting in a cost-neutral Program (the \$600 difference is within the margin of approximation). With the proposed fee increase, the total Program revenue is projected to be \$3.41 million including revenue resulting from an increase in RPP-related citations due to higher staffing levels and new football fines.

RPP Program Financial Components	April 2018- March 2018 Actuals	FY 2021 Projections
Total RPP Permit Fee Revenue	\$936,960	\$1,305,240
RPP-Related Citation Revenue	\$1,573,840	\$2,023,840
Football RPP-Related Citation Revenue	\$49,100	\$80,750
Total Revenue	\$2,559,910	\$3,409,830
Total RPP Program Costs	\$2,684,580	\$3,409,230
RPP Program Deficit/Surplus	(\$124,670)	\$600

CURRENT SITUATION AND ITS EFFECTS

This report represents “mid-term” changes to the RPP Program as part of ongoing RPP Program Reform & Expansion. Building on the initial “short-term” changes enacted by Council in February 2018, described in the accompanying Information Report on this Agenda, this report recommends “mid-term” changes that respond to remaining resident requests and Council referrals.

UC Berkeley Football Game Day Parking Demand

The UC Berkeley football season typically spans twelve (12) games between September and November. Up to seven (7) games per year are played at California

Memorial Stadium (“stadium”), near the eastern end of Bancroft Avenue. Most home games occur on Saturday afternoons or evenings. Neighborhoods surrounding UC Berkeley currently have RPP. South of campus, RPP Zones A, B, D, and K are enforced Monday to Saturday, with the exception of Zones I (Telegraph) and L (Claremont), which are not enforced on Saturday. North of campus, RPP Zones F and G are enforced Monday through Friday.

Game attendees who drive and park in surrounding neighborhoods can make it difficult for some residents to find parking near their homes during games. In fall 2017, the City analyzed game day parking south of campus.⁵ The analysis found that parking occupancy in the study area increased by about 25% on a game day compared to a non-game day, with increases of approximately 35-50% closest to campus (RPP Zones B, D, and I). Anecdotal evidence from residents also suggests poor parking by visitors may impede access to residential driveways at times.

Existing Game Day Parking Restrictions

Special parking restrictions and enforcement on football game days currently includes:

- Increased fines for certain parking violations⁶ within the boundaries of Cedar Street (north), Berkeley-Oakland city limits (south and east), and Oxford and Fulton Streets (west), with double fines in RPP Zones A, B, and D; and
- Tow-away zones for all vehicles on certain streets close to campus,⁷ and additional no-parking areas at metered parking spaces in the Southside and Northside areas.

The Berkeley Police Department (BPD) requires substantial staff time and resources for football game day duties. BPD typically assigns sworn officers on overtime to patrol areas near the stadium to discourage bad behavior.⁸ Any staffing gap is filled by parking enforcement personnel. Between five and seven PEOs may be reassigned to game day duty, with one PEO specifically assigned to regulate access to the Panoramic Hill neighborhood (RPP Zone K). That leaves between two and four PEOs to enforce meter payments, curb markings, or RPP time limits elsewhere in the City. As shown in the table below, the City does not have enough PEOs to provide regular Saturday enforcement in addition to football duties on game days.

Enforcement Duties	Number of Assigned PEOs
--------------------	-------------------------

⁵ Specifically, Zones A, B, D, I, and L. While not explicitly studied, staff assume neighborhoods north of campus experience similar game day parking demand patterns.

⁶ Football game day defined as 9:30 a.m. to 11 p.m., regardless of game start time. Most football game day citation rates are 150% of non-game day citation rates. For example, a citation for a vehicle parked in a No Parking Zone (red curb) that is normally \$64 costs \$96 on a game day.

⁷ For example: Piedmont Avenue between the stadium and Channing Way, Bancroft Way between Warring Street and Bowditch Street, and College Avenue between Bancroft Way and Dwight Way.

⁸ UC Berkeley reimburses the City for BPD overtime costs.

	Non-Game Days	Football Game Days
Game Day Activities	0	5-7
Parking Meters, Curbs, Time Limits, and RPP	7-9	2-4

Requests for Further Program Expansion

In the past year, staff received four (4) opt-in requests from residents outside of the current RPP eligibility area, all of them in northwest Berkeley.⁹ In the previous five years, staff have received another five (5) requests from residents outside of the program boundaries.¹⁰ A map depicting these requests is provided as Attachment 5.

Recommendation: Increase and Enhance RPP Enforcement, Including on Football Game Days, and Expand RPP Eligibility

1. Enhanced Enforcement in Existing RPP Areas

Due to staffing constraints discussed in the accompanying Information Report on this Agenda, enforcement in existing RPP areas occurs only once per day. Staff recommend hiring sufficient parking enforcement staff to resume morning and afternoon patrols of existing RPP areas. This will help reinforce RPP time limits, particularly on streets near popular destinations such as public facilities or commercial districts. Increased patrols may also reduce the amount of one-off requests from residents who do not observe enforcement as frequently, which reduce PEOs’ ability to conduct regularly-scheduled beat patrols.

To further increase parking enforcement capacity, staff also recommend that PEOs should no longer accompany street sweeping vehicles. Instead, beat officers would enforce restrictions during the three-hour restriction window, before the sweeper cleans the street, to allow time for other responsibilities.¹¹ Additionally, staff strongly recommend against introducing additional permit types for resident services, e.g., ‘nanny permits’, or ‘gardener permits’, which serve as exemptions from RPP restrictions. In addition to further increasing already high parking demand in some areas, adding new permits for non-residents dilutes the Program’s effectiveness for all existing permit holders and encourages more driving, which is contrary to the City’s

⁹ Requests received in FY 2019 include: 10th Street between Cedar and Jones Streets; 10th Street from University Avenue to Allston Way, Addison Street from 10th Street to San Pablo Avenue, and Allston Way from 10th Street to San Pablo Avenue; Camelia Street from 7th to 8th Street; and Page Street from 8th to 9th Street.

¹⁰ Requests received prior to FY 2019 include: Campus Drive from Avenida Drive to the Berkeley Lab Campus; Spruce Street from Los Angeles Avenue to Eunice Street; Stannage Avenue between Gilman Street and Harrison Street; Stanton Street from Ashby Avenue to Prince Street; and various areas adjacent to Solano Avenue.

¹¹ In the future, street sweeping vehicles may be equipped with GPS beacons, which would allow residents to check when streets reopen for parking in real-time.

Climate Action Plan goals of reducing vehicular emissions.

2. Enhanced Game Day Parking Management and Enforcement

In response to Council referrals, staff has prepared a proposal for the 2019 football season to improve parking availability for residents in neighborhoods closest to campus. Illustrated in Attachment 6, this proposal builds on existing game day restrictions by adding tougher penalties for non-residents closer to the stadium:

- **New tow-away areas for vehicles without a valid RPP permit** on streets within one quarter-mile of the stadium (including portions of RPP Zones D and I), where demand was heaviest on the game day analyzed in fall 2017.
- **New “Enhanced Fine Areas”** on streets within one half-mile of the stadium (including portions of RPP Zones F and G north of campus and portions of Zones B and D south of campus), where vehicles without a valid RPP permit will be subject to a one-time fine of \$225.¹²

This proposal maximizes game day staff capacity and effectiveness in areas where residents experience the most inconvenience. While current enforcement requires two passes to determine whether a non-permitted vehicle exceeds the time limit, under this proposal a PEO will need to check only once to verify whether a vehicle has a permit.

Signage is critical to effective enforcement of parking restrictions. In addition to clearly defining expectations for visitors, signage justifies the issuance of citations that violate posted restrictions. Details about the costs and content of new signage required to implement this proposal is provided in the Fiscal Impacts section of this report.

3. Additional Strategies to Increase Parking Availability on Game Days

While some street parking spaces near the stadium are restricted on game days, metered parking is available for visitors in Downtown, Southside/Telegraph, and the Northside area.¹³ Staff will return to Council later this year with options for special events, including adjusting special event rate setting ability at City parking garages, and piloting demand-responsive special event pricing at goBerkeley parking meters.

4. Further Expansion of RPP Program Eligibility

Although there have been relatively few opt-in requests from outside the current Program boundary, they still represent a customer need that the City cannot meet with existing staffing levels. To maximize enforcement resources, currently ineligible residents would be able to opt-in under the following conditions:

¹² Staff are sensitive to low income residents and visitors who may not be able to afford this fine. Options include a payment plan (AB 503), as well as applying to perform Community Service in lieu of paying for parking citations.

¹³ Meters operate 9 a.m. to 6 p.m. Monday to Saturday. On the Northside, Hearst Avenue between Euclid Avenue and La Loma Avenue is a tow-away zone on game days.

- A. Meet all existing requirements, including petitioner obtaining agreement of 51+% of all housing units in an area, and staff verifying limited parking availability in the mid-morning and mid-afternoon;
- B. Parcels must be located within two (2) blocks of a major commercial corridor (e.g., San Pablo Avenue or Gilman Street); or be adjacent to existing RPP boundaries; and
- C. In residentially-zoned areas, at least one full block (i.e., two sides of a street) must be included in the petition.

Petitioners in areas zoned Mixed Use-Residential or Mixed-Use Light Industrial will be subject to restrictions approved by Council in 2018 for Mixed Use Area P, including a reduced maximum of two (2) annual permits available per address. While slightly more restrictive than current requirements, this expansion approach would allow all petitioners who have submitted opt-in requests to date to be eligible for RPP.

5. Staffing Requirements

Enhanced enforcement, including new football game day restrictions, requires five (5) new PEOs and one (1) Parking Enforcement Supervisor, plus standard equipment. Expansion requires one (1) additional PEO for every twenty full blocks (i.e., both sides of a street) added to the Program, plus standard equipment.

BACKGROUND

The RPP Program began in 1980 (1) to protect Berkeley residential neighborhoods from an influx of non-resident vehicles and related traffic; (2) to assure continued quality of life for residents; and (3) to provide neighborhood parking for residents. The Program limits parking for vehicles not displaying an RPP permit in most RPP areas to two hours, and reserves available daytime parking for residents, between 9:00 a.m. and 7:00 p.m. Monday through Friday, and on some blocks Saturday.

In March 2014,¹⁴ Council directed staff to evaluate expanding the RPP Program beyond its then-current geographic boundaries. At a September 2017 Council Worksession, staff discussed several challenges with the RPP Program, and proposed incremental solutions to be implemented over the next three years.¹⁵ In February 2018, staff returned to Council with a first set of “short-term” policy reforms, including increased permit fees for Program cost neutrality, a limit of three (3) annual permits per address, and an expansion of RPP eligibility to two new zones in West Berkeley.¹⁶ Improving the effectiveness of the RPP Program is a Strategic Plan Priority Project, advancing the City’s goals to:

¹⁴ March 11, 2014 *City Council Agenda: Expansion of Permit Parking to Impacted Areas*: <http://bit.ly/2vTgnqD>

¹⁵ September 19, 2017 *City Council Agenda: Residential Preferential Parking (RPP) Program Recommendations*: <https://bit.ly/2iWaPDa>

¹⁶ February 27, 2018 *City Council Agenda: Residential Preferential Parking (RPP) Program Reform and Expansion*: <https://bit.ly/2Yq6tYB>.

- Provide an efficient and financially-healthy City government; and
- Be a customer-focused organization that provides excellent, timely, easily-accessible service and information to the community.

Football Game Day Enforcement

On April 5, 2016, Councilmembers Capitelli, Droste, and Wengraf sponsored a Referral to the Transportation Commission to review game day parking fines in RPP areas around campus, and to recommend higher fees to deter visitors from parking in those areas.¹⁷ On July 25, 2017, the Transportation Commission submitted a Council Report recommending an increase of game day parking fines to \$300 for vehicles without a valid RPP permit in Zones A, B, and D south of campus, but Council did not adopt the Commission's recommendation.¹⁸ On September 25, 2018, Councilmembers Droste, Wengraf, and Mayor Arreguin submitted a referral to the City Manager to implement game day parking restrictions similar to the Transportation Commission's 2017 proposal, but taking into account additional concerns such as parking on the north side of campus.¹⁹

ENVIRONMENTAL SUSTAINABILITY

Increasing parking fines for vehicles without valid RPP permits on football game days should increase parking availability for residents in neighborhoods near campus, reducing traffic congestion and vehicle emissions as drivers spend less time searching for parking. Increased fines may also encourage the use of alternative forms of transportation to UC football games.

Expansion of the RPP Program may encourage some drivers who work in commercial areas adjacent to proposed RPP areas to consider using other modes of travel, potentially reducing parking demand and congestion. While use of these other transportation modes may result in a corresponding reduction in traffic and greenhouse gases, staff anticipate the "two-hour shuffle" (i.e., moving a vehicle every two hours to avoid a ticket) may also begin to occur in new RPP areas among commuters who continue to drive. This behavior would have an adverse impact on traffic congestion, air quality, and excess fuel consumption.

RATIONALE FOR RECOMMENDATION

At the September 19, 2017 Worksession, Council expressed support for a roadmap for RPP reform and expansion, including short-, mid-, and long-term changes to the

¹⁷ April 5, 2016 *City Council Agenda: Refer to Transportation Commission to Reassess UC Berkeley Game Day Parking Fines in RPP Areas A, B, D, F and G Surrounding Campus* <https://bit.ly/2GRoSzi>

¹⁸ July 25, 2017 *City Council Agenda: Referral Response: Reassess UC Berkeley Game Day Parking Fines in RPP Areas A, B, D, F, and G Surrounding Campus* <https://bit.ly/2fwXaEj>

¹⁹ September 25, 2018 *City Council Agenda: Refer to the City Manager UC Berkeley Game Day Parking Restrictions and Fines in RPP Surrounding Campus* <https://bit.ly/2EwSnfS>

Program. Short-term recommendations were approved by Council in February 2018. The proposals contained in this report comprise staff's "mid-term" recommendations.

In their September 25, 2018 referral, Councilmembers Droste, Wengraf, and Mayor Arreguin supported increasing parking fines to increase parking availability for residents affected by football game demand. Previously, the Transportation Commission has also supported higher fines.

ALTERNATIVE ACTIONS CONSIDERED

The following table summarizes four alternatives considered by staff:

Alternative	Estimated Annual Permit Fee
<u>Option 1: Staff Recommendation, Enhanced RPP and Football Enforcement, and Expansion, Without Changing Saturday Enforcement.</u>	\$90/year (+36% / +\$24)
<u>Option 2: Saturday Enforcement in All Areas, Enhanced RPP and Football Enforcement, and Expansion</u> <ul style="list-style-type: none"> • Implement Saturday patrols of all RPP Zones,²⁰ plus increased RPP and football enforcement, and expansion as in Option 1 • Increase permit fees to eliminate deficit and add seven (7) PEOs and one (1) supervisor for increased RPP enforcement, one (1) PEO per twenty new blocks/year, and equipment 	\$97/year (+47% / +\$31)
<u>Option 3: Expansion and Enhanced Football Enforcement</u> <ul style="list-style-type: none"> • Implement enhanced football enforcement and expansion as in Option 1 • No change to existing RPP enforcement levels/frequency • Increase permit fees to eliminate deficit and add three (3) PEOs and one (1) supervisor for football, one (1) PEO per twenty new blocks/year, and equipment 	\$88/year (+34% / +\$22)
<u>Option 4: Expansion Only</u> <ul style="list-style-type: none"> • Expand RPP Program eligibility per guidelines in Option 1 • No changes to existing RPP and football enforcement levels • Increase permit fees to eliminate deficit and add one (1) new PEO and equipment per twenty new blocks/year 	\$82/year (+24% / +\$16)

Council could also reject all options, which would maintain the status quo RPP Program, including its structural deficit.

CONTACT PERSON

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 Danette Perry, Parking Services Manager, Public Works (510) 981-7057
 Gordon Hansen, Senior Planner, Public Works (510) 981-7064

Attachments:

- 1: Ordinance
- 2: Resolution: Fees: Residential Preferential Parking Permits
- 3: Resolution: Establish “Enhanced Fine Area” and Double Fine Locations
- 4: Resolution: Modify Parking Violation Fine Schedule
 - Exhibit A: Schedule of Fines and Late Payment Penalties for Parking Violations
 - Exhibit B: List of New Parking Violations

²⁰ Adding enforcement at streets with RPP restrictions in Zones C, E, F, G, H, I, J, L, M, O, and P.

- 5: Public Hearing Notice
- 6: FY 2019 and Prior Out of Area RPP Opt-In Requests
- 7: Proposed 2019 UC Berkeley Football Game Day Parking Restrictions

ORDINANCE NO. #,###-N.S.

AMENDING BERKELEY MUNICIPAL CODE CHAPTER 14.72 TO ALLOW FURTHER EXPANSION OF THE RESIDENTIAL PREFERENTIAL PARKING (RPP) PROGRAM

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

Section 1. That Berkeley Municipal Code Section 14.72.030 is amended to read as follows:

14.72.030 Definitions.

A. "Designated residential parking permit area" means any contiguous area upon which the Council imposes parking limitations pursuant to the authority granted by this chapter.

B. "Block front" means all of the property on one side of a street between two consecutive intersecting streets.

BC. "Mixed use" means the use of a lot or building with two or more different land uses including, but not limited to, residential, commercial, retail, office or manufacturing, in a single structure or a group of physically integrated structures; in a neighborhood context, it means blocks containing single-use residences interspersed with other land uses, such as commercial or industrial.

DC. "Mixed Use-Residential" and "Mixed Use-Light Industrial" refers to the zoning designations so defined in Berkeley Municipal Code Chapters 23E.84 and 23E.80, respectively.-

ED. "Assessor's Use Code" means the code used by the Alameda County Assessor to assess property for property tax purposes. These codes cover a range of building descriptions and uses, including a variety of residential uses.

FE. "Nonresidential vehicle" means a motor vehicle not eligible to be issued a residential parking permit, pursuant to the terms and conditions of this chapter, for the specific area in which it is parked. However, it could be eligible for a local business parking permit, or any other parking permit the council shall designate.

GF. "Residential parking permit" means a permit issued under this chapter which, when displayed upon a vehicle, as described herein, shall exempt said vehicle from parking time restrictions established pursuant to this chapter.

HG. "Local business parking permit" means a permit issued under this chapter which, when displayed upon a motor vehicle, shall exempt said vehicle from parking time restrictions established pursuant to this chapter.

IH. "Trapped resident" means: 1) any resident whose dwelling is on a block that may not legally opt-in because less than 80% of the block fronts are residentially zoned and

either: a) whose address is on a block front adjacent to and/or surrounded by block fronts that are already included in the RPP program; or b) whose address is within the general boundary of a designated RPP area; or 2) any resident whose dwelling abuts controlled curb parking and either: a) whose address is on a block front adjacent to and/or surrounded by RPP areas; or b) whose address is within the general boundary of a designated RPP area.

JJ. "Neighborhood-service community facility" means churches, schools and senior centers located wholly within the general boundary of an RPP designated area.

KJ. "Neighborhood-serving business and establishment" means any business or establishment located in a neighborhood commercial district as defined in the Zoning Ordinance Section Cl, Clb, Clc, Clb(E).

LK. "One-day visitor permit" means a parking permit issued pursuant to this chapter or an ordinance enacted pursuant to authority granted herein, which shall exempt the vehicle from parking time restrictions pursuant to this chapter, for the date indicated upon the face of said permit.

LM. "Two-week visitor permit" shall mean a parking permit issued pursuant to this chapter or an ordinance enacted pursuant to authority granted herein, which shall exempt the vehicle from parking time restrictions established pursuant to this chapter for a period of 14 consecutive calendar days, beginning upon the date indicated upon the face of said permit.

NM. "Motor vehicle" shall be an automobile, truck, motorcycle or other self-propelled form of transportation not in excess of 8,000 pounds gross weight and not in excess of 20 feet in length. A trailer, trailer coach, utility trailer, motor home/(RV), or any other type of vehicle as defined in the California Vehicle Code that is not self-propelled, is not eligible for an RPP permit.

ON. "Controlled curb parking" means any on-street parking with existing parking limitations, such as meters, time restrictions, red zone, etc.

PO. "Schools" shall mean any school or other place of learning providing a pre-school, elementary or secondary level of study, and which regularly employs a staff of at least 15 certificated persons regularly employed as a classroom teacher.

QP. "Senior centers" means the three senior centers affiliated with the City: North Berkeley Senior Center, South Berkeley Senior Center and the West Berkeley Senior Center.

Section 2. That Berkeley Municipal Code Section 14.72.050 is amended to read as follows:

14.72.050 Designation of a residential permit parking area.

A. There shall be two alternative processes by which City Council could consider any area for designation as a residential permit parking area:

1. Residents petition. The City Council shall consider for designation as a residential permit parking area any proposed area for which a petition has been submitted which meets and satisfies the following requirements:

a. Prior to obtaining signatures, neighborhood organizers shall consult with City staff to assure that the proposed area meets guidelines set in the administrative regulations for the establishment of permit parking boundaries.

b. The petition shall contain a description or a map showing the proposed residential permit parking area.

c. Said description or map shall be followed in the petition by a statement describing the residential permit parking program and the current residential permit fees.

d. The statement shall be followed by a signature, printed name, address, and date of signing of the application by a number of adult residents including at least 51% of the housing units within the area.

e. For applicants in areas zoned ~~Mixed Use-Residential~~ or Mixed Use-Light Industrial, a petition shall only be deemed valid if at least 51% of the housing units on each block ~~face-front~~ have an address that has a residential Assessor's Use Code.

f. All petitions shall be the same as the standard petition form developed by City staff. Any petition form different from the standard petition form shall be deemed invalid for the purposes of this chapter.

g. In the proposed residential permit parking area, at least 80% of the block fronts with unlimited on-street parking must be residentially zoned, and at a minimum, 75% of all unlimited on-street parking spaces within the proposed area must be occupied during any two one-hour periods between 10:00 a.m. and 4:00 p.m.

h. In areas zoned ~~Mixed Use-Residential~~ or Mixed Use-Light Industrial, at a minimum, 75% of all unlimited on-street parking spaces within the proposed area must be occupied during any two one-hour periods between 10:00 a.m. and 4:00 p.m.

2. City Council initiation. City Council shall consider for designation as a residential permit parking area any area for which the following requirements have been met:

a. City Council shall initiate the area as a residential permit parking area.

b. For areas zoned ~~Mixed Use-Residential~~ or Mixed Use-Light Industrial, Council shall only initiate the area as a residential permit parking area if at least 51% of the housing

units on each block ~~face-front~~ have an address that has a residential Assessor's Use Code.

c. In the proposed residential permit parking area at least 80% of the block fronts with unlimited on-street parking must be residentially zoned, and at a minimum, 75% of all unlimited on-street parking spaces within the proposed area must be occupied during any two one-hour periods between 10:00 a.m. and 4:00 p.m. or unlimited on-street parking is projected to be impacted by parking spillover from a more congested residential permit parking area.

d. In areas zoned Mixed Use-Residential or Mixed Use-Light Industrial, at a minimum, 75% of all unlimited on-street parking spaces within the proposed area must be occupied during any two one-hour periods between 10:00 a.m. and 4:00 p.m.

e. A notice of intent to establish permit parking shall be sent to all addresses within the proposed residential parking permit area.

B. Upon receipt by the City Council of a petition as described in subsection A.1 of this section, or after Council has initiated a residential permit parking area as described in subsection A.2 of this section, the Council shall:

1. Undertake or cause to be undertaken such surveys or studies which it deems necessary.

2. Cause to be drafted a resolution which would establish a residential permit parking area based upon the aforementioned proposal and studies, including all regulations and time restrictions determined by the Council to be reasonable and necessary in such area.

C. The Council shall thereafter conduct a public hearing on said draft resolution. Notice of the hearing shall be posted at least ten days prior to the hearing on all block fronts proposed to be included in the residential permit parking area. Following the hearing, the City Council may enact, amend or reject said draft resolution in any manner, including but not limited to, modification of boundaries of the proposed area and the restrictions imposed on such proposed area. In order to grant permit parking designation, Council shall find that the designation will not be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing in the area of designation. In reaching this decision, consideration shall be given to the residents' support for residential permit parking, the existing parking conditions, the expected effectiveness of residential permit parking in improving parking conditions, and the location and size of the residential permit parking area.

Section 3. That Berkeley Municipal Code Section 14.72.090 is amended to read as follows:

14.72.090 Residential parking permit.

A. The City Manager and/or his/her designee shall issue residential parking permits with a term not to exceed one year to motor vehicles which comply with the requirements set forth in this section.

1. No more than three (3) permits may be purchased for each residential address. Applicants may request a waiver if additional permits are needed.

2. In areas zoned Mixed Use-Residential (MU-R) or Mixed Use-Light Industrial (MULI), no more than two (2) permits may be purchased for each residential address. Applicants may request a waiver if additional permits are needed.

3. The City Traffic Engineer is authorized to issue such rules and regulations necessary to grant waivers to the annual permit limits.

B. A residential parking permit may be issued for a motor vehicle only upon application of the following person:

1. The applicant must demonstrate that he or she is currently a resident of the area for which the permit is to be issued; and

2. The applicant must demonstrate that he or she has ownership or continuing custody of the motor vehicle for which the permit is to be issued; and

3. Any motor vehicle to be issued a permit must have a vehicle registration indicating registration within the area for which the permit is to be issued.

C. A residential parking permit may in addition be issued for any vehicle in the area regularly utilized by a person who owns or leases commercial property and actively engages in business activity within the particular residential permit parking area. However, no more than one parking permit, or any greater number which the City Council may determine appropriate for the particular residential permit parking involved area, may be issued for each business establishment for a motor vehicle registered to or under the control of such a person.

D. A residential parking permit may be issued for any vehicle utilized in the area by a nonresidential nonbusiness enterprise, such as a church, school, or hospital, located wholly or partially within the particular residential permit parking area. However, no more than one parking permit, or any greater number which the City Council may determine appropriate for the particular permit parking area involved, may be issued for each such enterprise within each permit area for a motor vehicle registered to or under the control of such an enterprise.

E. Any person to whom a residential parking permit has been issued pursuant to this section shall be deemed a permit holder.

Section 4. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

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

FEEES: RESIDENTIAL PREFERENTIAL PARKING PERMITS

WHEREAS, on February 27, 2018, Council adopted Resolution No. 68,344-N.S., establishing a revised fee schedule for parking permits for annual residential preferential parking; 1-Day Visitors, 2-Week Visitors, and annual in-home care, annual community-serving facility, annual merchant, 1-Day Senior Center, Semi-annual residential, and Semi-annual in-home care permits issued for the Residential Preferential Parking (RPP) Program, and rescinded Resolution No. 66,895-N.S.; and

WHEREAS, the current RPP Program is operating at an annual deficit of at least \$124,675; and

WHEREAS, staffing for the RPP Program will be increased to allow for enhanced enforcement activities in existing Program areas, a comprehensive overhaul of University of California, Berkeley football game day parking, and actively managed expansion of opt-in eligibility; and

WHEREAS, increased staffing will incur additional yearly costs, but will also deliver new citation revenue;

WHEREAS, it is necessary to increase RPP permit fees in order to operate the RPP Program as a cost-neutral program in accordance with Council Budget Policies.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the following fees for the RPP Program are hereby established:

Permit Type	Permit Fees
Annual Residential & In-Home Care	\$90.00
1-Day Visitor	\$4.00
14-Day Visitor	\$47.00
Semi-Annual Residential & In-Home Care	\$45.00
Community-Serving Facility	\$114.00
Merchant	\$253.00
1-Day Senior Center	\$1.00
Replacement of Annual, 14-Day, Community-Serving Facility, & Merchant Permits	\$21.00
Surcharge Per Additional Annual Residential Permit Over Maximum, Only If Waiver is Approved	\$100.00

BE IT FURTHER RESOLVED that these fees shall be effective June 1, 2019 for FY 2020 permit purchases and shall be deposited into the General Fund.

BE IT FURTHER RESOLVED that Resolution No. 68,344-N.S. is hereby rescinded effective June 1, 2019.

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

ESTABLISHING THE ZONES FOR “ENHANCED FINE AREAS” AND FOOTBALL GAME DAY VIOLATIONS, AND AUTHORIZING THE CITY MANAGER TO MAKE AN ANNUAL DETERMINATION AND NOTICE OF DATES ON WHICH FOOTBALL DAY VIOLATIONS WILL BE ISSUED

WHEREAS, City Council Resolution No. 65,813-N.S. restated the geographic area for football game day citations; and

WHEREAS, University of California football games attract a large number of visitors who drive to the game and park in residential neighborhoods to the north and south of campus, which typically makes it difficult for residents to find parking in close proximity to their homes on football game days; and

WHEREAS, current enforcement of the two-hour time limit for vehicles without a valid permit in portions of Residential Preferential Parking (RPP) Zones closest to the stadium is time intensive, reducing the ability of Parking Enforcement to maximize limited staff capacity on game days; and

WHEREAS, the permanent double parking fine program established by Resolution No. 63,800-N.S. has not deterred extended game day parking in portions of RPP Zones B and D, particularly in comparison to private off-street facilities in the vicinity of the stadium offering game day parking for up to \$100; and

WHEREAS, staff have confirmed with Parking Enforcement leadership that new “Enhanced Fine Areas,” in which vehicles without a valid RPP permit would not be permitted to park on football game days, would maximize limited enforcement capacity on football game days; and

WHEREAS, concurrent with this Resolution, the Council is considering adoption of another Resolution establishing a new schedule of parking violations and fines for parking violations, including in new “Enhanced Fine Areas;” and

WHEREAS, the existing “double parking fine” program would continue to be in effect on football game days in addition to the new “Enhanced Fine Areas;” and

WHEREAS, the schedule of parking violations and fines for parking violations may be revised in the future without affecting established zones for football day citations and Enhanced Fine Areas and the City Manager’s authorization to determine and provide public noticing of dates for these violations.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the established zone for the northerly Enhanced Fine Area is north to (not including) Cedar Street, west to (not including) Shattuck Avenue, south to Hearst Avenue, and east to the existing boundary of RPP Zones F and G.

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that the established zone for the southerly Enhanced Fine Area is north to Dwight Way between Telegraph Avenue and Regent Street, north to Haste Street between Regent Street and Bowditch Street, north to Dwight Way between Bowditch Street and College Avenue; east to (but not including) College Avenue between Dwight Way and Parker Street; north to (but not including) Parker Street between College Avenue and Warring Street; east to Warring Street between Parker Street and Derby Street; north to Derby Street between Warring Street and Belrose Avenue; east to (but not including) Belrose Avenue/Claremont Boulevard between Derby Street and Russell Street; south to (but not including) Russell Street between Belrose Avenue/Claremont Boulevard and Telegraph Avenue; and west to (but not including) Telegraph Avenue between Russell Street and Dwight Way.

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that the established zone for the easterly Enhanced Fine Area is north to the southern boundary of RPP Zone K between Channing Way and the Berkeley-Oakland city limits; east to the Berkeley-Oakland city limits; south to (but not including) Dwight Way between the Berkeley-Oakland city limits and Prospect Street; and west to (but not including) Prospect Street between Dwight Way and Channing Way.

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that the established zone for football day citations is north to (not including) Cedar Street, south and east to the Berkeley-Oakland city limits, and west to Oxford and Fulton Streets (including both sides of these streets).

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that the City Manager is directed to annually determine the dates during which there are higher parking fines for football day citations, and provide reasonable notice to the public of these dates.

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that Resolution No. 65,813-N.S. is hereby rescinded.

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

ESTABLISHING A NEW SCHEDULE OF PARKING VIOLATIONS AND FINES FOR PARKING VIOLATIONS AND LATE PAYMENT PENALTIES; AND RESCINDING RESOLUTION NO. 68,466-N.S.

WHEREAS, the State of California Vehicle Code Section 40203.5 states “the schedule of parking penalties for parking violations and late payment penalties shall be established by the governing body of the jurisdiction where the notice of violation is issued,” and

WHEREAS, University of California football games attract a large number of visitors who drive to the game and park in residential neighborhoods to the north and south of campus, which typically makes it difficult for residents to find parking in close proximity to their homes on football game days; and

WHEREAS, concurrent with this Resolution, the Council is considering adoption of another Resolution establishing new “Enhanced Fine Areas” in portions of Residential Preferential Parking (RPP) Zones F and G north of campus, and in portions of RPP Zones B, D, and I south of campus, wherein vehicles without a valid RPP permit would not be permitted to park on football game days; and

WHEREAS, in May 2018, the City Council adopted Resolution No. 68,466-N.S. establishing a new schedule of fines for parking violations to enable the City to properly cite vehicles in violation of new laws managing parking for electric vehicles.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that a new schedule of parking violations and late payment penalties is established, as set forth in Exhibit A, which includes fines and late penalties for violations of BMC Section 14.40.090 pertaining to parking restrictions in new “Enhanced Fine Areas” in effect on football game days only; and

BE IT FURTHER RESOLVED that Resolution No. 68,466-N.S. is hereby rescinded.

Exhibits

- A: Schedule of Fines and Late Payment Penalties for Parking Violations
- B: List of New Parking Violations

Exhibit A: Schedule of Fines and Late Payment Penalties for Parking Violations

Code	Section	Violation Description (For citations issued to a vehicle) FD = Football Game Days 9 a.m. to 11 p.m. FD fines = 50% higher on most violations & 100% higher for violations in RPP Zones A, B, D	Fine Amount	On Day 28 +\$30	On Day 47 +\$50
BMC	6.24.020	Off-St Rsrv Pkg No Permit Displayed	\$48	\$78	\$128
BMC	6.24.020	FD Off-St Rsrv Pkg No Permit Displayed			
BMC	6.24.020	Non-Electric Vehicle Parked in Electric Vehicle Space	\$35	\$65	\$115
BMC	6.24.060	Electric Vehicle Exceeding EV Parking Space Time Limit	\$30	\$60	\$110
BMC	6.24.020	Electric Vehicle Not Actively Charging in EV Parking Space	\$35	\$65	\$115
BMC	6.24.093	P&D Dispensing Mach Tkt Not Displayed	\$43	\$73	\$123
BMC	6.24.093	FD P&D Dispensing Mach Tkt Not Displayed	\$65	\$95	\$145
BMC	6.24.096	Improper Display of P&D Disp Mach Tkt	\$43	\$73	\$123
BMC	6.24.096	FD Improper Display of P&D Disp Mach Tkt	\$65	\$95	\$145
BMC	6.24.100 B	P&D Station Expired Time	\$43	\$73	\$123
BMC	6.24.100 B	FD P&D Station Expired Time	\$65	\$95	\$145
BMC	6.24.103 B	Time Limits Enforced at Inoperable P&D Sta	\$43	\$73	\$123
BMC	6.24.103 B	FD Time Limits Enforced at Inoperable P&D Sta	\$65	\$95	\$145
BMC	6.24.130	Off-St Facility: Motorcycle Zone Only	\$48	\$78	\$128
BMC	6.24.130	Off-St Facility: Pkg Outside Markings	\$48	\$78	\$128
BMC	6.24.130	FD Off-St Facility: Pkg Outside Markings	\$72	\$102	\$152
BMC	6.24.130	Off-St Facility: Disabled Zone	\$288	\$318	\$368
BMC	6.24.130	FD Off-St Facility: Disabled Zone	\$288	\$318	\$368
BMC	6.24.130	Off-St Facility: Restricted Load Zone	\$48	\$78	\$128
BMC	6.24.130	FD Off-St Facility: Restricted Load Zone	\$72	\$102	\$152
BMC	6.24.130	Off-St Facility: Unmarked Space	\$48	\$78	\$128
BMC	6.24.130	FD Off-St Facility: Unmarked Space	\$72	\$102	\$152
BMC	6.24.140	Off-St Facility: Backed-In	\$48	\$78	\$128
BMC	9.52.140	Unattended Taxi Over 5 Min	\$91	\$121	\$171
BMC	13.52.040	Unauth Pkg on Private Property	\$41	\$71	\$121
BMC	14.24.070	Unauth Vehicle on Private Prop	\$64	\$94	\$144
BMC	14.36.030 A	No Parking on Divisnl Islands	\$55	\$85	\$135
BMC	14.36.030 A	FD No Parking on Divisnl Islands	\$83	\$113	\$163
BMC	14.36.030 C	No Parking Zone (Sign Posted)	\$64	\$94	\$144
BMC	14.36.030 C	FD No Parking Zone (Sign Posted)	\$96	\$126	\$176
BMC	14.36.030 C	No Parking Zone (Red Curb)	\$64	\$94	\$144
BMC	14.36.030 C	FD No Parking Zone (Red Curb)	\$96	\$126	\$176

Code	Section	Violation Description (For citations issued to a vehicle) FD = Football Game Days 9 a.m. to 11 p.m. FD fines = 50% higher on most violations & 100% higher for violations in RPP Zones A, B, D	Fine Amount	On Day 28 +\$30	On Day 47 +\$50
BMC	14.36.030 D	No Parking Street Sweeping (sign)	\$49	\$79	\$129
BMC	14.36.030 E	No Parking on Railroad Tracks	\$64	\$94	\$144
BMC	14.36.030 F	Hazard Obstructing Traffic	\$64	\$94	\$144
BMC	14.36.030 F	FD Hazard Obstructing Traffic	\$96	\$126	\$176
BMC	14.36.030 G	Construct: No Permit on Dashboard	\$64	\$94	\$144
BMC	14.36.030 G	FD Construct: No Permit on Dashboard	\$96	\$126	\$176
BMC	14.36.050	On Street 72 or More Consec hrs	\$60	\$90	\$140
BMC	14.36.060	Repair Vehicle on Street	\$52	\$82	\$132
BMC	14.36.080	Vehicle Parked in School Zone	\$51	\$81	\$131
BMC	14.36.090	Pkg on Grade Brake/Block Wheels	\$55	\$85	\$135
BMC	14.36.110	Emerg Prkg w/o Permit (Tow CVC 22651)	\$52	\$82	\$132
BMC	14.40.010	3 min Limit Zone Overtime	\$43	\$73	\$123
BMC	14.40.010	FD 3 min Limit Zone Overtime	\$65	\$95	\$145
BMC	14.40.010	5 min Limit Zone Overtime	\$43	\$73	\$123
BMC	14.40.010	FD 5 min Limit Zone Overtime	\$65	\$95	\$145
BMC	14.40.010	10 min Limit Zone Overtime	\$43	\$73	\$123
BMC	14.40.010	FD 10 min Limit Zone Overtime	\$65	\$95	\$145
BMC	14.40.010	12 min Limit Zone Overtime	\$43	\$73	\$123
BMC	14.40.010	15 min Limit Zone Overtime	\$43	\$73	\$123
BMC	14.40.010	24 min Limit Zone Overtime	\$43	\$73	\$123
BMC	14.40.010	FD 24 min Limit Zone Overtime	\$65	\$95	\$145
BMC	14.40.020	30 min Limit Zone Overtime	\$43	\$73	\$123
BMC	14.40.020	FD 30 min Limit Zone Overtime	\$65	\$95	\$145
BMC	14.40.030	1 hr Limit Zone Overtime	\$43	\$73	\$123
BMC	14.40.030	FD 1 hr Limit Zone Overtime	\$65	\$95	\$145
BMC	14.40.030	Faulty Meter Over 1 hr Limit	\$43	\$73	\$123
BMC	14.40.040	2 hr Limit Zone Overtime	\$43	\$73	\$123
BMC	14.40.040	FD 2 hr Limit Zone Overtime	\$65	\$95	\$145
BMC	14.40.040	Faulty Meter Over 2 hr Limit	\$43	\$73	\$123
BMC	14.40.050 A	Parallel Pkg Veh Outside Markers	\$48	\$78	\$128
BMC	14.40.050 B	Veh Facing Wrong Way 1-way St	\$48	\$78	\$128
BMC	14.40.050 B	FD Veh Facing Wrong Way 1-way St	\$72	\$102	\$152
BMC	14.40.050 B	Pkg Over 18" from Curb 1-way St	\$51	\$81	\$131
BMC	14.40.050 B	FD Pkg Over 18" fr Curb 1-way St	\$77	\$107	\$157
BMC	14.40.060 A	Diagonal Pkg Veh Outside Markers	\$51	\$81	\$131
BMC	14.40.060 B	Diagonal Pkg FW Over 6" from Curb	\$51	\$81	\$131
BMC	14.40.070 A	No Stopping 4-6pm (Tow CVC 22651)	\$64	\$94	\$144
BMC	14.40.070 A	FD No Stopping 4-6pm (Tow CVC 22651)	\$96	\$126	\$176
BMC	14.40.070 A	No Stopping 7-9am (Tow CVC 22651)	\$64	\$94	\$144

Code	Section	Violation Description (For citations issued to a vehicle) FD = Football Game Days 9 a.m. to 11 p.m. FD fines = 50% higher on most violations & 100% higher for violations in RPP Zones A, B, D	Fine Amount	On Day 28 +\$30	On Day 47 +\$50
BMC	14.40.070 A	No Stopping 9pm-6am (Tow CVC 22651)	\$64	\$94	\$144
BMC	14.40.070 A	Posted No Stopping Tow Away	\$64	\$94	\$144
BMC	14.40.090	RPP Zone No RPP Permit Displayed	\$49	\$79	\$129
BMC	14.40.090	FD RPP Zone A,B,D No Permit Dsply	\$98	\$128	\$178
BMC	14.40.090	RPP Zone K No Permit Displayed	\$57	\$87	\$137
BMC	14.40.090	RPP Zone RPP Permit Expired	\$49	\$79	\$129
BMC	14.40.090	FD RPP Zone A,B,D Permit Expired	\$98	\$128	\$178
BMC	14.40.090	RPP Zone Permit Improper Display	\$49	\$79	\$129
BMC	14.40.090	FD RPP A,B,D Permit Impropr Dsply	\$98	\$128	\$178
BMC	14.40.090	No RPP Permit Displayed in Enhanced Fine Area (Football Game Days)	\$225	\$255	\$305
BMC	14.40.130	Pkg/Standing in City Lots/Spaces	\$55	\$85	\$135
BMC	14.40.130 A	City Lot No Permit Displayed	\$57	\$87	\$137
BMC	14.40.130 C	Reserved Pkg No Permit Displayed	\$49	\$79	\$129
BMC	14.40.130 E	Reserved City Hall Pkg Towable	\$64	\$94	\$144
BMC	14.40.150 A	Car Parking in Motorcycle Area	\$51	\$81	\$131
BMC	14.40.150 B	Motorcycle Zone Overtime	\$51	\$81	\$131
BMC	14.40.160	DbI-Pkd Commer Vehicle Center St	\$60	\$90	\$140
BMC	14.44.020 B	Commer Zone No Permit (yellow)	\$57	\$87	\$137
BMC	14.44.020 B	FD Commer Zone No Permit (yellow)	\$86	\$116	\$166
BMC	14.44.020 A	Commercial Zone Overtime	\$57	\$87	\$137
BMC	14.44.020 A	FD Commercial Zone Overtime	\$86	\$116	\$166
BMC	14.44.030	Passenger Load Zone (white curb)	\$57	\$87	\$137
BMC	14.44.030	FD Passgr Load Zone (white curb}	\$86	\$116	\$166
BMC	14.44.040	No Stopping Bicycle Zone	\$55	\$85	\$135
BMC	14.44.040	FD No Stopping Bicycle Zone	\$83	\$113	\$163
BMC	14.44.050	Special Passenger Load Zone only	\$57	\$87	\$137
BMC	14.44.060	Parking in Coach (bus) Zone	\$64	\$94	\$144
BMC	14.44.060	FD Parking in Coach (bus} Zone	\$96	\$126	\$176
BMC	14.44.070	Unauthorized Use of Funeral Zone	\$51	\$81	\$131
BMC	14.44.080	Taxicab Parking Only	\$51	\$81	\$131
BMC	14.44.080	Unauthorized Taxicab Stand Pkg	\$51	\$81	\$131
BMC	14.46.040 B	Non-Electric Vehicle Parked in EV Space	\$49	\$79	\$129
BMC	14.46.050 B	Electric Vehicle Exceeding EV Space Time Limit	\$43	\$73	\$123
BMC	14.46.050 C	Electric Vehicle Not Actively Charging in EV Space	\$43	\$73	\$123
BMC	14.52.050 A	Meter Street: Expired Meter	\$43	\$73	\$123
BMC	14.52.050 A	FD Meter Street: Expired Meter	\$65	\$95	\$145
BMC	14.52.050 B	Pay & Display Station Expired Time	\$43	\$73	\$123

Code	Section	Violation Description (For citations issued to a vehicle) FD = Football Game Days 9 a.m. to 11 p.m. FD fines = 50% higher on most violations & 100% higher for violations in RPP Zones A, B, D	Fine Amount	On Day 28 +\$30	On Day 47 +\$50
BMC	14.52.050 B	FD Pay & Display Sta Expired Time	\$65	\$95	\$145
BMC	14.52.060 A	Meter St: Extending Meter Time	\$43	\$73	\$123
BMC	14.52.060 A	FD Meter St: Extending Meter Time	\$65	\$95	\$145
BMC	14.52.060 B	Pay & Display Station Extend Time	\$43	\$73	\$123
BMC	14.52.060 B	FD Pay & Display Sta Extend Time	\$65	\$95	\$145
BMC	14.52.063	P&D Dispensing Mach Tkt Not Displayed	\$43	\$73	\$123
BMC	14.52.063	FD P&D Dispens Mach Tkt Not Displayed	\$65	\$95	\$145
BMC	14.52.066	Improper Display of P&D Disp Mach Tkt	\$43	\$73	\$123
BMC	14.52.066	FD Improper Display of P&D Disp Mach Tkt	\$65	\$95	\$145
CVC	4000	No Evidence Current Registration	\$50	\$80	\$130
CVC	4000	Expired Registration	\$50	\$80	\$130
CVC	4461 B	Improper Lending of DP Placard or Plate	\$550	\$580	\$630
CVC	4461 C	Improper Display of DP Placard or Plate	\$550	\$580	\$630
CVC	4461 D	Improper Use of DP Placard or Plate	\$550	\$580	\$630
CVC	4463 C	Use of Forged, Counterfeit, or False DP Placard or Plate	\$550	\$580	\$630
CVC	5200	Missing License Plates	\$25	\$55	\$105
CVC	5201	Lic Plates Improperly Positioned	\$25	\$55	\$105
CVC	5202	Hanging/Detached License Plate	\$25	\$55	\$105
CVC	5204 A	Expired Tags (read back)	\$25	\$55	\$105
CVC	5204 A	Missing Tags	\$25	\$55	\$105
CVC	21113 A	Parking on Public Grounds	\$54	\$84	\$134
CVC	21211 B	Vehicle Blocking Bicycle Lane	\$54	\$84	\$134
CVC	21718	Parking on Freeway	\$54	\$84	\$134
CVC	22500 A	Parking in an Intersection	\$60	\$90	\$140
CVC	22500 A	FD Parking in an Intersection	\$86	\$116	\$166
CVC	22500 B	Parking in Crosswalk	\$60	\$90	\$140
CVC	22500 B	FD Parking in Crosswalk	\$90	\$120	\$170
CVC	22500 C	Parking in Safety Zone	\$60	\$90	\$140
CVC	22500 C	FD Parking in Safety Zone	\$90	\$120	\$170
CVC	22500 D	Parking within 15' of Fire Station	\$60	\$90	\$140
CVC	22500 D	FD Parking within 15' of Fire Station	\$90	\$120	\$170
CVC	22500 E	Parking in Driveway	\$60	\$90	\$140
CVC	22500 E	FD Parking in Driveway	\$90	\$120	\$170
CVC	22500 F	Parking On/Across Sidewalk	\$60	\$90	\$140
CVC	22500 F	FD Parking On/Across Sidewalk	\$90	\$120	\$170
CVC	22500 G	Parking Construction No Permit	\$60	\$90	\$140
CVC	22500 G	FD Parking Construction No Permit	\$90	\$120	\$170
CVC	22500 H	Double-Parked	\$60	\$90	\$140

Code	Section	Violation Description (For citations issued to a vehicle) FD = Football Game Days 9 a.m. to 11 p.m. FD fines = 50% higher on most violations & 100% higher for violations in RPP Zones A, B, D	Fine Amount	On Day 28 +\$30	On Day 47 +\$50
CVC	22500 H	FD Double-Parked	\$90	\$120	\$170
CVC	22500 I	Parking/Stopping in Coach Zone	\$263	\$293	\$343
CVC	22500 I	FD Parking/Stopping in Coach Zone	\$263	\$293	\$343
CVC	22500 J	Parking in Tunnel	\$54	\$84	\$134
CVC	22500 K	Parking on Bridge	\$54	\$84	\$134
CVC	22500 L	Blocking Disabled Ramp	\$288	\$318	\$368
CVC	22502 A	Parking Over 18" from Curb 2-Way St	\$69	\$99	\$149
CVC	22502 A	FD Parking Over 18" from Curb 2-Way St	\$104	\$134	\$184
CVC	22503 E	Parking Over 10" from Curb 1-Way St	\$58	\$88	\$138
CVC	22507.8 A	Parking in Disabled Zone	\$317	\$347	\$397
CVC	22507.8 B	Obstructing Access Disabled Zone	\$317	\$347	\$397
CVC	22507.8 B	FD Obstructing Access Disabled Zone	\$317	\$347	\$397
CVC	22514 a	Parking within 15' of Fire Hydrant	\$78	\$108	\$158
CVC	22514 a	FD Parking within 15' of Fire Hydrant	\$117	\$147	\$197
CVC	22521	Parking within 7.5' of Railroad Tracks	\$54	\$84	\$134
CVC	22522	Parking within 3' of Wheelchair Ramp	\$317	\$347	\$397
CVC	22522	FD Parking within 3' of Wheelchair Ramp	\$317	\$347	\$397
CVC	22523 a	Abandon Vehicle on Highway	\$168	\$198	\$248
CVC	22523 b	Abandon Vehicle on Pub/Prvt Prop	\$168	\$198	\$248

Note: In addition to citation placed on vehicle, "Notice of Violation" is mailed to registered owner seven (7) days after citation and indicated when the fine penalty increases will occur: On Day 28 after citation issuance, the fine increases by \$30. If payment is not received within 45 days after issuance, on Day 47, the fine increases by an additional \$50.

Exhibit B: List New Parking Violations

Code	Section	Violation Description (For citations issued to a vehicle) FD = Football Game Days 9 a.m. to 11 p.m. FD fines = 50% higher on most violations & 100% higher for violations in RPP Zones A, B, D	Fine Amount	On Day 28 +\$30	On Day 47 +\$50
BMC	14.40.090	No RPP Permit Displayed in Enhanced Fine Area (Football Game Days)	\$225	\$255	\$305

**NOTICE OF PUBLIC HEARING
BERKELEY CITY COUNCIL**

FEES: RESIDENTIAL PREFERENTIAL PARKING PERMITS

Notice is hereby given by the City Council of the City of Berkeley that a public hearing will be conducted by said city council of the City of Berkeley at which time and place all persons may attend and be heard upon the following:

The Department of Public Works is proposing to increase the cost of annual Residential Preferential Parking (RPP) permits, effective June 1, 2019, for permits purchased for FY 2020, as summarized below:

Permit Type	Current Fee	Proposed Fee
Annual Residential & In-Home Care	\$66.00	\$90.00
1-Day Visitor	\$3.00	\$4.00
14-Day Visitor	\$34.00	\$47.00
Semi-Annual Residential & In-Home Care	\$33.00	\$45.00
Community-Serving Facility	\$83.00	\$114.00
Merchant	\$185.00	\$253.00
1-Day Senior Center	\$1.00	\$1.00
Replacement of Annual, 14-Day, Community-Serving Facility, & Merchant Permits	\$15.00	\$21.00
Surcharge Per Additional Annual Residential Permit Over Maximum, If Waiver Approved	\$100.00	\$100.00

The hearing will be held on Tuesday, May 14, 2019 at 6:00 p.m. in the School District Board Room, 1231 Addison Street.

For further information, please contact Farid Javandel, Transportation Division Manager, at (510) 981-7061.

A copy of the agenda material for this hearing will be available on the City's website at www.CityofBerkeley.info as of May 2, 2019.

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become**

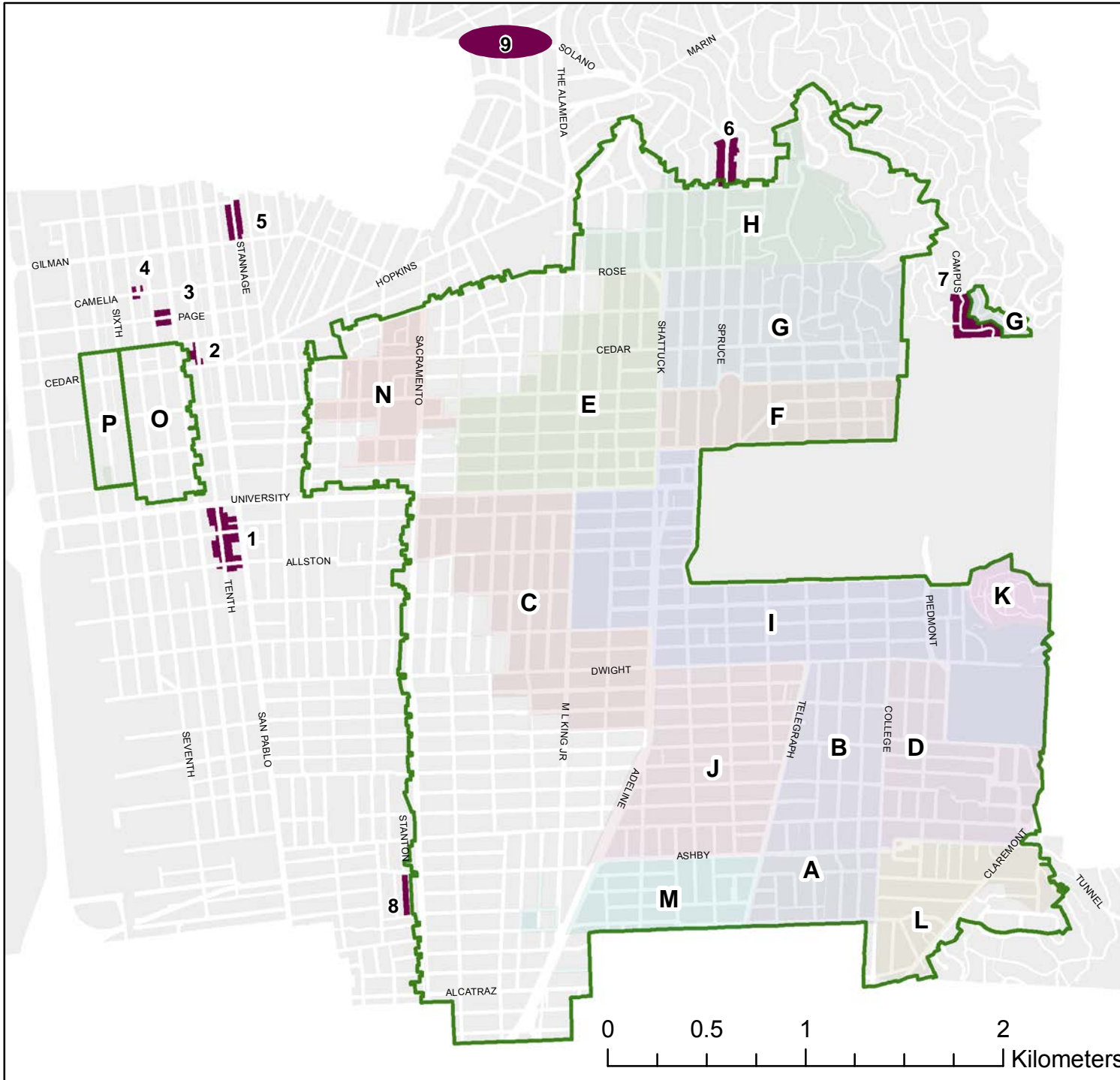
part of the public record. If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or clerk@cityofberkeley.info for further information.

If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Berkeley at, or prior to, the public hearing. Background information concerning this proposal will be available at the City Clerk Department and posted on the City of Berkeley webpage at least 12 days prior to the public hearing.

Published: May 3 and May 10, 2019 – The Berkeley Voice

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I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on May 2, 2019.

\_\_\_\_\_  
Mark Numainville, City Clerk



# ATTACHMENT 6

## EXISTING ELIGIBILITY AND INELIGIBLE OPT-IN REQUESTS

- E Existing RPP Area Extents
- Current Eligibility Boundary
- Out of Area Opt-In Requests

### FY 2019 Requests

1. 10th between University and Allston with adjacent side streets
2. 10th between Jones and Cedar
3. Page between 8th and 9th
4. Camelia between 7th and 8th

### Requests Prior to FY 2019

5. Stannage between Gilman and Harrison
6. Spruce between Los Angeles to Eunice
7. Campus between Avenita and LBL Campus
8. Stanton between Ashby and Prince
9. Multiple requests from Solano neighborhood

This map is for reference purposes only.

Care was taken in the creation of this map, but it is provided "AS IS". Please contact the City of Berkeley to verify map information or to report any errors.  
March 20, 2019



**CITY OF BERKELEY**  
Transportation Division  
1947 Center Street  
Berkeley CA 94704







Office of the City Manager

ACTION CALENDAR  
September 10, 2019

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Phillip L. Harrington, Director, Department of Public Works  
 Subject: Funding for Street Rehabilitation Capital Improvement Program in Berkeley

RECOMMENDATION

In response to Council comments at the December 11, 2018 Council Meeting, this report provides information on current and future funding sources for street rehabilitation. Staff is requesting feedback on the funding available, including current expenditures, projected expenses, and plans, for the City's current and future Street Rehabilitation Capital Improvement Program (CIP).

FISCAL IMPACTS OF RECOMMENDATION

Funds for street rehabilitation projects are also required to support other eligible funding requests needed for other City projects, programs, and staffing as they align with the Department's complete streets vision. All funding allocations provided or proposed for street rehabilitation were determined when balancing the Public Works Department budget requests. Additional funding sources are required to increase street rehabilitation construction to more than what was proposed in the City FY 2020 to 2024 5-year Street Rehabilitation Plan.

CURRENT SITUATION AND ITS EFFECTS

The current street rehabilitation program in the CIP is based on the adopted biennial budget for Fiscal Years 2020 and 2021, and the estimated available funding levels from State Transportation (Gas) Taxes, Measure B, Measure BB, County Measure F, bonds, one time grants, and the General Fund. Similarly, the street rehabilitation programs for future years are based on projected budgets and estimated available funding levels. The funding allocations for street rehabilitation in FY 2019 and the next five fiscal years FY 2020 - 2024 are provided in the Table 1 below.

| <b>Table1: Current Year and Five-Year Paving Program Funding Source Allocations by Year, in \$</b> |                  |                  |                  |                  |                  |                  |
|----------------------------------------------------------------------------------------------------|------------------|------------------|------------------|------------------|------------------|------------------|
| <b>Fund Description</b>                                                                            | <b>FY 2019</b>   | <b>FY 2020</b>   | <b>FY 2021</b>   | <b>FY 2022</b>   | <b>FY 2023</b>   | <b>FY 2024</b>   |
| <b>State Transportation Tax</b>                                                                    | 495,303          | 495,303          | 495,303          | 495,303          | 495,303          | 495,303          |
| <b>Measure B - Local Streets &amp; Roads</b>                                                       | 724,000          | 700,000          | 1,000,000        | 700,000          | 0                | 0                |
| <b>Measure BB – Local Streets &amp; Roads</b>                                                      | 1,600,000        | 2,200,000        | 1,700,000        | 2,000,000        | 2,700,000        | 2,700,000        |
| <b>Measure F Vehicle - Registration Fee</b>                                                        | N/A              | 155,000          | 155,000          | 155,000          | 155,000          | 155,000          |
| <b>Capital Improvement Fund</b>                                                                    | 1,925,000        | 1,925,000        | 1,925,000        | 1,925,000        | 1,925,000        | 1,925,000        |
| <b>Road Repair and Accountability Act of 2017 (SB1)</b>                                            | 2,150,000        | 1,500,000        | 1,700,000        | 1,700,000        | 2,000,000        | 2,000,000        |
| <b>TOTAL</b>                                                                                       | <b>6,894,303</b> | <b>6,975,303</b> | <b>6,975,303</b> | <b>6,975,303</b> | <b>7,275,303</b> | <b>7,275,303</b> |

The baseline funding sources eligible to be used for street rehabilitation as shown in column 1 of Table 2 below include State Transportation (Gas) Tax, Measure B- Local Streets and Roads, Measure BB- Local Streets and Road, County Measure F (Vehicle Registration Fee), Capital Improvement Fund (General Fund), and Road Repair and Accountability Act of 2017 (SB1). The total estimated funding levels from the listed fund sources are provided in column 2 in Table 2 below.

| <b>Table 2: Revenue versus Street Rehab. Allocation</b> |                                                  |                                                                            |                                                                             |
|---------------------------------------------------------|--------------------------------------------------|----------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| <b>1<br/>Fund Description</b>                           | <b>2<br/>Revenue Avg.<br/>FY 2020-24 (in \$)</b> | <b>3<br/>Street Rehab. Fund<br/>Allocation Avg.<br/>FY 2020-24 (in \$)</b> | <b>4<br/>Average Amt. of<br/>Revenue Dedicated<br/>to Street Rehab. (%)</b> |
| <b>State Transportation Tax</b>                         | 3,032,753                                        | 495,303                                                                    | 16%                                                                         |
| <b>Measure B - Local Streets &amp; Roads</b>            | 1,962,498                                        | 480,000                                                                    | 24%                                                                         |
| <b>Measure BB – Local Streets &amp; Roads</b>           | 3,078,338                                        | 2,260,000                                                                  | 73%                                                                         |
| <b>Measure F Vehicle -Registration Fee</b>              | 452,361                                          | 155,000                                                                    | 34%                                                                         |
| <b>Capital Improvement Fund*</b>                        | 2,670,000                                        | 1,925,000                                                                  | 72%                                                                         |
| <b>Road Repair and Accountability Act of 2017 (SB1)</b> | 2,404,232                                        | 1,780,000                                                                  | 74%                                                                         |

\* Baseline funding allocation to Streets/ Sidewalks/ Traffic

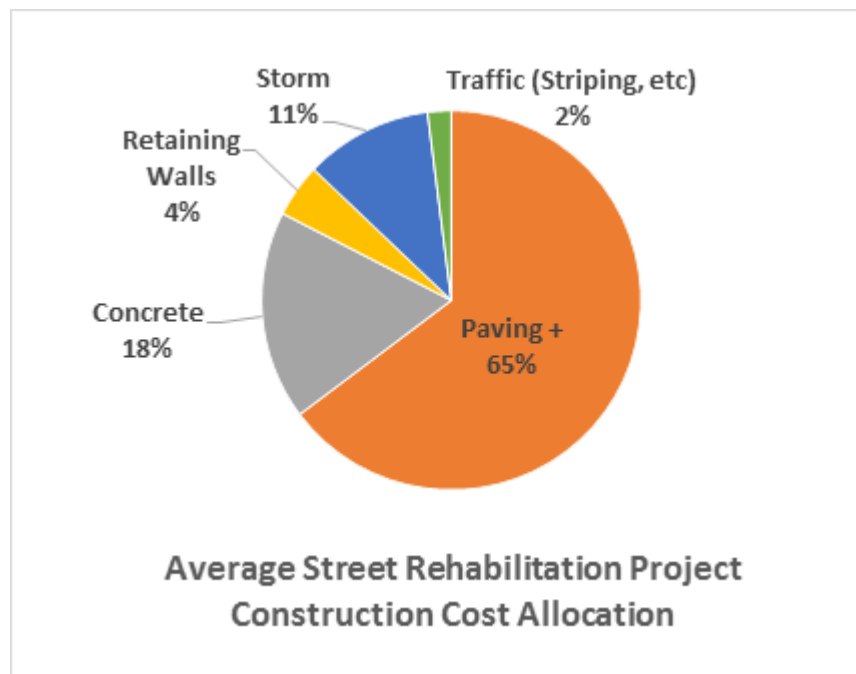
The total revenue shown in column 2 of Table 2 is expended on Engineering and Transportation personnel working on various projects and programs; design and construction of various capital projects; and Public Works maintenance personnel, equipment and improvement costs.



The revenue amounts (shown in column 2 of Table 2) are not only being spent on street rehabilitation, they are also being spent on transportation improvements, traffic calming, complete streets projects, signal maintenance and improvements, transit area improvements, sidewalk maintenance and capital improvements, and storm drainage and green infrastructure improvements.

The allocation of the total available funding that goes towards street rehabilitation projects such as Panoramic Hill Street Rehabilitation and FY 18 Street Rehabilitation is provided in column 3 of Table 2. The average percent of revenue that is dedicated to street rehabilitation is shown in column 4 of Table 2. As can be seen, only a fraction of the available revenue goes towards street rehabilitation.

Of the fund amounts allocated for the street rehabilitation projects over the past few years, 80 to 85% of the funds have gone towards construction, and 15 to 20% have gone towards personnel and consultant costs (design, construction management, and survey). The construction cost break-down for three paving projects being constructed in summer 2019, is as shown in the below figure where 65% of the construction cost is paving, and 35% of the cost is storm drain/ green infrastructure, traffic related improvements, retaining walls, and concrete (curb, gutter, and sidewalks).



### Funding Sources for Street Rehabilitation

The State Transportation Taxes are a major contributor of revenue for street rehabilitation, and these funds come from gas taxes and vehicle fees. The City receives approximately \$3 million annually in gas tax funds. Approximately \$495,000 of the funds are designated for street rehabilitation every year. Road Repair and Accountability Act of 2017 (SB1) funds is an additional State Transportation Tax. This tax is generated from a gas tax increase, diesel tax increase, new transportation improvement fee, new \$100 annual vehicle registration fee applicable only to certain zero-emission vehicles. Starting 2018, SB1 provides \$26 billion to cities and counties for the next decade. The City will

receive approximately \$2.15 million in FY2019 and is currently budgeting receiving between \$2.15 million and \$2.6 million annually of SB1 funding for FY2020 to FY2024. Approximately, 75% (between \$1.5 to 2.15 million) of the SB1 funding is being appropriated for street rehabilitation.

Measure B- Local Streets and Roads is another contributor of revenue street rehabilitation. Measure B is a half-cent County sales tax authorized in 2000. Measure B will be in effect for 20 years; sales tax collection began on April 1, 2002 and will extend through March 31, 2022. Alameda CTC makes monthly Measure B direct distributions to local jurisdictions and transit agencies. The Measure B Local Streets and Roads funds are to be spent on transportation capital improvements for surface streets and arterial roads, and maintenance of upkeep of local streets and roads, including repaving of streets, filling potholes, and upgrading local transportation infrastructure. The City receives approximately \$3.7 million annually in Measure B- Local Streets and Roads funds. The city allocates between \$700,000 and \$1,000,000 of funds towards street rehabilitation annually.

Measure BB- Local Streets and Roads is an extension and augmentation of the existing transportation sales tax (Measure B). It is a half-cent County sales tax passed by the voters in 2014. Collection of the initial half cent sales tax began on April 1, 2015 and will extend through March 31, 2022. The full one-cent sales tax was authorized by Measure BB will begin in April 2022 and will extend through March 2045. Alameda CTC has been making monthly Measure BB distributions to the City since July 2015. Measure BB funds are required to be spent on capital projects and programs that improve the countywide transportation system. The City receives approximately \$3 million from Measure BB annually. The City allocates \$1.7 million to \$2.7 million of funds towards street rehabilitation annually.

Measure F, Alameda County's Vehicle Registration Fee (VRF) Program was approved by Alameda County voters in November, 2010. The VRF is a \$10 charge per year for each vehicle registered in Alameda County. This is a \$10 fee, which began in May 2011, and will continue to be imposed annually unless repealed. The funds are distributed to cities in the county and to Alameda County to be spent on transportation capital improvements for surface streets and arterial roads, and maintenance and upkeep of local streets and roads. The City receives approximately \$452,361 a year in VRF funds. The City allocates \$155,000 in VRF funds to street rehabilitation annually.

The Capital Improvement Fund is an annual transfer from the General Fund designated to capital improvements. The City allocates \$2.67 million for the Capital Improvement Fund (baseline funding for streets, sidewalks, and traffic improvements) annually, and allocates \$1,925,000 of the funding each year for street rehabilitation.

City Bond Measures have also been sources of funding for the street rehabilitation program, and these funds are not shown in the tables. Measure M was approved in November 2012, and authorized the issuance of \$30 million of general obligation bonds. The funds became available in January 2014. Bond proceeds have been used to construct street improvements, such as street repaving and rehabilitation, which included flood control and water quality measures when appropriate and consistent with the Watershed Management Plan. Measure M is in its final stages, and the City will have

achieved a total of 18.0 miles of street rehabilitation with the funds. City staff will present a Measure M closeout report to the City Council after all the funds have been expended later this fiscal year.

Measure T1, approved in November 2016, authorized the City to sell \$100 million of General Obligation Bonds (GO Bonds). The first phase of T1 provides \$35 million for citywide projects. Phase 1 of T1 bond funds are planned for expenditure on City facility improvements, restrooms, park improvements, street rehabilitation, and green infrastructure and flood control improvements. Approximately \$8.5 million of Phase 1 of T1 bonds funds are being spent or will be spent on street improvements. A community process will identify and vet potential projects to be delivered with Phase 2 of T1 bond funds. Phase 2 of the T1 bond funds will not be available until after Council approves the Phase 2 Measure T1 projects which is anticipated to occur in March 2021.

Staff has been successful in securing grant funds to supplement annual funding for street rehabilitation grants in past years. For instance, staff had secured \$2.78 million of grant funds for the Shattuck Reconfiguration Project, which includes 0.26 centerline miles of street rehabilitation in FY 2020. Staff also secured \$1.21 million of federal grant funds for street rehabilitation in association with the Southside Complete Streets project. Grant are not, however, a guaranteed annual fund source.

Funding for the Street Rehabilitation Program advances the City's strategic goal of providing state-of-the-art, well-maintained infrastructure, amenities, and facilities.

#### BACKGROUND

Berkeley has 216 centerline miles of public streets within the City limit, which is comprised of 22 miles of arterials, 37 miles of collectors, and 156 miles of residential streets.

The City Street Rehabilitation Policy indicates that all of Berkeley's Measure B Sales Tax funds allocated for local streets and roads, all gas tax subventions and similar funds shall be used for street rehabilitation as follows: 10% for Arterials, 50% for Collectors, 25% on Residential Streets, and 15% on Discretionary and Demonstration Projects. However, residential streets are in the worst conditions of all City streets. Thus, City staff and the Public Works Commission collectively agreed to spend a larger proportionate share of funds on residential streets the last two years. The street rehabilitation policy will be revised to reflect these current goals.

From Fiscal Years 2019 to 2023, the City will pave 14.70 miles of residential streets, 1.25 miles of arterials, and 4.40 miles of collectors. This is a total of 20.37 miles of streets at a cost of \$42.8 million, from all fund sources, including T1 bond funds and grants. The adopted FY 2019 to 2023 Pavement Rehabilitation Plan is provided in Attachment 1, and the FY 2020 to 2024 Pavement Rehabilitation Plan is currently in the process of being developed.

The City typically allocates spending approximately \$7 million each year on street rehabilitation, not including grants or T1 funds. In addition to street pavement, the street rehabilitation projects incorporate many other improvements to selected streets as part of implementing the City's "complete street" approach which repairs or replaces street

infrastructure such as curb ramps, curbs, gutters, sidewalks, drainage inlets and pipes, street signage, and striping. These non-pavement related costs represent approximately 30% to 40% of the construction costs.

#### ENVIRONMENTAL SUSTAINABILITY

The City includes environmental sustainability in the development of its street rehabilitation plan. In accordance with the street rehabilitation policy, the City set asides 15% of its funds towards demonstration or discretionary projects such as street rehabilitation which provides environmental benefits. In Fiscal Year 2020, a demonstration project the City plans to construct includes the use of permeable concrete in parking lanes. The Public Works Commission is currently identifying additional green infrastructure projects in FY 2021 to 2024 to be funded by the discretionary and demonstration funds.

In addition, environmentally conscious pavement treatments are incorporated in the paving projects such as Full Depth Reclamation (FDR). FDR is being used as a cost-effective alternative to traditional street reconstruction methods. It recycles much of the existing pavement on site, and incorporates it into the pavement subgrade, thereby reducing truck trips to and from construction sites.

#### RATIONALE FOR RECOMMENDATION

During discussion of the FY 2019-2023 Five-Year Street Rehabilitation Plan at the December 11, 2018 Council Meeting, the Council requested staff provide a report on the funding sources available for street rehabilitation.

#### ALTERNATIVE ACTIONS CONSIDERED

No alternative actions were considered.

#### CONTACT PERSON

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#### Attachments:

1: Adopted Five-Year Street Rehabilitation Plan for FY 2019 to FY 2023

EXHIBIT A  
5-YEAR STREET REHABILITATION PLAN FOR FY 2019 TO FY 2023

Revised: 11/1/2018

| Fiscal Year | Street ID | Section ID | Street Name     | From             | To                        | Class | Treatment    | Total Cost   | District | P         | Mileage | Current PCI | Last M&R Date | Last M&R | Last Paved                 |
|-------------|-----------|------------|-----------------|------------------|---------------------------|-------|--------------|--------------|----------|-----------|---------|-------------|---------------|----------|----------------------------|
| 2019        | 320212    | 33         | 5TH ST          | HARRISON ST      | CAMELIA ST                | R     | Surface Seal | \$ 292,320   | 1        | N         | 0.25    | 58          | 4/1/2001      | A - AC   | RECONSTRUCT STRUCTURE (AC) |
| 2019        | 932538    | 55         | 6TH ST          | ALLSTON WAY      | DWIGHT WAY                | C     | Overlay      | \$ 857,533   | 2        | N         | 0.37    | 45          | 10/1/1994     | O -      | MILL AND OVERLAY W/FABRIC  |
| 2019        | 320538    | 30         | 6TH ST          | NORTH CITY LIMIT | GILMAN ST                 | R     | Surface Seal | \$ 90,440    | 1        | 2B        | 0.22    | 64          | 8/31/2004     | O -      | MILL AND OVERLAY W/FABRIC  |
| 2019        | 933076    | 42         | BURNETT ST      | MABEL ST         | ACTON ST                  | R     | Surface Seal | \$ 47,872    | 2        | N         | 0.13    | 53          | 7/1/1988      | O -      | MILL AND OVERLAY W/FABRIC  |
| 2019        | 931077    | 50         | BYRON ST        | ADDISON ST       | BANCROFT WAY              | R     | Surface Seal | \$ 89,760    | 2        | N         | 0.25    | 68          | 7/1/1988      | O -      | THIN OVERLAY w/FABRIC      |
| 2019        | 933095    | 40         | CARLETON ST     | SAN PABLO AVE    | MATHEWS ST                | R     | Surface Seal | \$ 112,000   | 2        | N         | 0.09    | 65          | 9/1/1991      | O -      | MILL AND OVERLAY W/FABRIC  |
| 2019        | 213098    | 50         | CATALINA AVE    | COLUSA AVE       | THE ALAMEDA               | R     | Reconstruct  | \$ 235,200   | 1, 5     | N         | 0.19    | 35          | 7/1/1993      | A - AC   | RECONSTRUCT SURFACE (AC)   |
| 2019        | 423142    | 55         | DELAWARE ST     | CALIFORNIA ST    | MARTIN LUTHER KING JR WAY | R     | Surface Seal | \$ 136,000   | 1        | N         | 0.38    | 52          | 12/15/2004    | A - AC   | RECONSTRUCT SURFACE (AC)   |
| 2019        | 933146    | 40         | DERBY ST        | SAN PABLO AVE    | MABEL ST                  | R     | Overlay      | \$ 259,372   | 2        | N         | 0.20    | 56          | 10/1/1992     | O -      | MILL AND OVERLAY W/FABRIC  |
| 2019        | 932153    | 55         | DWIGHT CRESCENT | 6TH ST           | 7TH ST                    | C     | Overlay      | \$ 168,000   | 2        | N         | 0.08    | 47          | 7/1/1988      | O -      | MILL AND OVERLAY W/FABRIC  |
| 2019        | 525278    | 42         | HIGHLAND PL     | RIDGE RD         | HEARST AVE                | R     | Overlay      | \$ 74,827    | 6        | N         | 0.07    | 25          |               | C -      |                            |
| 2019        | 423352    | 50         | LINCOLN ST      | SACRAMENTO ST    | GRANT ST                  | R     | Surface Seal | \$ 433,440   | 1        | N         | 0.37    | 54          | 10/1/1992     | O -      | MILL AND THICK OVERLAY     |
| 2019        | 525484    | 77         | RIDGE RD        | LA LOMA AVE      | HIGHLAND PL               | R     | Overlay      | \$ 82,960    | 6        | N         | 0.06    | 0           |               | A - AC   |                            |
| 2019        | 213553    | 10         | STATION PL      | CATALINA AVE     | SOUTH DEAD END            | R     | Reconstruct  | \$ 63,467    | 5        | N         | 0.04    | 8           |               | O -      |                            |
| 2019        | 735008    | 60         | ADELIN ST       | DERBY ST         | STUART ST                 | A     | Overlay      | \$ 874,367   | 3        | 2A to 2B* | 0.14    | 37          |               |          |                            |
| 2019        | 735008    | 64         | ADELIN ST       | STUART ST        | ASHBY AVE                 | A     | Overlay      | \$ 1,639,867 | 3        | 2A to 2B* | 0.28    | 40          |               |          |                            |
| 2019        | 524274    | 63         | HEARST AVE      | MILVIA AVE       | SHATTUCK AVE              | A     | Overlay      | \$ 295,311   | 4        | 2A        | 0.13    | 60          |               |          |                            |
|             |           |            |                 |                  |                           |       |              | \$ 5,752,735 |          |           | 3.24    |             |               |          |                            |

Note: Column P denotes presence of bike facility type (1 paved path, 2A 2B bike lane, 3A sign-only, 3C Sharrows, 3E bike blvd, 4 cycle track); C for bus route; and N for none.

\*Proposed bike facilities from 2017 Bike Plan.

Draft 11.9.18 5-Year Street Rehabilitation Plan FY 2019-2023.xlsx

EXHIBIT A  
5-YEAR STREET REHABILITATION PLAN FOR FY 2019 TO FY 2023

Revised: 11/1/2018

| Fiscal Year | Street ID | Section ID | Street Name       | From               | To                    | Class | Treatment    | Total Cost    | District | P   | Mileage | Current PCI | Last M&R Date | Last M&R | Last Paved                 |
|-------------|-----------|------------|-------------------|--------------------|-----------------------|-------|--------------|---------------|----------|-----|---------|-------------|---------------|----------|----------------------------|
| 2020        | 940005    | 70         | ACTON ST          | ASHBY ST           | 66TH ST               | R     | Surface Seal | \$ 83,640     | 2        | N   | 0.23    | 60          | 8/29/2007     | A - AC   | RECONSTRUCT STRUCTURE (AC) |
| 2020        | 516020    | 30         | ARCADE AVE        | GRIZZLY PEAK BLVD  | FAIRLAWN DR           | R     | Surface Seal | \$ 63,378     | 6        | N   | 0.06    | 7           | 6/1/1995      | O -      | MILL AND OVERLAY W/FABRIC  |
| 2020        | 321100    | 30         | CEDAR ST          | 6TH ST             | SAN PABLO AVE         | C     | Overlay      | \$ 683,169    | 1        | 3C* | 0.31    | 27          | 10/1/1994     | O -      | MILL AND OVERLAY W/FABRIC  |
| 2020        | 829102    | 60         | CENTER ST         | MARTIN LUTHER KING | MILVIA ST             | R     | Overlay      | \$ 315,644    | 4        |     | 0.13    | 59          | 7/1/1991      | A - AC   | RECONSTRUCT SURFACE (AC)   |
| 2020        | 729102    | 63         | CENTER ST         | MILVIA ST          | SHATTUCK AVE          | R     | Overlay      | \$ 292,444    | 4        |     | 0.13    | 72          | 7/1/1991      | A - AC   | RECONSTRUCT SURFACE (AC)   |
| 2020        | 739141    | 70         | DEAKIN ST         | ASHBY AVE          | PRINCE ST             | R     | Surface Seal | \$ 45,920     | 3        | N   | 0.16    | 76          | 4/3/2008      | A - AC   | RECONSTRUCT STRUCTURE (AC) |
| 2020        | 736141    | 68         | DEAKIN ST         | RUSSELL ST         | ASHBY AVE             | R     | Surface Seal | \$ 35,700     | 3        | N   | 0.10    | 57          | 7/1/1988      | O -      | MILL AND OVERLAY W/FABRIC  |
| 2020        | 940148    | 70         | DOHR ST           | ASHBY AVE          | PRINCE ST             | R     | Surface Seal | \$ 123,598    | 2        | N   | 0.14    | 53          | 10/1/1992     | A - AC   | RECONSTRUCT STRUCTURE (AC) |
| 2020        | 320685    | 10         | MARINA BLVD       | SPINNAKER WAY      | UNIVERSITY AVE        | C     | Overlay      | \$ 675,000    | 1        | N   | 0.43    | 58          | 9/1/1986      | A - AC   | OVERLAY                    |
| 2020        | 735382    | 60         | MILVIA ST         | BLAKE ST           | RUSSELL ST            | R     | Reconstruct  | \$ 770,800    | 3        | 3E  | 0.44    | 28          | 9/1/1993      | A - AC   | RECONSTRUCT SURFACE (AC)   |
| 2020        | 830491    | 58         | ROOSEVELT AVE     | CHANNING WAY       | DWIGHT WAY            | R     | Surface Seal | \$ 172,480    | 4        | N   | 0.13    | 65          | 12/1/1989     | A - AC   | RECONSTRUCT SURFACE (AC)   |
| 2020        | 516492    | 75         | ROSE ST           | LE ROY AVE         | LA LOMA AVE           | R     | Reconstruct  | \$ 100,000    | 6        | N   | 0.14    | 0           |               | A - AC   |                            |
| 2020        | 319525    | 35         | SANTA FE AVE      | GILMAN ST          | CORNELL AVE & PAGE    | R     | Overlay      | \$ 314,705    | 1        | 3C* | 0.27    | 49          | 7/1/1995      | A - AC   | RECONSTRUCT STRUCTURE (AC) |
| 2020        | 319525    | 30         | SANTA FE AVE      | NORTH CITY LIMIT   | GILMAN ST             | R     | Surface Seal | \$ 37,355     | 1        | 3C* | 0.11    | 60          | 8/31/2004     | O -      | MILL AND THIN OVERLAY      |
| 2020        | 115532    | 77         | SHASTA RD         | GRIZZLY PEAK BLVD  | PARK GATE             | C     | Reconstruct  | \$ 86,667     | 6        | N   | 0.05    | 14          | 11/1/1988     | A - AC   | RECONSTRUCT SURFACE (AC)   |
| 2020        | 115532    | 79         | SHASTA RD         | PARK GATE          | EAST CITY LIMIT (GOLF | C     | Reconstruct  | \$ 150,667    | 6        | N   | 0.11    | 10          | 11/1/1988     | A - AC   | RECONSTRUCT SURFACE (AC)   |
| 2020        | 320686    | 10         | SPINNAKER WAY     | BREAKWATER DR      | MARINA BLVD           | R     | Reconstruct  | \$ 1,333,333  | 1        | N   | 0.28    | 24          | 8/1/1991      | A - AC   | OVERLAY                    |
| 2020        | 931657    | 55         | WEST ST           | BANCROFT WAY       | DWIGHT WAY            | R     | Surface Seal | \$ 263,822    | 2        | N   | 0.25    | 65          | 10/1/1994     | O -      | MILL AND OVERLAY W/FABRIC  |
| 2020        | 213386    | 22         | MONTEREY AVE      | THE ALAMEDA        | HOPKINS ST            | C     | Overlay      | \$ 1,960,667  | 5        | 2A  | 0.57    | 54          | 11/30/2011    | A - AC   | MILL AND OVERLAY           |
| 2020        | 933653    | 40         | WARD ST           | SAN PABLO AVE      | ACTON ST              | R     | Reconstruct  | \$ 1,328,400  | 2        | N   | 0.31    | 20          | 9/1/1991      | A - AC   | MILL AND OVERLAY W/FABRIC  |
| 2020        | 320620    | 15         | UNIVERSITY AVE    | MARINA BLVD        | WEST FRONTAGE RD      | C     | Reconstruct  | \$ 3,520,000  | 1, 2     | N   | 0.30    | 0           | 12/1/1989     | A - AC   | OVERLAY                    |
| 2020        | 729533    | 55         | SHATTUCK AVE      | CENTER ST          | ALLSTON WAY           | A     | Reconstruct  | \$ 1,533,778  | 4        |     | 0.06    | 2           | 7/1/1994      | O -      | MILL AND OVERLAY W/FABRIC  |
| 2020        | 729533    | 57         | SHATTUCK AVE (SB) | CENTER ST          | UNIVERSITY AVE        | A     | Reconstruct  | \$ 2,552,000  | 4        |     | 0.13    | 12          | 7/1/1994      | O -      | MILL AND OVERLAY W/FABRIC  |
| 2020        | 729535    | 50         | SHATTUCK SQUARE   | UNIVERSITY AVE     | ADDISON               | A     | Reconstruct  | \$ 1,433,889  | 4        |     | 0.07    | 28          | 7/1/1994      | O -      | MILL AND OVERLAY W/FABRIC  |
|             |           |            |                   |                    |                       |       |              | \$ 17,877,057 |          |     | 4.92    |             |               |          |                            |

Note: Column P denotes presence of bike facility type (1 paved path, 2A 2B bike lane, 3A sign-only, 3C Sharrows, 3E bike blvd, 4 cycle track); C for bus route; and N for none.

\*Proposed bike facilities from 2017 Bike Plan.

Draft 11.9.18 5-Year Street Rehabilitation Plan FY 2019-2023.xlsx

EXHIBIT A  
5-YEAR STREET REHABILITATION PLAN FOR FY 2019 TO FY 2023

Revised: 11/1/2018

| Fiscal Year | Street ID | Section ID | Street Name   | From              | To                | Class | Treatment    | Total Cost   | District | P         | Mileage | Current PCI | Last M&R Date | Last M&R  | Last Paved                   |
|-------------|-----------|------------|---------------|-------------------|-------------------|-------|--------------|--------------|----------|-----------|---------|-------------|---------------|-----------|------------------------------|
| 2021        | 628042    | 78         | BANCROFT WAY  | BOWDITCH ST       | COLLEGE AVE       | C     | Overlay      | \$ 161,036   | 7        | 3C*       | 0.13    | 62          | 12/1/1990     | O -       | MILL AND OVERLAY W/FABRIC    |
| 2021        | 627042    | 80         | BANCROFT WAY  | COLLEGE AVE       | PIEDMONT AVE      | C     | Overlay      | \$ 178,336   | 7        | 3C*       | 0.13    | 57          | 12/1/1990     | O -       | MILL AND OVERLAY W/FABRIC    |
| 2021        | 111127    | 10         | CRESTON RD    | GRIZZLY PEAK BLVD | SUNSET LANE       | R     | Surface Seal | \$ 140,067   | 6        | N         | 0.36    | 67          | 6/1/1995      | A - AC    | RECONSTRUCT STRUCTURE (AC)   |
| 2021        | 115127    | 20         | CRESTON RD    | SUNSET LANE       | GRIZZLY PEAK BLVD | R     | Surface Seal | \$ 98,047    | 6        | N         | 0.36    | 64          | 11/1/1988     | A - AC    | RECONSTRUCT SURFACE (AC)     |
| 2021        | 728140    | 50         | DANA ST       | BANCROFT WAY      | DWIGHT WAY        | R     | Overlay      | \$ 352,700   | 7        | 2A to 2B* | 0.25    | 51          | 12/1/1989     | O -       | MILL AND OVERLAY W/FABRIC    |
| 2021        | 728180    | 50         | ELLSWORTH ST  | BANCROFT WAY      | DWIGHT WAY        | R     | Reconstruct  | \$ 422,400   | 7        |           | 0.25    | 20          | 11/1/1992     | O -       | MILL AND OVERLAY W/FABRIC    |
| 2021        | 736180    | 60         | ELLSWORTH ST  | DWIGHT WAY        | WARD ST           | R     | Surface Seal | \$ 129,360   | 7        |           | 0.38    | 83          | 5/11/2011     | A - AC    | RECONSTRUCT SURFACE (AC)     |
| 2021        | 736180    | 65         | ELLSWORTH ST  | WARD ST           | ASHBY AVE         | R     | Surface Seal | \$ 99,307    | 3        |           | 0.29    | 87          | 5/11/2011     | A - AC    | RECONSTRUCT SURFACE (AC)     |
| 2021        | 736227    | 60         | FULTON ST     | DWIGHT WAY        | PARKER ST         | R     | Overlay      | \$ 167,540   | 3        | 3E*       | 0.13    | 61          | 6/1/1993      | O -       | MEDIUM AC OVERLAY (2 INCHES) |
| 2021        | 736227    | 63         | FULTON ST     | PARKER ST         | STUART ST         | R     | Overlay      | \$ 334,092   | 3        | 3E*       | 0.25    | 61          | 2/1/1992      | O -       | THIN AC OVERLAY(1.5 INCHES)  |
| 2021        | 115344    | 80         | LATHAM LANE   | MILLER AVE        | GRIZZLY PEAK      | R     | Surface Seal | \$ 38,500    | 6        | N         | 0.10    | 61          | 6/1/1994      | A - AC    | RECONSTRUCT STRUCTURE (AC)   |
| 2021        | 423371    | 40         | MC GEE AVE    | CEDAR ST          | VIRGINIA ST       | R     | Surface Seal | \$ 144,480   | 1        | N         | 0.12    | 52          | 6/1/1995      | O -       | MILL AND OVERLAY W/FABRIC    |
| 2021        | 115380    | 70         | MILLER AVE    | HILLDALE AVE      | SHASTA RD         | R     | Surface Seal | \$ 245,700   | 6        | N         | 0.66    | 58          | 6/1/1994      | A - AC    | RECONSTRUCT STRUCTURE (AC)   |
| 2021        | 835431    | 65         | OTIS ST       | RUSSELL ST        | ASHBY AVE         | R     | Surface Seal | \$ 156,800   | 3        | N         | 0.13    | 61          | 4/1/2001      | A - AC    | RECONSTRUCT STRUCTURE (AC)   |
| 2021        | 321440    | 35         | PAGE ST       | 10TH ST           | SAN PABLO AVE     | R     | Surface Seal | \$ 62,533    | 1        | N         | 0.06    | 56          | 12/1/1989     | A - AC    | RECONSTRUCT SURFACE (AC)     |
| 2021        | 319440    | 40         | PAGE ST       | SAN PABLO AVE     | CORNELL AVE       | R     | Surface Seal | \$ 171,360   | 1        | N         | 0.14    | 48          | 12/1/1989     | A - AC    | RECONSTRUCT SURFACE (AC)     |
| 2021        | 517533    | 30         | SHATTUCK AVE  | EUNICE ST         | ROSE ST           | R     | Surface Seal | \$ 169,100   | 5        | N         | 0.25    | 61          | 5/17/2006     | A - AC    | RECONSTRUCT STRUCTURE (AC)   |
| 2021        | 114533    | 25         | SHATTUCK AVE  | LOS ANGELES AVE   | EUNICE ST         | R     | Surface Seal | \$ 111,300   | 5        | N         | 0.30    | 67          | 11/6/2003     | A - AC    | RECONSTRUCT STRUCTURE (AC)   |
| 2021        | 736561    | 70         | STUART ST     | FULTON ST         | HILLEGASS AVE     | R     | Surface Seal | \$ 588,000   | 7        | N         | 0.46    | 54          | 11/13/1998    | A - AC    | RECONSTRUCT STRUCTURE (AC)   |
| 2021        | 728584    | 50         | TELEGRAPH AVE | BANCROFT WAY      | DWIGHT WAY        | C     | Overlay      | \$ 299,900   | 7        | 3C*       | 0.25    | 52          | 7/1/1988      | O - AC/AC | MILL AND OVERLAY W/FABRIC    |
| 2021        | 320528    | 47         | 2ND ST        | DELAWARE ST       | HEARST AVE        | R     | Reconstruct  | \$ 775,833   | 1        | N         | 0.09    | 2           | NA            |           |                              |
| 2021        | 320528    | 48         | 2ND ST        | HEARST AVE        | UNIVERSITY AVE    | R     | Overlay      | \$ 762,222   | 1        | N         | 0.09    | 46          | NA            |           |                              |
| 2021        | 920528    | 50         | 2ND ST        | UNIVERSITY AVE    | ADDISON ST        | R     | Reconstruct  | \$ 560,000   | 2        | N         | 0.09    | 0           | 8/27/1997     |           | MILL AND OVERLAY W/FABRIC    |
| 2021        | 729042    | 65         | BANCROFT WAY  | SHATTUCK AVE      | FULTON ST         | C     | Reconstruct  | \$ 277,778   | 4        |           | 0.09    | 32          | 8/7/1997      | O -       | MILL AND OVERLAY W/FABRIC    |
| 2021        | 729042    | 60         | BANCROFT WAY  | MILVIA WAY        | SHATTUCK AVE      | C     | Reconstruct  | \$ 359,836   | 4        | N         | 0.13    | 28          | 12/1/1989     |           | MILL AND OVERLAY W/FABRIC    |
|             |           |            |               |                   |                   |       |              | \$ 6,806,227 |          |           | 5.51    |             |               |           |                              |

Note: Column P denotes presence of bike facility type (1 paved path, 2A 2B bike lane, 3A sign-only, 3C Sharrows, 3E bike blvd, 4 cycle track); C for bus route; and N for none.

\*Proposed bike facilities from 2017 Bike Plan.

Draft 11.9.18 5-Year Street Rehabilitation Plan FY 2019-2023.xlsx

EXHIBIT A  
5-YEAR STREET REHABILITATION PLAN FOR FY 2019 TO FY 2023

Revised: 11/1/2018

| Fiscal Year | Street ID | Section ID | Street Name  | From                     | To                 | Class | Treatment    | Total Cost   | District | P         | Mileage | Current PCI | Last M&R Date | Last M&R  | Last Paved                 |
|-------------|-----------|------------|--------------|--------------------------|--------------------|-------|--------------|--------------|----------|-----------|---------|-------------|---------------|-----------|----------------------------|
| 2022        | 213055    | 50         | BEVERLY PL   | WEST CITY LIMIT (MERCED) | HOPKINS ST         | R     | Surface Seal | \$ 124,440   | 5        | N         | 0.35    | 58          | 12/1/1989     | O - AC/AC | MILL AND OVERLAY W/FABRIC  |
| 2022        | 931073    | 50         | BROWNING ST  | ADDISON ST               | DWIGHT WAY         | R     | Reconstruct  | \$ 911,600   | 2        | N         | 0.50    | 63          | 10/1/1995     | O - AC/AC | MILL AND OVERLAY W/FABRIC  |
| 2022        | 729104    | 63         | CHANNING WAY | MILVIA ST                | SHATTUCK AVE       | R     | Reconstruct  | \$ 267,640   | 4        | 2A to 2B* | 0.13    | 27          | 9/1/1991      | O -       | MILL AND OVERLAY W/FABRIC  |
| 2022        | 830104    | 57         | CHANNING WAY | ROOSEVELT AVE            | MARTIN LUTHER KING | R     | Reconstruct  | \$ 353,500   | 4        | 3E        | 0.19    | 1           | 9/1/1991      | O -       | MILL AND OVERLAY W/FABRIC  |
| 2022        | 830104    | 50         | CHANNING WAY | SACRAMENTO ST            | ROOSEVELT AVE      | R     | Reconstruct  | \$ 572,780   | 4        | 3E        | 0.31    | 22          | 9/1/1991      | O -       | MILL AND OVERLAY W/FABRIC  |
| 2022        | 638115    | 70         | COLLEGE AVE  | ASHBY AVE                | SOUTH CITY LIMIT   | A     | Overlay      | \$ 698,220   | 8        | N         | 0.41    | 51          | 8/23/2000     | A - AC    | RECONSTRUCT STRUCTURE (AC) |
| 2022        | 213119    | 25         | COLUSA AVE   | MONTEREY AVE             | HOPKINS ST         | C     | Reconstruct  | \$ 611,632   | 5        |           | 0.34    | 22          | 11/1/1990     | O - AC/AC | MILL AND OVERLAY W/FABRIC  |
| 2022        | 736140    | 65         | DANA ST      | BLAKE ST                 | WARD ST            | R     | Reconstruct  | \$ 454,080   | 7        |           | 0.25    | 45          | 7/30/2008     | A - AC    | RECONSTRUCT STRUCTURE (AC) |
| 2022        | 729152    | 60         | DURANT AVE   | MILVIA ST                | SHATTUCK AVE       | C     | Reconstruct  | \$ 318,869   | 4        |           | 0.13    | 0           | 11/1/1992     | O - AC/AC | MILL AND OVERLAY W/FABRIC  |
| 2022        | 729152    | 64         | DURANT AVE   | SHATTUCK AVE             | FULTON ST          | C     | Reconstruct  | \$ 243,093   | 4        |           | 0.10    | 28          | 8/12/1997     | O - AC/AC | MILL AND OVERLAY W/FABRIC  |
| 2022        | 739186    | 60         | EMERSON ST   | ADELINE ST               | SHATTUCK AVE       | R     | Surface Seal | \$ 180,320   | 3        | N         | 0.15    | 85          | 4/1/2001      | A - AC    | RECONSTRUCT STRUCTURE (AC) |
| 2022        | 839191    | 60         | ESSEX ST     | ADELINE ST               | TREMONT ST         | R     | Surface Seal | \$ 76,160    | 3        | N         | 0.06    | 76          | 4/1/2001      | A - AC    | RECONSTRUCT STRUCTURE (AC) |
| 2022        | 739191    | 62         | ESSEX ST     | TREMONT ST               | SHATTUCK AVE       | R     | Surface Seal | \$ 129,920   | 3        | N         | 0.11    | 62          | 4/1/2001      | A - AC    | RECONSTRUCT STRUCTURE (AC) |
| 2022        | 637217    | 80         | FOREST AVE   | COLLEGE AVE              | CLAREMONT BLVD     | R     | Surface Seal | \$ 420,000   | 8        | N         | 0.36    | 50          | 8/1/1996      | A - AC    | RECONSTRUCT STRUCTURE (AC) |
| 2022        | 516340    | 36         | LA LOMA AVE  | ROSE ST                  | BUENA VISTA WAY    | C     | Reconstruct  | \$ 230,098   | 6        |           | 0.16    | 36          | 6/1/1995      | O - AC/AC | MILL AND OVERLAY W/FABRIC  |
| 2022        | 516340    | 38         | LA LOMA AVE  | BUENA VISTA WAY          | CEDAR ST           | C     | Reconstruct  | \$ 204,680   | 6        |           | 0.14    | 51          | 6/1/1995      | O - AC/AC | MILL AND OVERLAY W/FABRIC  |
| 2022        | 834371    | 65         | MC GEE AVE   | DERBY ST                 | RUSSELL ST         | R     | Surface Seal | \$ 461,992   | 3        | N         | 0.25    | 60          | 12/10/1998    | A - AC    | RECONSTRUCT STRUCTURE (AC) |
| 2022        | 834371    | 60         | MC GEE AVE   | DWIGHT WAY               | DERBY ST           | R     | Surface Seal | \$ 302,400   | 3        | N         | 0.26    | 59          | 7/1/1988      | O -       | THIN OVERLAY w/FABRIC      |
|             |           |            |              |                          |                    |       |              | \$ 6,561,424 |          |           | 4.21    |             |               |           |                            |

Note: Column P denotes presence of bike facility type (1 paved path, 2A 2B bike lane, 3A sign-only, 3C Sharrows, 3E bike blvd, 4 cycle track); C for bus route; and N for none.

\*Proposed bike facilities from 2017 Bike Plan.

Draft 11.9.18 5-Year Street Rehabilitation Plan FY 2019-2023.xlsx



EXHIBIT A  
5-YEAR STREET REHABILITATION PLAN FOR FY 2019 TO FY 2023

Revised: 11/1/2018

| Fiscal Year | Street ID | Section ID | Street Name   | From               | To                  | Class | Treatment    | Total Cost   | District | P         | Mileage | Current PCI | Last M&R Date | Last M&R | Last Paved                  |
|-------------|-----------|------------|---------------|--------------------|---------------------|-------|--------------|--------------|----------|-----------|---------|-------------|---------------|----------|-----------------------------|
| 2023        | 729014    | 63         | ALLSTON WAY   | MILVIA ST          | SHATTUCK AVE        | R     | Reconstruct  | \$ 228,800   | 4        |           | 0.14    | 19          | 11/1/1990     | O -      | MILL AND THIN OVERLAY       |
| 2023        | 729014    | 65         | ALLSTON WAY   | SHATTUCK AVE       | OXFORD ST           | R     | Reconstruct  | \$ 167,822   | 4        |           | 0.11    | 10          | 11/1/1992     | O -      | MILL AND OVERLAY W/FABRIC   |
| 2023        | 739285    | 70         | HILLEGASS AVE | ASHBY AVE          | CITY LIMIT (WOOLSEY | R     | Surface Seal | \$ 68,400    | 8        |           | 0.16    | 83          | 7/28/2003     | A - AC   | RECONSTRUCT STRUCTURE (AC)  |
| 2023        | 736285    | 60         | HILLEGASS AVE | DWIGHT WAY         | ASHBY AVE           | R     | Surface Seal | \$ 256,000   | 8        |           | 0.61    | 83          | 5/31/2000     | A - AC   | RECONSTRUCT STRUCTURE (AC)  |
| 2023        | 213293    | 55         | HOPKINS ST    | CARLOTTA AVE       | JOSEPHINE ST        | C     | Overlay      | \$ 761,133   | 5        | 2A, C     | 0.35    | 60          | 12/1/1989     |          | MILL AND OVERLAY            |
| 2023        | 319293    | 47         | HOPKINS ST    | GILMAN ST          | SACRAMENTO ST       | R     | Reconstruct  | \$ 203,942   | 5        | 3A, C     | 0.10    | 0           | 9/13/2002     |          | MILL AND OVERLAY W/FABRIC   |
| 2023        | 213293    | 50         | HOPKINS ST    | HOPKINS CT         | MONTEREY AVE        | C     | Overlay      | \$ 75,193    | 5        | 3A, C     | 0.05    | 54          | 9/13/2002     |          | MILL AND OVERLAY W/FABRIC   |
| 2023        | 213293    | 59         | HOPKINS ST    | JOSEPHINE ST       | THE ALAMEDA         | C     | Overlay      | \$ 488,333   | 5        | 2A, C     | 0.05    | 53          | 7/1/1991      |          | RECONSTRUCT STRUCTURE (AC)  |
| 2023        | 213293    | 53         | HOPKINS ST    | MC GEE AVE         | CARLOTTA AVE        | C     | Overlay      | \$ 130,267   | 5        | 2A, C     | 0.06    | 47          | 12/1/1989     |          | RECONSTRUCT STRUCTURE (AC)  |
| 2023        | 213293    | 52         | HOPKINS ST    | MONTEREY AVE       | MC GEE AVE          | C     | Overlay      | \$ 93,444    | 5        | 2A, C     | 0.05    | 71          | 12/1/1989     |          | RECONSTRUCT STRUCTURE (AC)  |
| 2023        | 319293    | 45         | HOPKINS ST    | NORTHSIDE AVE      | PERALTA AVE         | R     | Overlay      | \$ 233,587   | 1        | N         | 0.10    | 78          | 9/13/2002     |          | MILL AND OVERLAY W/FABRIC   |
| 2023        | 319293    | 46         | HOPKINS ST    | PERALTA AVE        | GILMAN ST           | R     | Overlay      | \$ 433,031   | 1, 5     | N         | 0.27    | 64          | 9/13/2002     |          | MILL AND OVERLAY W/FABRIC   |
| 2023        | 319293    | 49         | HOPKINS ST    | SACRAMENTO ST      | HOPKINS CT          | A     | Reconstruct  | \$ 74,821    | 5        | 3A, C     | 0.04    | 30          | 9/13/2002     |          | MILL AND OVERLAY W/FABRIC   |
| 2023        | 319293    | 40         | HOPKINS ST    | SAN PABLO AVE      | STANNAGE AVE        | R     | Overlay      | \$ 181,126   | 1        | N         | 0.09    | 73          | 9/13/2002     |          | MILL AND OVERLAY W/FABRIC   |
| 2023        | 319293    | 42         | HOPKINS ST    | STANNAGE AVE       | NORTHSIDE AVE       | R     | Overlay      | \$ 401,657   | 1        | N         | 0.17    | 80          | 9/13/2002     |          | MILL AND OVERLAY W/FABRIC   |
| 2023        | 829104    | 60         | CHANNING WAY  | MARTIN LUTHER KING | MILVIA ST           | R     | PAVER/Recon. | \$ 2,033,400 | 4        | 2A to 2B* | 0.13    | 10          | 5/1/1995      | O -      | THIN AC OVERLAY(1.5 INCHES) |
|             |           |            |               |                    |                     |       |              | \$ 5,830,957 |          |           | 2.49    |             |               |          |                             |

Note: Column P denotes presence of bike facility type (1 paved path, 2A 2B bike lane, 3A sign-only, 3C Sharrows, 3E bike blvd, 4 cycle track); C for bus route; and N for none.

\*Proposed bike facilities from 2017 Bike Plan.

Draft 11.9.18 5-Year Street Rehabilitation Plan FY 2019-2023.xlsx

EXHIBIT A  
5-YEAR STREET REHABILITATION PLAN FOR FY 2019 TO FY 2023

Revised: 11/1/2018

| FY2019         | Total Estimated Cost and Miles |                |        |        | \$ 5,752,735 |  | 3.24 miles |  |
|----------------|--------------------------------|----------------|--------|--------|--------------|--|------------|--|
|                | MILEAGE                        | ESTIMATED COST | % COST | % MILE | District     |  |            |  |
| ARTERIALS      | 0.55                           | \$2,809,544    | 49%    | 17%    | 1            |  | 1.30       |  |
| COLLECTORS     | 0.45                           | \$1,025,533    | 18%    | 14%    | 2            |  | 1.13       |  |
| RESIDENTIALS   | 2.24                           | \$1,917,657    | 33%    | 69%    | 3            |  | 0.42       |  |
|                | 3.24                           | \$5,752,735    |        |        | 4            |  | 0.13       |  |
| SURFACE SEALS  | 1.69                           | \$1,201,832    | 21%    | 52%    | 5            |  | 0.13       |  |
| OVERLAYS       | 1.33                           | \$4,252,236    | 74%    | 41%    | 6            |  | 0.13       |  |
| RECONSTRUCTS   | 0.23                           | \$298,667      | 5%     | 7%     | 7            |  | 0.00       |  |
|                | 3.24                           | \$5,752,735    |        |        | 8            |  | 0.00       |  |
| BIKE WAY       | 0.76                           | \$118,600      |        |        |              |  | 3.24       |  |
| PED            |                                | \$ 95,000      |        |        |              |  |            |  |
| BIKE WAY + PED |                                | \$213,600      |        |        |              |  |            |  |

13% of Measure BB (\$1.6 Million)

(BIKE costs are interim cost estimated from 2017 Bike Plan. PED costs are curb ramps)

Note: Column P denotes presence of bike facility type (1 paved path, 2A 2B bike lane, 3A sign-only, 3C Sharrows, 3E bike blvd, 4 cycle track); C for bus route; and N for none.

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Draft 11.9.18 5-Year Street Rehabilitation Plan FY 2019-2023.xlsx

EXHIBIT A  
5-YEAR STREET REHABILITATION PLAN FOR FY 2019 TO FY 2023

Revised: 11/1/2018

FISCAL YEAR 2020 TOTALS

| Total Estimated Cost and Miles |         |                |        |        | \$ 17,877,057 | 4.92 miles |
|--------------------------------|---------|----------------|--------|--------|---------------|------------|
|                                | MILEAGE | ESTIMATED COST | % COST | % MILE | District      |            |
| ARTERIALS                      | 0.26    | \$5,519,667    | 31%    | 5%     | 1             | 1.56       |
| COLLECTORS                     | 1.77    | \$7,076,169    | 40%    | 36%    | 2             | 1.09       |
| RESIDENTIALS                   | 2.90    | \$5,281,221    | 30%    | 59%    | 3             | 0.70       |
|                                | 4.92    | \$17,877,057   |        |        | 4             | 0.64       |
| SURFACE SEALS                  | 1.18    | \$825,894      | 5%     | 24%    | 5             | 0.57       |
| OVERLAYS                       | 1.85    | \$4,241,630    | 24%    | 38%    | 6             | 0.36       |
| RECONSTRUCTS                   | 1.90    | \$12,809,533   | 72%    | 39%    | 7             | 0.00       |
|                                | 4.92    | \$17,877,057   |        |        | 8             | 0.00       |
| BIKE WAY                       | 1.72    | \$480,000      |        |        |               | 4.92       |
| PED                            |         | \$ 1,120,600   |        |        |               |            |
| BIKE WAY + PED                 |         | \$1,600,600    |        |        |               |            |

100% of Measure BB (\$1.6 Million)

(BIKE costs are interim cost estimated from 2017 Bike Plan. PED costs are curb ramps)

Note: Column P denotes presence of bike facility type (1 paved path, 2A 2B bike lane, 3A sign-only, 3C Sharrows, 3E bike blvd, 4 cycle track); C for bus route; and N for none.

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Draft 11.9.18 5-Year Street Rehabilitation Plan FY 2019-2023.xlsx

EXHIBIT A  
5-YEAR STREET REHABILITATION PLAN FOR FY 2019 TO FY 2023

Revised: 11/1/2018

FISCAL YEAR 2021 TOTALS

| Total Estimated Cost and Miles |         |                |        |        |          | \$ 6,806,227 | 5.51 miles |
|--------------------------------|---------|----------------|--------|--------|----------|--------------|------------|
|                                | MILEAGE | ESTIMATED COST | % COST | % MILE | District |              |            |
| ARTERIALS                      | 0.00    | \$0            | 0%     | 0%     | 1        |              | 0.51       |
| COLLECTORS                     | 0.73    | \$1,276,886    | 19%    | 13%    | 2        |              | 0.09       |
| RESIDENTIALS                   | 4.78    | \$5,529,341    | 81%    | 87%    | 3        |              | 0.80       |
|                                | 5.51    | \$6,806,227    |        |        | 4        |              | 0.23       |
| SURFACE SEALS                  | 3.64    | \$2,154,553    | 32%    | 66%    | 5        |              | 0.55       |
| OVERLAYS                       | 1.22    | \$2,255,826    | 33%    | 22%    | 6        |              | 1.49       |
| RECONSTRUCTS                   | 0.65    | \$2,395,847    | 35%    | 11%    | 7        |              | 1.84       |
|                                | 5.51    | \$6,806,227    |        |        | 8        |              | 0.00       |
| BIKE WAY                       | 1.13    | \$417,672      |        |        |          |              | 5.51       |
| PED                            |         | \$ 137,000     |        |        |          |              |            |
| BIKE WAY + PED                 |         | \$554,672      |        |        |          |              |            |

35% of Measure BB (\$1.6 Million)

(BIKE costs are interim cost estimated from 2017 Bike Plan. PED costs are curb ramps)

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\*Proposed bike facilities from 2017 Bike Plan.

Draft 11.9.18 5-Year Street Rehabilitation Plan FY 2019-2023.xlsx

EXHIBIT A  
5-YEAR STREET REHABILITATION PLAN FOR FY 2019 TO FY 2023

Revised: 11/1/2018

FISCAL YEAR 2022 TOTALS

| Total Estimated Cost and Miles |         |                |        |        | \$ 6,561,424 | 4.21 miles |
|--------------------------------|---------|----------------|--------|--------|--------------|------------|
|                                | MILEAGE | ESTIMATED COST | % COST | % MILE | District     |            |
| ARTERIALS                      | 0.41    | \$698,220      | 11%    | 10%    | 1            | 0.00       |
| COLLECTORS                     | 0.88    | \$1,608,372    | 25%    | 21%    | 2            | 0.50       |
| RESIDENTIALS                   | 2.92    | \$4,254,832    | 65%    | 69%    | 3            | 0.84       |
|                                | 4.21    | \$6,561,424    |        |        | 4            | 0.87       |
| SURFACE SEALS                  | 1.54    | \$1,695,232    | 26%    | 37%    | 5            | 0.68       |
| OVERLAYS                       | 0.41    | \$698,220      | 11%    | 10%    | 6            | 0.31       |
| RECONSTRUCTS                   | 2.26    | \$4,167,972    | 60%    | 53%    | 7            | 0.25       |
|                                | 4.21    | \$6,561,424    |        |        | 8            | 0.76       |
| BIKE WAY                       | 0.63    | \$14,136       |        |        |              | 4.21       |
| PED                            |         | \$ 105,000     |        |        |              |            |
| BIKE WAY + PED                 |         | \$119,136      |        |        |              |            |

7% of Measure BB (\$1.6 Million)

(BIKE costs are interim cost estimated from 2017 Bike Plan. PED costs are curb ramps)

Note: Column P denotes presence of bike facility type (1 paved path, 2A 2B bike lane, 3A sign-only, 3C Sharrows, 3E bike blvd, 4 cycle track); C for bus route; and N for none.

\*Proposed bike facilities from 2017 Bike Plan.

Draft 11.9.18 5-Year Street Rehabilitation Plan FY 2019-2023.xlsx

EXHIBIT A  
5-YEAR STREET REHABILITATION PLAN FOR FY 2019 TO FY 2023

Revised: 11/1/2018

FISCAL YEAR 2023 TOTALS

| Total Estimated Cost and Miles |         |                |        |        | \$ 5,830,957 | 2.49 miles |
|--------------------------------|---------|----------------|--------|--------|--------------|------------|
|                                | MILEAGE | ESTIMATED COST | % COST | % MILE | District     |            |
| ARTERIALS                      | 0.04    | \$74,821       | 1%     | 2%     | 1            | 0.51       |
| COLLECTORS                     | 0.56    | \$1,548,371    | 27%    | 23%    | 2            | 0.00       |
| RESIDENTIALS                   | 1.89    | \$4,207,765    | 72%    | 76%    | 3            | 0.00       |
|                                | 2.49    | \$5,830,957    |        |        | 4            | 0.37       |
| SURFACE SEALS                  | 0.77    | \$324,400      | 6%     | 31%    | 5            | 0.84       |
| OVERLAYS                       | 1.21    | \$2,797,772    | 48%    | 49%    | 6            | 0.00       |
| RECONSTRUCTS                   | 0.51    | \$2,708,786    | 40%    | 20%    | 7            | 0.00       |
|                                | 2.49    | \$5,830,957    |        |        | 8            | 0.77       |
| BIKE WAY                       | 0.83    | \$128,000      |        |        |              | 2.49       |
| PED                            |         | \$ 85,000      |        |        |              |            |
| BIKE WAY + PED                 |         | \$213,000      |        |        |              |            |

13% of Measure BB (\$1.6 Million)

(BIKE costs are interim cost estimated from 2017 Bike Plan. PED costs are curb ramps)

FISCAL YEAR 2019 to 2023 TOTALS

| Total Estimated Cost and Miles |         |                |        |        | \$ 42,828,400 | 20.37 miles |
|--------------------------------|---------|----------------|--------|--------|---------------|-------------|
|                                | MILEAGE | ESTIMATED COST | % COST | % MILE | District      |             |
| ARTERIALS                      | 1.25    | \$9,102,252    | 21%    | 6%     | 1             | 3.88        |
| COLLECTORS                     | 4.40    | \$12,535,332   | 29%    | 22%    | 2             | 2.81        |
| RESIDENTIALS                   | 14.73   | \$21,190,816   | 49%    | 72%    | 3             | 2.75        |
|                                | 20.37   | \$42,828,400   |        |        | 4             | 2.24        |
| SURFACE SEALS                  | 8.81    | \$6,201,911    | 14%    | 43%    | 5             | 2.78        |
| OVERLAYS                       | 6.01    | \$14,245,684   | 33%    | 30%    | 6             | 2.29        |
| RECONSTRUCTS                   | 5.55    | \$22,380,805   | 50%    | 27%    | 7             | 2.09        |
|                                | 20.37   | \$42,828,400   |        |        | 8             | 1.53        |
| BIKE WAY                       | 5.07    | \$1,158,408    |        |        |               | 20.37       |
| PED                            |         | \$ 1,542,600   |        |        |               |             |
| BIKE WAY + PED                 |         | \$2,701,008    |        |        |               |             |

169% of Measure BB (\$1.6 Million)

(BIKE costs are interim cost estimated from 2017 Bike Plan. PED costs are curb ramps)

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\*Proposed bike facilities from 2017 Bike Plan.

Draft 11.9.18 5-Year Street Rehabilitation Plan FY 2019-2023.xlsx



Homeless Commission

ACTION CALENDAR  
September 10, 2019

To: Honorable Mayor and Members of the City Council

From: Homeless Commission

Submitted by: Carole Marasovic, Chair, Homeless Commission

Subject: Health Study to be Conducted by Division of Public Health to Gather Data on Health Conditions, Health Disparities and Mortality Rates of Berkeley's Homeless

RECOMMENDATION

The Homeless Commission recommends that Council direct that the City Division of Public Health conduct a study gathering data on health conditions, health disparities and mortality rates of Berkeley's homeless for the last five years.

Such recommendation includes compiling information on Berkeley's homeless including persons living in shelters, in vehicles, on the streets, and any other location not intended for human habitation and who move between these settings. Such study shall include data on specific health conditions and make a comparative analysis between the homeless and Berkeley's general population and shall include demographics such as race, age, gender and known disability. Such study shall include how long the homeless person has lived on the streets and/or in shelters and attempt to track back the nature of their various residences for five years as is feasible.

Data for mortality rates among Berkeley's homeless shall also be gathered for the last five years. The mortality rates shall be examined for persons living in shelters, in vehicles, on the streets and any other location not intended for human habitation. The cause of death shall be identified and demographics such as race, age, gender and known disability compiled. Tracking the housing status of the persons, for the last five years, shall be identified as is feasible. If feasible, the length of residence in Berkeley shall be identified.

A comparative analysis with the general population shall be made. To the extent feasible and within legal constraints, whether or not the deceased individual was under the care of a medical provider shall be identified. All personal information should be redacted so as to comply with federal, state and local laws.

Recommendations shall be made to improve the health conditions of the homeless and decrease the mortality rates of homeless persons. Recommendations, within the City Division of Public Health's purview shall be made initially by them and return to Council

where further recommendations can be made. Council shall provide the opportunity for the Homeless Commission, any other relevant commission, and the public to weigh in on recommendations following the release of the data/study.

### SUMMARY

Persons who are homeless whether in shelters, in vehicles, on the streets or in other locations not intended for human habitation are more prone to having serious medical conditions. In recent years, there has been a significant number of deaths among homeless persons in Berkeley. A study, such as that recommended, would provide information to document and improve health conditions of the homeless and would mitigate future mortality rates among the homeless.

### FISCAL IMPACT of RECOMMENDATION:

Staff would have to identify the cost of this proposal.

### CURRENT SITUATION and its EFFECTS

Recently, a significant number of homeless persons living in shelters, on the streets, in vehicles, or locations not intended for human habitation in Berkeley have died. Many of Berkeley's homeless have visible medical conditions; others may very well have conditions less visible that are going untreated.

### BACKGROUND

On June 12, 2019, the Homeless Commission recommended as follows:

**Action:** M/S/C Hill/ Marasovic That Council direct that the City Division of Public Health conduct a study, gathering data on health conditions, health disparities and mortality rates of Berkeley's homeless for the last five years. Such recommendation includes compiling information on Berkeley's homeless including persons living in shelters, in vehicles, on the streets, and any other location not intended for human habitation and who move between these settings. Such study shall include data on specific health conditions and make a comparative analysis between the homeless and Berkeley's general population and shall include demographics such as race, age, gender and known disability. Such study shall include how long the homeless person has lived on the streets and/or in shelters and attempt to track back the nature of their various residences for five years as is feasible.

Data for mortality rates among Berkeley's homeless shall also be gathered for the last five years. The mortality rates shall be examined for persons living in shelters, in vehicles, on the streets, and any other location not intended for human habitation and who move between these settings. The cause of death shall be identified and demographics such as race, age, gender and known disability compiled. Tracking the housing status of the persons, for the last five years, shall be identified as is feasible. If feasible, the length of residence in Berkeley shall be identified. A comparative analysis with the general population



shall be made. To the extent feasible and within legal constraints, whether or not the deceased individual was under the care of a medical provider shall be identified.

All personal information shall be redacted so as to comply with federal, state and local laws as to the study of both health conditions and mortality rates of the homeless.

Recommendations shall be made to improve the health conditions of the homeless and decrease the mortality rates of homeless persons. Recommendations, within the City Division of Public Health's purview, shall be made initially by them and return to Council where further recommendations can be made. Council shall provide the opportunity for the Homeless Commission, any other relevant commission and the public, to weigh in on recommendations following the release of the data/study.

**Vote:** Ayes: Behm-Steinberg, Hill, Kealoha-Blake, Marasovic, Mulligan  
Noes: None. Abstain: None. Absent: Hirpara (excused).

**Action:** M/S/C Hill/Marasovic to submit the report as amended and to authorize the Chair to present on behalf of the Commission on the report.

**Vote:** Ayes: Behm-Steinberg, Hill, Kealoha-Blake, Marasovic  
Noes: None. Abstain: None. Absent: Hirpara (excused), Mulligan.

#### ENVIRONMENTAL SUSTAINABILITY

There can only be positive environmental impacts from a better quality of health conditions and mortality rates among the homeless.

#### RATIONALE for RECOMMENDATION

The homeless are part of the Berkeley community in great numbers. The visible medical conditions of many and the recent mortality rates merit attention to compiling data and making recommendations on improving their health conditions and mitigating mortality rates. Before implementing any new programs or making generalized recommendations, data must be compiled.

#### ALTERNATIVE ACTIONS CONSIDERED

The Homeless Commission considered doing nothing and believed that that was not acceptable.

#### CITY MANAGER

See companion report.

#### CONTACT PERSON

Peter Radu, Commission Secretary, HHCS, (510) 981-5435.





Homeless Commission

ACTION CALENDAR  
September 10, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Kelly Wallace, Interim Director, Health, Housing & Community Services Department

Subject: Companion Report: Health Study to be Conducted by the Public Health Division to Gather Data on Health Conditions, Health Disparities and Mortality Rates of Berkeley's Homeless

RECOMMENDATION

The Homeless Commission's recommendation to conduct a study on the health conditions, disparities, and mortality rates of Berkeley's homeless population addresses important issues within the City. Staff greatly appreciate the Commission's continued advocacy for the unhoused and their suggestions to gather as much relevant information as possible. Therefore, staff recommend asking Alameda County to explore the feasibility of recording homelessness as a data point in death records and/or making investments to begin tracking this information locally.

FISCAL IMPACT OF RECOMMENDATION:

None.

CURRENT SITUATION AND ITS EFFECTS

The Homeless Commission has submitted a report for the September 10, 2019 Council Action Calendar requesting that the City's Public Health Division "conduct a study gathering data on health conditions, health disparities and mortality rates of Berkeley's homeless for the last five years," and provides specific parameters for the content and recommendations in this report.

While this is important information and staff appreciate the Homeless Commission's continued efforts to support the unhoused in Berkeley, City staff are currently unable to report on health issues as related to cause of death because "homelessness" is not systematically included as a data point in County death records. Occasionally, homelessness may be listed on a Coroner's report, for example, but posthumously verifying housing status is difficult and fraught with bias. The same is true for the City's Office of Vital Statistics, which tracks deaths locally for the previous two years (the Homeless Commission asks for five years of data).

It is also important to note that there is not capacity within current Public Health staffing to undertake a health survey of all homeless individuals within Berkeley. Unfortunately, without substantial investment in additional City resources, these recommendations are not possible to execute.

### BACKGROUND

On June 12, 2019, the Homeless Commission recommended as follows:

**Action:** M/S/C Hill/ Marasovic That Council direct that the City Division of Public Health conduct a study, gathering data on health conditions, health disparities and mortality rates of Berkeley's homeless for the last five years. Such recommendation includes compiling information on Berkeley's homeless including persons living in shelters, in vehicles, on the streets, and any other location not intended for human habitation and who move between these settings. Such study shall include data on specific health conditions and make a comparative analysis between the homeless and Berkeley's general population and shall include demographics such as race, age, gender and known disability. Such study shall include how long the homeless person has lived on the streets and/or in shelters and attempt to track back the nature of their various residences for five years as is feasible.

Data for mortality rates among Berkeley's homeless shall also be gathered for the last five years. The mortality rates shall be examined for persons living in shelters, in vehicles, on the streets, and any other location not intended for human habitation and who move between these settings. The cause of death shall be identified and demographics such as race, age, gender and known disability compiled. Tracking the housing status of the persons, for the last five years, shall be identified as is feasible. If feasible, the length of residence in Berkeley shall be identified. A comparative analysis with the general population shall be made. To the extent feasible and within legal constraints, whether or not the deceased individual was under the care of a medical provider shall be identified.

All personal information shall be redacted so as to comply with federal, state and local laws as to the study of both health conditions and mortality rates of the homeless.

Recommendations shall be made to improve the health conditions of the homeless and decrease the mortality rates of homeless persons. Recommendations, within the City Division of Public Health's purview, shall be made initially by them and return to Council where further recommendations can be made. Council shall provide the opportunity for the Homeless Commission, any other relevant commission and the public, to weigh in on recommendations following the release of the data/study.

**Vote:** Ayes: Behm-Steinberg, Hill, Kealoha-Blake, Marasovic, Mulligan  
Noes: None. *Abstain:* None. *Absent:* Hirpara (excused).

**Action:** M/S/C Hill/Marasovic to submit the report as amended and to authorize the Chair to present on behalf of the Commission on the report.

**Vote:** Ayes: Behm-Steinberg, Hill, Kealoha-Blake, Marasovic  
Noes: None. *Abstain:* None. *Absent:* Hirpara (excused), Mulligan.

The Homeless Commission has submitted an accompanying report for the September 10, 2019 action calendar formally making this recommendation to Council.

#### ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental impacts associated with this recommendation.

#### RATIONALE FOR RECOMMENDATION

No data sources exist to respond to the Homeless Commission's request.

#### ALTERNATIVE ACTIONS CONSIDERED

Council could consider formally requesting that the County Coroner's office begin recording an individual's housing status, including homelessness, at the point of death, and/or could invest additional resources for the City's Office of Vital Statistics to perform this task locally. The cost of such an investment is unknown at this time.

#### CONTACT PERSON

Peter Radu, Homeless Services Coordinator, HHCS, (510) 981-5435.





Homeless Commission

ACTION CALENDAR  
September 10, 2019

To: Honorable Mayor and Members of the City Council  
 From: Homeless Commission  
 Submitted by: Carole Marasovic, Chair, Homeless Commission  
 Subject: Conducting an Analysis of Increasing Inclusionary Housing over Affordable Housing Mitigation Fee

RECOMMENDATION

The Homeless Commission recommends that Council direct or refer to the City Manager, as Council sees fit, to conduct an analysis of the current inclusionary housing/affordable housing mitigation fee structure and return to Council with the benefits/detriments of the following options:

1. Requiring inclusionary housing over the affordable housing mitigation fee;
2. Requiring an increased number of inclusionary units when the inclusionary option is utilized;
3. Providing incentives to developers to elect the inclusionary unit option over the affordable housing mitigation fee option;
4. Identifying designated geographical boundaries or Council districts which would require only inclusionary housing in new developments and not permit the affordable housing mitigation fee in those geographical boundaries or Council districts; and
5. As to all options, strengthening the ordinance for inclusionary units so as to mitigate homelessness by insuring access to units for extremely low-income persons and persons experiencing homelessness.

The Homeless Commission recommends that an analysis include updated data on the number of developments initiated in the last three years showing the number of inclusionary units added and the amount of affordable housing mitigation fees paid and to the extent feasible, a ten year projection of the numbers of planned developments and an analysis of the potential number of inclusionary units or amount of affordable housing mitigation fees anticipated. An analysis of various options should also consider a sunset clause so that amendments to current law would require revisiting the impact of any changes.

SUMMARY

In order to address the economic housing crisis in Berkeley increasing the numbers of persons forced into homelessness, all housing options must be considered. The need for increased inclusionary housing is one of those options.

FISCAL IMPACT of RECOMMENDATION:

The analysis will reflect the financial considerations involved in each option. The cost of the growing homeless population is enormous to the City of Berkeley and its citizens. Decreasing homelessness by providing affordable housing to the persons most in need will, in the long term, increase the financial benefit to the City of Berkeley.

CURRENT SITUATION AND ITS EFFECTS

On April 10, 2019, the Homeless Commission voted to recommend to Council that Council direct the City Manager to conduct an analysis of the current inclusionary housing/affordable housing mitigation fee structure and return to Council with the benefits/detriments of the following options: 1. Requiring inclusionary housing over the affordable housing mitigation fee; 2. Requiring an increased number of inclusionary units when the inclusionary option is utilized; 3. Providing incentives to developers to elect the inclusionary unit option over the affordable housing mitigation fee option; 4. Identifying designated geographical boundaries or Council districts which would require only inclusionary housing in new developments and not permit the affordable housing mitigation fee in those geographical boundaries or Council districts; and 5. As to all options, strengthening the ordinance for inclusionary units so as to mitigate homelessness by insuring access to extremely-low income persons and persons experiencing homelessness.

The Homeless Commission recommends that an analysis include updated data on the number of developments initiated in the last three years showing the number of inclusionary units added and the amount of affordable housing mitigation fees paid and to the extent feasible, a ten year projection of the numbers of planned developments and an analysis of the potential number of inclusionary units or amount of affordable housing mitigation fees anticipated. An analysis of various options should also consider a sunset clause so that amendments to current law would require revisiting the impact of any changes.

**Action:** M/S/C Marasovic/Hill that the Homeless Commission recommends that Council direct or refer to the City Manager, as it sees fit, to conduct an analysis of the current inclusionary housing/affordable housing mitigation fee structure and return to Council with the benefits/detriments of the following options: 1. Requiring inclusionary housing over the affordable housing mitigation fee; 2. Requiring an increased number of inclusionary units when the inclusionary option is utilized; 3. Providing incentives to developers to elect the inclusionary unit option over the affordable housing mitigation fee option; 4. Identifying designated geographical boundaries or Council districts which would require only inclusionary housing in new developments and not permit the affordable housing mitigation fee in those geographical boundaries or Council districts; and 5. Strengthening the ordinance for inclusionary units to mitigate homelessness by ensuring access of units for extremely low-income persons.



The Homeless Commission recommends that an analysis include updated data on the number of developments initiated in the last three years showing the number of inclusionary units added and the amount of affordable housing mitigation fees paid. and to the extent feasible, a ten year projection of the numbers of planned developments and an analysis of the potential number of inclusionary units or amount of affordable housing mitigation fees anticipated. An analysis of various options should also consider a sunset clause so that amendments to current law would require revisiting the impact of any changes.

**Vote:** Ayes: Hill, Kealoha-Blake, Marasovic.

Noes: None. *Abstain:* None. *Leave of Absence:* Behm-Steinberg, Hirpara.

#### BACKGROUND

City housing staff has identified that almost 2,000 persons experience homelessness in Berkeley in recent years. There is a shortage of affordable housing in Berkeley that has resulted in increased numbers of persons facing an economic crisis leading to homelessness.

#### ENVIRONMENTAL SUSTAINABILITY

For those Berkeley residents who complain about unsheltered residents as aesthetically unappealing, there will be an increased environmentally pleasing presence with unsheltered persons currently experiencing homelessness now housed. For those unsheltered persons, there will be an increased quality of life with housing including a positive environmental impact.

#### RATIONALE FOR RECOMMENDATION

All options to create permanent housing must be explored with particular attention to extremely low-income and very low-income persons who are the most economically challenged in locating affordable housing in Berkeley. Berkeley's inclusionary housing ordinance, BMC 23C.12, and Berkeley's affordable housing mitigation fee ordinance, BMC 22.20.065, require reevaluation to increase the affordable housing supply as to those most economically challenged.

#### ALTERNATIVE ACTIONS CONSIDERED

The Homeless Commission discusses all options to decreasing the economic housing crisis. Reevaluation of the inclusionary housing ordinance is only a partial solution but all solutions must be considered to decrease the numbers of persons experiencing homelessness.

#### CITY MANAGER

See companion report

CONTACT PERSON

Peter Radu, Secretary to the Homeless Commission, (510) 981-5435



Office of the City Manager

ACTION CALENDAR  
September 10, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Kelly Wallace, Interim Director, Health, Housing and Community Services

Subject: Companion Report: Conducting an Analysis of Increasing Inclusionary Housing over Affordable Housing Mitigation Fee

RECOMMENDATION

Refer to the City Manager to conduct a feasibility analysis for the recommendations by the Homeless Commission as part of the existing referral to examine potential reforms to the Affordable Housing Mitigation Fee.

FISCAL IMPACTS OF RECOMMENDATION

Staff time from Health, Housing and Community Services (HHCS), Planning and the City Attorney's Office will be needed to complete a feasibility analysis. The Affordable Housing Mitigation Fee (AHMF) is one of the primary revenue sources for the Housing Trust Fund, and enacting policies that would divert this revenue may impact the City's ability to fund non-profit affordable housing developments over the long term, which would significantly impact the number of housing units available to the very low income and homeless populations.

CURRENT SITUATION AND ITS EFFECTS

Maintaining an effective inclusionary housing strategy and facilitating housing for the city's homeless residents is a Strategic Plan Priority Project, advancing our goal to create affordable housing and housing support service for our most vulnerable community members.

Staff appreciate the Homeless Commission's intent to ensure the City's inclusionary housing policies are serving the community's best interests. On April 23, 2019, Council adopted a referral to the City Manager to examine potential reforms to the AHMF and staff recommends incorporating the Homeless Commission's recommendations as part of the current referral. This referral is currently the fourth ranked Re-Weighted Range Voting priority as of June 11, 2019. The Affordable Housing Mitigation Fee is subject to various state laws and regulations. Its interaction with development is complex. Staff recommend a feasibility analysis so that the impact of each of these recommendations can be fully described and evaluated for Council's consideration.

**1. Requiring inclusionary housing over the Affordable Housing Mitigation Fee.**

The City established its current AHMF for rental housing in July 2011 in response to the California Court of Appeal's decision that prevented inclusionary housing requirements for rental residential developments. The State legislature recently adopted AB 1505, which overrules this prohibition and could allow the City to return to the previous inclusionary model in use prior to the Court prohibition. Further analysis by staff and a formal feasibility study would be necessary to justify this change and ensure the new ordinance would be consistent with AB 1505's established standards. Council should consider the critical role the AHMF plays in providing funding for new affordable housing developments via the Housing Trust Fund program when considering changes to the City's current inclusionary program.

**2. Requiring an increased number of inclusionary units when the inclusionary option is utilized.**

This could be included as part of a feasibility analysis and/or a new nexus study. Council should consider the balance between a developer's ability to subsidize affordable units and produce a project with financially feasible returns. Additionally, if the goal is to increase creation of inclusionary units this could have the opposite effect.

**3. Providing incentives to developers to elect the inclusionary unit option over the Affordable Housing Mitigation Fee option.**

The State's Density Bonus law is a frequently-utilized incentive to provide inclusionary units by allowing new residential development to be built at a higher density than is allowed under local zoning if the project includes affordable units for low-income households. The draft Adeline Corridor Specific Plan proposes a new onsite affordable housing incentives for market rate projects that take advantage of the plan's height and density increases. This could serve as a pilot for implementation elsewhere in the city if adopted.

**4. Identifying designated geographical boundaries or Council districts which would require only inclusionary housing in new developments and not permit the Affordable Housing Mitigation Fee in those geographical boundaries or Council districts;**

The feasibility of this proposal would need to be evaluated.

**5. As to all options, strengthening the ordinance for inclusionary units so as to mitigate homelessness by insuring access to units for extremely low-income persons and persons experiencing homelessness.**

The AHMF ordinance requires 40% of all the units targeting 50% AMI households be reserved for holders of the City's Shelter + Care certificates, which serve residents who are identified as chronically homeless.

### BACKGROUND

In 1986, the Council adopted an Inclusionary Housing Ordinance in response to the need for affordable housing. Under the ordinance, residential projects with five or more units (or that are part of projects on property zoned to accommodate five or more units) are required to include a percentage of housing units that are affordable to low-income households.

The 2009 State court case *Palmer/Sixth Street Properties v. City of Los Angeles* precluded the City from applying the Inclusionary Housing Ordinance to rental housing developments. The Council adopted the AHMF ordinance in response to this change, requiring new residential projects to pay a mitigation fee with the option to provide affordable units in their project in-lieu of the fee. Staff are currently researching how the recent adoption of AB 1505 effects the City's inclusionary housing options.

### ENVIRONMENTAL SUSTAINABILITY

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

### RATIONALE FOR RECOMMENDATION

Staff recommend further study on each of the changes recommended by the Homeless Commission due to the multiple technical constraints associated with inclusionary housing.

### ALTERNATIVE ACTIONS CONSIDERED

Council could maintain the current standards and protocol established by the AHMF ordinance.

### CONTACT PERSON

Peter Radu, Homeless Services Coordinator, HHCS, (510) 981-5435.

Mike Uberti, Community Development Project Coordinator, HHCS, (510) 981-5114.





Homeless Commission

ACTION CALENDAR  
September 10, 2019

To: Honorable Mayor and Members of the City Council

From: Homeless Commission

Submitted by: Carole Marasovic, Chair, Homeless Commission

Subject: Utilization of City-Owned Property at 1281 University Avenue to House up to 8- 10 RV Dwellers

RECOMMENDATION

The Homeless Commission recommends that the currently unused City-owned property at 1281 University Avenue be used to house, on an interim basis, up to 8-10 RV dwellers, or as many as the property can safely accommodate, selected by the City of Berkeley. The RV dwellers would be selected by the City of Berkeley based on the strength of their ties to the community such as employment in Berkeley, attending school in Berkeley and families with children in Berkeley schools.

SUMMARY

Currently, the City-owned property at 1281 University Avenue is going unused. This property could accommodate up to 8-10 RVs.

FISCAL IMPACT of RECOMMENDATION:

There would be costs associated with possibly leveling/paving the lot, a curb cut and otherwise, making it suitable to hold up to 8-10 vehicles. There would be costs associated with providing sanitation facilities and trash pick-up.

CURRENT SITUATION and its EFFECTS

Council is in the process of establishing a RV ban for vehicles during the hours of 2:00 a.m.-5:00 a.m. based on complaints from the community as to the RVs growing presence. Many RV dwellers rely on their RV as affordable housing for themselves at a time that traditional housing costs are skyrocketing in Berkeley.

City staff report that they have been unable to identify a location for RVs. Meanwhile, other Bay Area cities also have RV bans so that there is no place for RV dwellers to go from 2:00 a.m.-5:00 a.m.

Many of the RV dwellers have strong ties to the Berkeley community so that displacement would have a severe impact on them. That displacement includes RV dwellers who have jobs in Berkeley, attend school in Berkeley and have children in

Berkeley schools. The most critical need is to keep these persons from being displaced while City staff continue to investigate other potential locations for RVs.

1281 University Avenue is a City-owned site for which a RFP earlier was issued for affordable housing. No nonprofit developers applied.

Thus, at its May 2, 2019 meeting, the Housing Advisory Commission voted as follows: "to recommend to Council a new RFP for residential development at the City-owned site at 1281 University Avenue with a requirement that at least 50% of the on-site units be restricted to 50% AMI or below households, with consideration given to accommodations that serve unhoused or homeless households including nontraditional living arrangements such as tiny homes and that Council consider interim use for the site for housing purposes."

Consistent with the Housing Advisory Commission's recommendation that this property be used to serve unhoused or homeless individuals including nontraditional living arrangements, the Homeless Commission recommends that this lot be used to house up to 8-10 RV dwellers with strong ties to Berkeley who would otherwise be displaced if a location identified for RVs was not provided to them.

#### BACKGROUND

The Homeless Commission passed the following motion on June 12, 2019:

**Action:** M/S/C Hill/Marasovic that the Homeless Commission recommends that the currently unused City-owned property at 1281 University Avenue be used to house on an interim basis up to 8-10 RV dwellers, or as many as the property would safely accommodate, selected by the City of Berkeley. The RV dwellers would be selected by the City of Berkeley based on the strength of their ties to the community such as employment in Berkeley, attending school in Berkeley and families with children in Berkeley schools; and to submit the report as amended and authorize the Chair to present on behalf of the Commission on this report.

**Vote:** Ayes: Behm-Steinberg, Hill, Kealoha-Blake, Marasovic, Mulligan  
Noes: None. *Abstain:* None. *Absent:* Hirpara (excused).

#### ENVIRONMENTAL SUSTAINABILITY

There will be a need for managing sanitation and trash pick-up.

#### RATIONALE for RECOMMENDATION

Without this recommendation and no other location having been identified for RVs, RV dwellers will not have a place to go in Berkeley. Individuals with strong ties to Berkeley such as jobs and schools in Berkeley including families with children in Berkeley schools will suffer disruption and damage to their lives. Those dwellers with the strongest ties to Berkeley will be screened, and selected by, the City to live at this location, insuring that those with the strongest community ties are served.



Utilization of 1281 University Avenue for RV Parking

ALTERNATIVE ACTIONS CONSIDERED

The Homeless Commission had earlier recommended identifying a location for RVs. City staff has been unable to identify such a location.

CITY MANAGER

See companion report.

CONTACT PERSON

Peter Radu, Commission Secretary, HHCS, (510) 981-5435.





Office of the City Manager

ACTION CALENDAR  
September 10, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Kelly Wallace, Interim Director, Health, Housing and Community Services

Subject: Companion Report: Utilization of City-Owned Property at 1281 University Avenue to House up to 8 - 10 RV Dwellers

RECOMMENDATION

Refer to the City Manager to conduct a feasibility analysis of 1281 University Avenue as an interim site to host Recreational Vehicle (RV) dwellers.

FISCAL IMPACTS OF RECOMMENDATION

Staff time will be necessary to assess the applicable zoning, building and public health standards as well as the needs identified by the Commission including paving, curb cuts, sanitation facilities and trash services. Additional staffing would need to be identified to screen applicants for the local preferences identified by the Commission.

CURRENT SITUATION AND ITS EFFECTS

In a separate report scheduled for September 10, 2019, the Housing Advisory Commission (HAC) is recommending that Council issue a Request for Proposals (RFP) for residential housing development with at least 50% of the units restricted to 50% Area Median Income (AMI) households. Their recommendation also requests Council consider an interim use of the site for housing.

Analysis will need to be completed to determine if the site is feasible, how many people and/or RV's and what improvements could be accommodated, and what services and amenities would be needed. This research would need to be prioritized within the Council referral system to enable the staff time and resources for this type of project.

BACKGROUND

The parcel at 1281 University Avenue is vacant lot consisting of approximately 3,600 square feet and is adjacent to the Berkeley Way Mini-Park. City records indicate that while the park and lot are on a single legal parcel, the lot has never been included in the park and is therefore not subject to park-related land restrictions.

On February 8, 2018, the City released an RFP seeking proposals to acquire and develop the site as housing for people with extremely low-incomes with a preference for homeless services, per Council's direction. On September 25, 2018, the City Council

authorized to staff to negotiate and enter in a Memorandum of Understanding (MOU) with Resources for Community Development (RCD) for a 16 unit affordable housing development based on the HAC's recommendation. In December 2018, RCD informed the City they did not believe the financial resources needed for the proposed project would be available in a timely way, and formally withdrew from the negotiation process. On May 2, 2019, the HAC voted to reissue an RFP for the site and consider interim uses for short term housing.

The Homeless Commission passed the following motion on June 12, 2019:

ACTION: M/S/C Hill/Marasovic that the Homeless Commission recommends that the currently unused City-owned property at 1281 University Avenue be used to house on an interim basis up to 8-10 RV dwellers, or as many as the property would safely accommodate, selected by the City of Berkeley. The RV dwellers would be selected by the City of Berkeley based on the strength of their ties to the community such as employment in Berkeley, attending school in Berkeley and families with children in Berkeley schools; and to submit the report as amended and authorize the Chair to present on behalf of the Commission on this report.

Vote: Ayes: Behm-Steinberg, Hill, Kealoha-Blake, Marasovic, Mulligan  
Noes: None. Abstain: None. Absent: Hirpara (excused).

#### ENVIRONMENTAL SUSTAINABILITY

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

#### RATIONALE FOR RECOMMENDATION

Staff should determine if 1281 University is a feasible site for RV parking and, if so, what staffing, resources and funding would be needed to provide the necessary improvements, services and amenities. Staff would also need to coordinate between departments to develop an implementation plan that screens, permits and services the RV dwellers.

#### ALTERNATIVE ACTIONS CONSIDERED

Council could elect to leave the site vacant while the City pursues the RFP for residential development with affordable housing. The small size of the site may limit the amount of RVs that can be serviced at the location relative to the amount of work necessary to prepare the site to be suitable to host the RVs. There also may be a problem for finding a new location if and when construction is scheduled to begin on housing.

#### CONTACT PERSON

Peter Radu, Homeless Services Coordinator, HHCS (510) 981-5435.  
Mike Uberti, Community Development Project Coordinator, HHCS, (510) 981-5114).



Homeless Commission

ACTION CALENDAR

September 10, 2019

To: Honorable Mayor and Members of the City Council

From: Homeless Commission

Submitted by: Carole Marasovic, Chairperson, Homeless Commission

Subject: Expansion of Adeline Corridor Plan to Include Housing in Private Component for Extremely low-Income Persons

RECOMMENDATION

The Homeless Commission recommends that the City Council identify a means to expand housing within the private housing component of inclusionary housing to include a set-aside for extremely low-income persons. The Commission recommends that be done either through retaining a consultant to conduct a nexus study to include extremely low-income housing in inclusionary housing, as to the Adeline Corridor, or by staff internally conducting that study so that inclusionary housing, within the Adeline Corridor, can be expanded to include a set-aside for extremely low-income persons.

SUMMARY

The Adeline Corridor Plan is a major development plan undertaken by the City for South Berkeley. The project completion date is projected at 20 years. The current projection of new housing to be developed in the Adeline Corridor is 1,450 units. Of those 1,450 units, 600-900 units are expected to be developed as public affordable housing on the Ashby BART parking lot. The remaining one third to over one half is anticipated to be private housing development.

The Adeline Corridor Plan provides for at least 50% of housing as income-restricted housing and affordable to a range of low-income and highest needs households. In addition, the Adeline Corridor Plan includes in its objectives that it will continue to implement the 2018 strategic update to the Alameda County Everyone Home Plan and the 1000 Person Plan.

Current inclusionary requirements for private housing allow private developers more flexibility within existing affordability requirements. The inclusionary percentage is set so that 10% of the units are at 80% AMI or below (low-income) and the other 10% are at 50% AMI (very low income). Private developers cannot submit alternative housing plans that provide other affordability.

There is no current provision for extremely low-income households to have a set-aside in private housing within current City requirements. Doing so would require a new nexus study.

#### FISCAL IMPACTS OF RECOMMENDATION

There is a substantial cost to conducting a nexus study as the City generally retains a consultant to do so.

#### CURRENT SITUATION AND ITS EFFECTS

Berkeley has a serious affordable housing crisis. The most greatly impacted are at the lowest income levels which has produced a growing number of homeless persons. The 2017 Homeless Count for Berkeley generated a count of 972 people.

2019's Berkeley-specific count has not yet been released but Alameda County, as a whole, shows an increase of 43% in homelessness. It has been estimated that almost 2,000 people per year experience homelessness in Berkeley. There is no end in sight unless Berkeley plans ahead to provide for economic diversity in its housing.

#### BACKGROUND

On July 10, 2019, the Homeless Commission voted to recommend as follows:

**Action:** M/S/C Marasovic/ Kealoha-Blake that the Homeless Commission recommends that the City Council identify a means to expand housing within the private housing component of inclusionary housing to include a set-aside for extremely low-income persons. The Commission recommends that that be done either through retaining a consultant to conduct a nexus study to include a set-aside for extremely low-income housing in inclusionary housing, as to the Adeline Corridor, or by staff internally conducting that study so that inclusionary housing, within the Adeline Corridor, can be expanded to include a set-aside for extremely low-income persons.

**Vote:** Ayes: Hill, Mulligan, Marasovic, Hirpara, Kealoha-Blake.

*Noes:* None. *Abstain:* None. *Absent:* Behm-Steinberg.

#### ENVIRONMENTAL SUSTAINABILITY

Environmental impacts are noted under the Adeline Corridor Plan.

#### RATIONALE FOR RECOMMENDATION

The growing number of homeless persons must be addressed. While a plan that has a 20 year completion date cannot possibly meet the requirements of the Alameda County Everyone Home Plan and the 1000 Person Plan requiring imminent housing, it can continue to define the community as economically diverse and progressively provide needed housing for all economic statuses.

The Adeline Corridor Plan's commitment to provide for income-restricted housing affordable to a range of low-income and highest needs households is an abstract

commitment without a set-aside for extremely low-income households. A set-aside for only public housing in the Ashby BART parking lot can potentially lead to low-income segregated housing while surrounding private housing is inaccessible to those persons in the extremely low-income category including not only the homeless but also the working poor and retired seniors some of whom may have become homeless or whom are in danger of becoming homeless.

Furthermore, the non-specificity of the income-restricted category in the plan allows it to exclude extremely low-income persons. Such non-specificity, lacking a set-aside for extremely low-income persons, could result in exclusion from even the public housing component. Set-asides for extremely low-income households in both public and private housing should be required.

Under the current nexus study, an expansion to require an extremely low-income set-aside cannot be done in the private component. If discretionary, it is unlikely that incentives will be successful at encouraging developers to provide housing for extremely low-income households. Thus, a new nexus study is required.

#### ALTERNATIVE ACTIONS CONSIDERED

Incentives to developers were considered but it was questionable that left to the discretion of the developer that they would be successful. The cost of a nexus study with one having been conducted four years ago was considered. However, with Berkeley now thriving in development more than ever previously and with the economic and time investment already placed towards the Adeline Corridor Plan, it seemed that the cost of a nexus study was merited.

#### CITY MANAGER

See Companion Report.

#### CONTACT PERSON

Peter Radu, Homeless Commission Secretary, HHCS, (510) 981-5435.







Office of the City Manager

ACTION CALENDAR  
September 10, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Kelly Wallace, Interim Director, Health, Housing and Community Services

Subject: Companion Report: Expansion of Adeline Corridor Plan to Include Housing in Private Component for Extremely low-Income Persons

RECOMMENDATION

If Council believes it is needed, refer to the FY20 November budget process the Homeless Commission's recommendation to hire a consultant for a nexus study to include extremely low-income housing in the Adeline Corridor Plan's inclusionary housing requirements. A cost estimate will be provided at the time of referral.

FISCAL IMPACTS OF RECOMMENDATION

None at this time.

CURRENT SITUATION AND ITS EFFECTS

This report responds to the Homeless Commission's September 10, 2019 Action Calendar report, "Expansion of Adeline Corridor Plan to Include Housing in Private Component for Extremely low-Income Persons." In that report, the Homeless Commission recommends a nexus study to expand the affordability of inclusionary units in the Adeline Corridor Plan through set-asides for extremely low-income persons. They recommend doing so through either hiring a consultant for such a study, or referring such a study to staff.

First, staff want to thank the Homeless Commission for their expansive thinking on ways to expand the stock of housing in Berkeley that is affordable to people experiencing homelessness. Permanently affordable housing is the solution to homelessness, and we appreciate the Commission's commitment to exploring every possible avenue for achieving this goal.

The Adeline Corridor Plan represents a multi-year process with extensive public input from a broad range of stakeholders. Staff do not have the time nor the necessary expertise to conduct a nexus study of the sort recommended by the Homeless Commission, nor has funding for such a consultant been identified. If Council wishes to proceed with such a nexus study, or include this recommendation as part of a separate Adeline Corridor nexus study, it should refer the hiring of a consultant to the November budget process.

### BACKGROUND

On May 29, 2019, staff released a public review draft of the Adeline Corridor Specific Plan. The comment period closed on Friday, July 19, 2019. City staff are in the process of reviewing comments, and multiple City commissions are meeting to discuss and provide input on the plan.

On July 10, 2019, the Homeless Commission voted to recommend as follows:

**Action:** M/S/C Marasovic/ Kealoha-Blake that the Homeless Commission recommends that the City Council identify a means to expand housing within the private housing component of inclusionary housing to include a set-aside for extremely low-income persons. The Commission recommends that that be done either through retaining a consultant to conduct a nexus study to include a set-aside for extremely low-income housing in inclusionary housing, as to the Adeline Corridor, or by staff internally conducting that study so that inclusionary housing, within the Adeline Corridor, can be expanded to include a set-aside for extremely low-income persons.

**Vote:** Ayes: Hill, Mulligan, Marasovic, Hirpara, Kealoha-Blake.  
Noes: None. *Abstain:* None. *Absent:* Behm-Steinberg.

### ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects nor opportunities associated with the recommendation in this report.

### RATIONALE FOR RECOMMENDATION

Staff do not have the time nor the necessary expertise to conduct a nexus study of the sort recommended by the Homeless Commission, nor has funding for such a consultant been identified.

### ALTERNATIVE ACTIONS CONSIDERED

Council could take no action on the Homeless Commission's recommendation, and/or find other ways to expand affordability to homeless persons upon final adoption of the Adeline Corridor Plan.

### CONTACT PERSON

Peter Radu, Homeless Services Coordinator, HHCS, (510) 981-5435.



## Councilmember Ben Bartlett

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ACTION CALENDAR  
 September 10th, 2019

To: Honorable Mayor and Members of the City Council  
 From: Councilmembers Ben Bartlett and Rigel Robinson, and Mayor Jesse Arreguin  
 Subject: Open Doors Initiative: City Worker and First Time Affordable Homebuyer Program

### RECOMMENDATION

That the City Council refer the City Manager and Housing Advisory Committee to explore mechanisms to support homeownership by City of Berkeley First-Responders and other critical safety staff and further refer to City Manager to prepare a report detailing available first-time homeownership and low-income homeowner programs that might be available for implementation in the City of Berkeley (Qualified Positive Recommendation from the Land Use, Housing & Economic Development Committee).

### POLICY COMMITTEE RECOMMENDATION

On June 13, 2019, the Land Use, Housing, & Economic Development Committee adopted the following action: M/S/C (Hahn/Droste) to recommend that the report submitted be referred to the City Council with a Qualified Positive Recommendation such that the Recommendation section be revised as follows: That the City Council refer the City Manager and Housing Advisory Committee to explore mechanisms to support homeownership by City of Berkeley First-Responders and other critical safety staff and further refer to City Manager to prepare a report detailing available first-time homeownership and low-income homeowner programs that might be available for implementation in the City of Berkeley. Vote: All Ayes.

### CURRENT SITUATION

Many City Staffers Cannot Afford to Live In Berkeley, But Must Be Available During Times of Emergency  
 City regulations require city staff to respond in an emergency, even if off-duty. Regulations state that in the event of a disaster, Berkeley workers secure their home first, then carry out pre-determined department emergency procedures. In the event that an employee is unable to follow department reporting instructions, the employee should monitor sources of information from the city and attempt to contact their supervisor. If the employee cannot reach their supervisor, they are required to report to the City of Berkeley and act as a disaster service worker<sup>1</sup>. Because critical infrastructure may be damaged or destroyed in a disaster, city employees must be able to live in Berkeley to fulfill this obligation, as they may need to travel to city infrastructure via foot. The average Berkeley home is currently valued at over \$1.2 million<sup>2</sup>. LendingTree suggests a 20% down payment when buying a home<sup>3</sup>. That leaves a 20% down payment at \$240,000. A city worker would have to save \$24,000 a year for 10 years just to make a down payment on an average home in Berkeley. Berkeley city workers are unable to live in the city they serve. The Open Doors Initiative will allow Berkeley staff to live in the city they serve as well as carry out department instructions or serve as disaster service workers in an emergency.

<sup>1</sup> <http://webserver4/AR/PDF/2016/Administrative%20Regulation%209.2.pdf>

<sup>2</sup> <https://www.zillow.com/berkeley-ca/home-values/>

<sup>3</sup> <https://www.lendingtree.com/home/mortgage/down-payment/how-much-is-a-down-payment-on-a-house/>

### Ever-Increasing Housing Costs Have Drastically Reduced First-Time Home Buyers

In addition to allowing city staff to respond to an emergency, the Open Doors Initiative's deed restrictions will help first-time homebuyers create wealth. Homeownership is a human right, yet purchasing a home is prohibitively expensive in Berkeley. As previously mentioned, the average price for a home in Berkeley is more than \$1.2 million. In comparison, the median home value in the United States is \$222,800<sup>4</sup> - just 18% of the median home value in Berkeley. Overall, California ranks 49th in both homes per capita and homeownership rates. The United States as a whole has seen a steep decline of first-time home buyers. In 2010, first-time buyers purchased roughly half of the homes sold nationally; in 2016, only 35% went to first-time buyers<sup>5</sup>. Many would-be home buyers are finding that they cannot afford to do so. In fact, a recent Credit Sesame survey of more than 1,000 renters found that roughly half of renters only rent a home because they can't afford to own<sup>6</sup>. Home ownership is a human right. The Open Doors Initiative is meant to increase home ownership opportunities for first-time home buyers (earning 120% AMI and below) who are increasingly shut out of the market.

### **BACKGROUND**

#### The Need for Starter Homes

The Open Doors Initiative proposes to increase the number of starter homes, such as condominiums. It envisions residential homeowners dividing their properties into condominiums in Berkeley. Homeowners are granted increased density, with administrative approval, and other fiscal incentives -- provided the homeowner meets certain affordability restrictions and sells to city employees, and first-time homebuyers of moderate income.

Previous generations leveraged the rising housing market to utilize the equity of "starter" homes to allow them to purchase larger homes. This process also gave young families experience of maintaining homes and building community. Today this fundamental act has become more difficult, as the supply of starter homes have drastically dwindled<sup>7</sup>.

Bloomberg reports that starter home inventory has hit its lowest level since Trulia began keeping track in 2012<sup>8</sup>. The supply of starter homes is declining at 17% year-over-year, nearly twice as fast as all homes, and over 3 times faster than larger homes<sup>9</sup>. In July 2017, only 450,000 homes listed below \$200,000 remained in the market, which was about 120,000 fewer than in July 2015 (See id.)

Berkeley is now presented with an historic opportunity to impact the housing crisis by increasing its availability of starter homes. Currently, "[o]ver a third, or 35 percent, of millennials say 'the down payment' is their biggest obstacle to buying a home."<sup>10</sup>

With the Open Doors Initiative, houses that once cost upwards of \$1,000,000 and require a 20% down payment of \$200,000 (and often being sold for cash outright) will now be incentivized to become individual starter homes with drastically reduced costs – four condominiums created from the above converted home would ideally each cost approximately \$250,000 with a 20% down payment of only \$50,000. Such a change would turn homeownership into an achievable goal for many people, including young families.

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<sup>4</sup> <https://www.zillow.com/home-values/>

<sup>5</sup> <https://www.nytimes.com/2017/04/21/realestate/first-time-home-buyers-statistics.html>

<sup>6</sup> <https://www.gobankingrates.com/investing/real-estate/reasons-women-struggling-buy-home/>

<sup>7</sup> <https://optimise-design.com/bring-back-starter-home/>

<sup>8</sup> <https://www.bloomberg.com/news/articles/2018-03-21/u-s-starter-homes-are-pricier-smaller-older-and-scarcer>

<sup>9</sup> [https://www.realtor.com/research/housingshortage\\_starterhomes/](https://www.realtor.com/research/housingshortage_starterhomes/)

<sup>10</sup> <https://www.cnbc.com/2018/09/14/the-2-main-reasons-young-people-cant-buy-homes.html>

“Americans 65 to 74 are now the country’s fastest-growing age group. According to a 2014 AARP survey, 88 percent of older Americans want to remain in place as they age.”<sup>11</sup> Open Doors Initiative encourages seniors in Berkeley who own large homes to downsize, earn money and while saving their assets.

In summary, we believe that increasing starter homes, will increase accessibility to homeownership for under-represented communities, artists, younger people, first responders, and teachers. This will, in turn:

- a. Reduce the wealth gap between older, predominately white homeowners and underrepresented communities;
- b. Increase diversity of Berkeley neighborhoods;
- c. Support Resiliency and Sustainability by reducing commute times for First Responders and City Employees;
- d. Provide financial benefit to senior homeowners

High Home Prices Place Homeownership Out of Reach for a Majority of City Workers and Berkeley Residence Berkeley salaries<sup>12</sup> are competitive in the region, but still fall below the threshold required to compete in the current housing market.

#### Disaster Worker Policy

The City of Berkeley requires that in the event of an emergency, every City worker is a disaster worker that prioritizes the safety and well-being of their family first and of Berkeley second. However, the ability for City employees to efficiently and effectively serve in this role is maximized if the employee lives in the city itself.

#### Missing Middle Housing

Open Doors Initiative will also create affordable housing in Berkeley. Homes created through the ODI will help address the Missing Middle, a type of housing including duplexes and other “starter home” units to which Berkeley residents desperately need access. Creating these units will give city workers, would-be first time homebuyers, disproportionately historically-marginalized communities, a path to home ownership and wealth creation through increased housing equity.

Increasing the supply of one bedroom and studio condominiums also allow community members, previously shut out of the middle class, the opportunity to own a home while simultaneously enabling older homeowners to downsize and efficiently utilize their equity. The deed restrictions provide a path to homeownership for moderate income persons; first responders to be on hand in the event of a crisis; and for workers to avoid long commutes by owning homes in the city they serve.

The Open Doors Initiative serves the policy goals of economic inclusion, community resilience, and environmental sustainability

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<sup>11</sup> [https://www.huffingtonpost.com/entry/housing-crisis-inequality-harvard-report\\_us\\_5b27c1f1e4b056b2263c621e](https://www.huffingtonpost.com/entry/housing-crisis-inequality-harvard-report_us_5b27c1f1e4b056b2263c621e)

<sup>12</sup> [https://www.cityofberkeley.info/uploadedFiles/Human\\_Resources/Level\\_3\\_-\\_General/SalaryListNONBENEFITED.pdf](https://www.cityofberkeley.info/uploadedFiles/Human_Resources/Level_3_-_General/SalaryListNONBENEFITED.pdf)

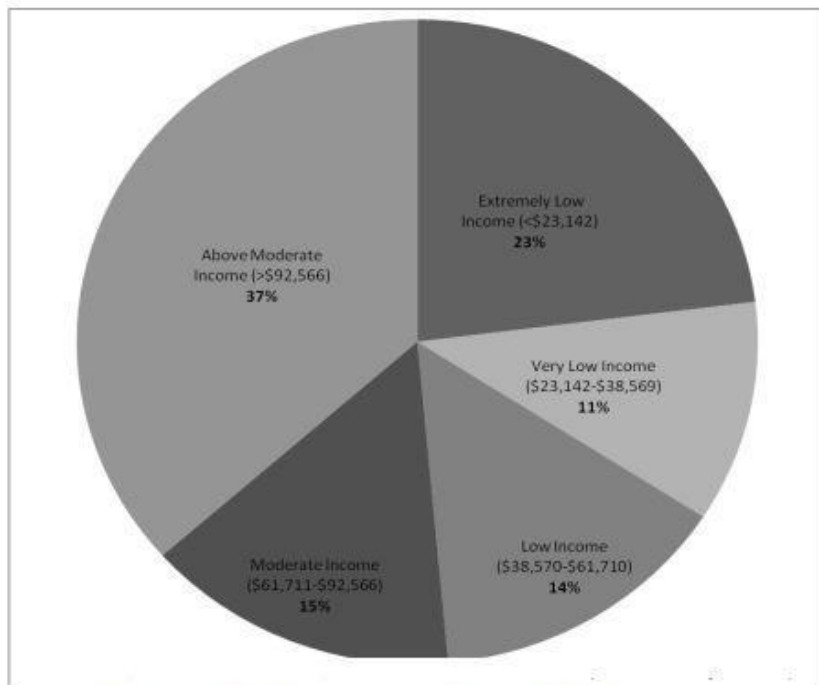
**Table 2-20: Average Annual Salary by Job Type, Oakland, Fremont, Hayward Metro Area, 1st Quarter 2013**

| Job Title                                            | Avg. Annual Salary |
|------------------------------------------------------|--------------------|
| <b>Health Care</b>                                   |                    |
| Physicians and Surgeons, All Other                   | > \$203,051        |
| Registered Nurses                                    | \$122,458          |
| Physician Assistants                                 | \$107,636          |
| Pharmacy Technicians                                 | \$50,535           |
| Healthcare Support Workers, All Other                | \$49,022           |
| Home Health Aides                                    | \$31,802           |
| <b>Higher Education</b>                              |                    |
| Engineering Teachers, Postsecondary                  | \$111,076          |
| History Teachers, Postsecondary                      | \$98,592           |
| Social Science Research Assistants                   | \$54,683           |
| Graduate Teaching Assistants                         | \$30,028           |
| <b>Local Government</b>                              |                    |
| Urban and Regional Planners                          | \$85,419           |
| Fire Fighters                                        | \$88,704           |
| Parking Enforcement Workers                          | \$50,796           |
| <b>Other Office</b>                                  |                    |
| Receptionists and Information Clerks                 | \$35,734           |
| Office and Administrative Support Workers, All Other | \$36,696           |
| <b>Retail and Service</b>                            |                    |
| Waiters and Waitresses                               | \$22,723           |
| Dishwashers                                          | \$21,372           |
| Retail Salespersons                                  | \$28,825           |

Source: CA Employment Development Department, Occupational Employment Statistics (OES) Survey Results

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**Figure 2-7: Household Income Distribution in Berkeley, ACS 2008-2012 Estimates**



Source: ACS 2008-2012 5-year estimates, Table S1901

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<sup>13</sup> [https://www.cityofberkeley.info/uploadedFiles/Planning\\_and\\_Development/Level\\_3\\_-\\_Commissions/Commission\\_for\\_Planning/2015-2023%20Berkeley%20Housing%20Element\\_FINAL.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Planning/2015-2023%20Berkeley%20Housing%20Element_FINAL.pdf)

<sup>14</sup> [https://www.cityofberkeley.info/uploadedFiles/Planning\\_and\\_Development/Level\\_3\\_-\\_Commissions/Commission\\_for\\_Planning/2015-2023%20Berkeley%20Housing%20Element\\_FINAL.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Planning/2015-2023%20Berkeley%20Housing%20Element_FINAL.pdf)

### Accommodating City Workers Will Benefit Minority Groups, Who Are Disproportionately Unable to Purchase Homes

To accommodate workers like teachers and first responders in Berkeley, federal housing rules allow us to set aside workforce housing through a deed restriction. For example, in Colorado, the Peak One Neighborhood, Frisco Town Council, and Summit County Combined Housing Authority has adopted a deed restriction<sup>15</sup> limited sales to municipal workers<sup>16</sup> or work in the County<sup>17</sup>. A workforce deed restriction, accompanied by a change in zoning, can ensure that new homes with deed restricted units are only made available to people who have a history of employment in Berkeley/Alameda County and/or meet certain income requirements. Not only would this deed restriction ensure that units are never sold or rented to anyone who earns income outside of the Berkeley/Alameda County, but also it would protect Berkeley's long-term local workers by stabilizing the housing supply for residents. Because Berkeley city workers are disproportionately minorities, accommodating city workers with deed restrictions will benefit Berkeley minorities.

To successfully increase accessibility for these different communities, we have to change the underlying zoning in order to allow developers to convert single-family homes into duplexes, fourplexes, and other forms of housing that could house multiple groups of people. Currently, these types of housing are not allowed to be built in the R1 and in a few R2 districts as a result of zoning issues. Thus, we need to address zoning conditions in order to increase accessibility to homeownership for our constituents.

### Wealth Gaps Have Resulted from Homeownership Inequalities

The impact of rising housing costs has manifested itself in glaring wealth disparities between homeowners and renters. Roughly half (51.2%) of the total wealth accumulated by the typical American homeowner is derived from the value of their primary residence<sup>18</sup>. Owning a home can drastically improve one's net worth. "Since 2013, the average homeowner has seen their net worth rise from \$201,600 to \$231,400. Renters have watched theirs fall from \$5,600 to \$5,000."<sup>19</sup>

Due to the increase in housing costs and the resulting inaccessibility to homeownership for many people, fewer people are able to accrue wealth by purchasing a home. These wealth disparities are most prevalent in underrepresented communities. For instance, a significant wealth gap has appeared between white and non-white households. "Recent data from the Survey of Income and Program Participation (2014) shows that black households hold less than seven cents on the dollar compared to white households."<sup>20</sup>

"The Institute for Policy Studies recent report *The Road to Zero Wealth: How the Racial Divide is Hollowing Out the America's Middle Class (RZW)* showed that between 1983 and 2013, the wealth of the median black household declined 75 percent (from \$6,800 to \$1,700), and the median Latino household declined 50 percent (from \$4,000 to \$2,000). At the same time, wealth for the median white household increased 14 percent from \$102,000 to \$116,800."<sup>21</sup>

This gap shows no sign of slowing, but rather is projected to increase in the coming years. "In fact, by 2020 [...] black and Latino households are projected to lose even more wealth: 18 percent for the former, 12 percent for

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<sup>15</sup> [https://peakoneneighborhood.com/pdf/Peak\\_One\\_Income\\_Deed\\_Restriction.pdf](https://peakoneneighborhood.com/pdf/Peak_One_Income_Deed_Restriction.pdf)

<sup>16</sup> [https://peakoneneighborhood.com/pdf/Peak\\_One\\_Non-Income\\_Deed\\_Restriction.pdf](https://peakoneneighborhood.com/pdf/Peak_One_Non-Income_Deed_Restriction.pdf)

<sup>17</sup> <https://peakoneneighborhood.com/community/locals-price-deed-restriction/>

<sup>18</sup> <https://www.zillow.com/research/black-hispanic-home-wealth-16753/>

<sup>19</sup> [https://www.huffingtonpost.com/entry/housing-crisis-inequality-harvard-report\\_us\\_5b27c1f1e4b056b2263c621e](https://www.huffingtonpost.com/entry/housing-crisis-inequality-harvard-report_us_5b27c1f1e4b056b2263c621e)

<sup>20</sup> <https://insightcced.org/what-we-get-wrong-about-closing-the-racial-wealth-gap/>

<sup>21</sup> <https://www.forbes.com/sites/brianthompson1/2018/02/18/the-racial-wealth-gap-addressing-americas-most-pressing-epidemic/#25b6eb127a48>

the latter. After those declines, the median white household will own 86 times more wealth than its black counterpart, and 68 times more wealth than its Latino one.” (See id.)

Another wealth disparity that has grown more extreme is between the younger and older generation. “Older people have always had more net worth than younger people, of course, but never like this. Thirty years ago, families headed by someone over 62 had eight times the median wealth of families headed by someone under 40. By 2013, older families had 15 times the wealth of younger families.”<sup>22</sup>

Because homeownership increases one’s ability to expand one’s net worth, it is the surest on-ramp to addressing these grotesque wealth disparities.

#### Displacement as a Result of High Home Costs

Historically, Berkeley’s redlining policies denied people of color access to its best neighborhoods. Today, though these policies have long been gone, the residual effect of those policies combined with the housing crisis has had the effect of reinforcing similar divides. “The difference between the large homes and winding roads of the predominantly white neighborhoods of the Hills and the Claremont neighborhood, and the modest, mixed-use character of racially diverse South and West Berkeley is indicative of the city’s racial and class-based divisions.”<sup>23</sup>

Housing costs in the United States have condemned many to a life of poverty, especially African Americans and Hispanics. “Though the number of Americans living in poverty has increased by 41 percent since 2000, the number of “high-poverty census tracts” has increased even faster. By now, 51 percent of blacks and 44 percent of Hispanics live in these areas of concentrated poverty, compared to just 17 percent of whites. According to numerous studies, children who grow up in areas of concentrated poverty are disadvantaged on nearly every measure, from school quality to violence to social mobility.”<sup>24</sup>

The ever-increasing cost of housing has also forced teachers and first responders to live long distances from their workplaces. For example, San Francisco has seen a teacher shortage, because housing is so costly that the average teacher can only afford .7% of the homes on the market.<sup>25</sup> In addition, despite earning more than \$100,000 in San Francisco and San Jose, first responders can afford just 2.4% and 6.6% of currently listed homes, respectively.<sup>26</sup> In the event of a fire or massive tragedy, we need first responders to be able to live in Berkeley.

A closer look at the makeup of first-time buyers reveals a disturbingly large gap between white and non-white purchasers. The breakdown is as follows: 79% were white, 9% Hispanic, 8% Asian Pacific Islander, 7% African American, and 3% other<sup>27</sup>.

This racial divide is not just present in first-time buyers. Zillow reports that “[i]n 1900, the gap in the homeownership rate between black and white households was 27.6 percentage points. It’s now 30.3 percentage points.”<sup>28</sup> Additionally, according to the same report, “the difference between white and Hispanic

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<sup>22</sup> [https://www.huffingtonpost.com/entry/housing-crisis-inequality-harvard-report\\_us\\_5b27c1f1e4b056b2263c621e](https://www.huffingtonpost.com/entry/housing-crisis-inequality-harvard-report_us_5b27c1f1e4b056b2263c621e)

<sup>23</sup> <https://www.berkeleyside.com/2018/09/20/redlining-the-history-of-berkeleys-segregated-neighborhoods>

<sup>24</sup> [https://www.huffingtonpost.com/entry/housing-crisis-inequality-harvard-report\\_us\\_5b27c1f1e4b056b2263c621e](https://www.huffingtonpost.com/entry/housing-crisis-inequality-harvard-report_us_5b27c1f1e4b056b2263c621e)

<sup>25</sup> <https://www.sfgate.com/technology/businessinsider/article/SF-teachers-cant-afford-housing-in-SF-12797504.php>

<sup>26</sup> <https://www.trulia.com/research/affordable-housing-occupation-2018/>

<sup>27</sup> The percentage exceeds 100% because participants could choose more than one ethnicity.  
<https://www.nytimes.com/2017/04/21/realestate/first-time-home-buyers-statistics.html>

<sup>28</sup> <https://www.zillow.com/research/homeownership-gap-widens-19384/>



homeownership rates has more than tripled”, from 7.9 percentage points in 1900 to 25.7 percentage points in 2016. (See id.) “It’s the widest gap among whites, blacks, Hispanics and Asians.” (See id.)

It is likely that the racial and gender wage gaps present in the United States have directly affected homeownership rates. When getting approved for a mortgage, a borrower’s income is an important factor when lenders assess his or her reliability, which puts borrowers with less income at a severe disadvantage.

In 2016, Pew Research found that African American men earned 73% of what white men earned, and Hispanic men earned approximately 69%<sup>29</sup>. White women earn approximately 82% of white men, Asian women earn 87%, African American women earn 65%, and Hispanic women earned only 58%. (See id.)

The New York Times’s study of first-time buyers reflects the effect of the gender wage gap; while the median home price for a single male was \$157,000, the median price for a single female was \$146,300<sup>30</sup>.

Another group adversely affected by the rising housing costs is young people, who are increasingly unable to afford homes. “Though every age bracket contains significant inequalities, Americans over 65 are the only cohort with higher homeownership rates now than in 1987. Homeownership for every other age group has fallen significantly”<sup>31</sup>

Many young people continue to be hindered by their student loans, preventing them from purchasing a home. “Paying college loans is a big burden for homebuyers. It’s harder to save for a down payment and can make qualifying for a mortgage more difficult. It can also delay a purchase as people pay down their debt.”<sup>32</sup>

A recent study has also revealed that people in the LGBTQ+ community face unique challenges when buying a home. In April 2018, a survey by Freddie Mac among 2,313 LGBT community members (aged 22 to 72) living in the United States found that “49 percent of LGBT households are likely to own a home - considerably lower than the current national rate (64.3 percent).”<sup>33</sup> The study showed that when deciding where to live, LGBT renters cited price, safety and a LGBT-friendly location as the most important factors. (See id.)

Berkeley prides itself on accepting people from all walks of life. However, unless a conscious effort is made to increase accessibility of homeownership, underrepresented communities will continue to be denied access to the same benefits enjoyed by current, often very wealthy, homeowners. "Homeownership has become an indispensable part of being a full participant in American society," National Urban League President and CEO Marc H. Morial said. “An erosion of homeownership rates among African Americans represents not only a devastating financial loss but a barrier to full participation in the American dream.”<sup>34</sup>

### Funding

Potential funding sources include: private lenders; affordable housing financial technology platforms; federal and state homeownership programs; Measure A1 Homeowner Development Funds; and Qualified Opportunity Zones.

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<sup>29</sup> <http://www.pewresearch.org/fact-tank/2016/07/01/racial-gender-wage-gaps-persist-in-u-s-despite-some-progress/>

<sup>30</sup> <https://www.nytimes.com/2017/04/21/realestate/first-time-home-buyers-statistics.html>

<sup>31</sup> [https://www.huffingtonpost.com/entry/housing-crisis-inequality-harvard-report\\_us\\_5b27c1f1e4b056b2263c621e](https://www.huffingtonpost.com/entry/housing-crisis-inequality-harvard-report_us_5b27c1f1e4b056b2263c621e)

<sup>32</sup> <http://www.nareb.com/black-hispanic-homeownership-rates-remain-stuck-below-whites/>

<sup>33</sup> <https://freddiemac.gcs-web.com/news-releases/news-release-details/new-research-finds-lgbt-homeownership-rates-lag-behind-general>

<sup>34</sup> <https://newsroom.wf.com/press-release/consumer-lending/wells-fargo-commits-increase-african-american-homeownership>

In 2016, Alameda County passed Measure A1, which issued \$580 million in bonds to acquire and improve real property to help poor and middle-class people buy homes.<sup>35</sup> The Open Doors Initiative proposes to use these A1 Homeowner Development Funds for low income first-time home buyers.

Additionally, the Initiative proposes to explore the use of Qualified Opportunity Zone funds to aid in financing<sup>36</sup> construction costs<sup>37</sup>. Qualified Opportunity Zone funds were established in the Tax Cuts and Jobs Act of 2017 with the purpose of improving Qualified Opportunity Zones.<sup>38</sup> Investors with capital gains can defer taxes on those gains if they invest within Qualified Opportunity Zones.<sup>39</sup>

These Qualified Opportunity Zone funds should be used towards the construction costs related to the creation of starter homes. This will ease the financial burden of seniors seeking to downsize their homes and promote the construction of new starter homes in Berkeley.

### **REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES, LAWS**

Currently Berkeley has a number of units zoned as R1, Single Family Residential. The Open Doors Initiative will allow homeowners in an R1 zone to apply for administrative approval to convert their single family home into a multi-family unit, provided they meet affordability restrictions and agree to sell to moderate income persons and/or city workers including, first responders, firefighters, and other public employees.

The Open Doors Initiative will also require deed restrictions in units that are converted from R1 to multi-family condos to sell to city workers that meet income requirements, ensuring that the “Missing Middle” of income earners with the city of Berkeley have access to home ownership.

#### Low-Income Homeowners Face Challenges Affording and Maintaining Their Homes

In Berkeley, many long-time homeowners were able to purchase their homes when values were much lower. Even though redlining and discrimination by financial institutions greatly limited access to capital for African Americans in particular, many were still able to become homeowners in South and West Berkeley.

The Open Doors Initiative would benefit these homeowners by providing a means financial stability. However, in order to realize these benefits, homeowners would be required to make substantial home improvements. The current cost in Berkeley for home improvements is \$400-500 per square foot.

Such prices will likely require the homeowner to receive commercial home improvement loans. This is problematic because, many homeowners of color still face barriers and discrimination in accessing commercial home improvement loans.

This practice of discrimination by lenders can result in homes falling into disrepair. Coupled with aggressive code enforcement has led to some community members losing their homes to receivership and the courts.

For these reasons, the Open Doors Initiative will include not only regulatory changes, but financial and informational programs to ensure low-income homeowners are able to participate and benefit from this program. The Open Doors Initiative helps low-income homeowners realize some of the equity locked up in their home, invest in maintenance and improvements, and provide affordable homeownership opportunities for

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<sup>35</sup>[https://ballotpedia.org/Alameda\\_County,\\_California,\\_Affordable\\_Housing\\_Bond\\_Issue,\\_Measure\\_A1\\_\(November\\_2016\)](https://ballotpedia.org/Alameda_County,_California,_Affordable_Housing_Bond_Issue,_Measure_A1_(November_2016))

<sup>36</sup> [www.verbhouse.com](http://www.verbhouse.com)

<sup>37</sup> [www.divvyhomes.com](http://www.divvyhomes.com)

<sup>38</sup> <https://www.wellsfargo.com/the-private-bank/insights/planning/wpu-qualified-opportunity-zones/>

<sup>39</sup> <https://www.wealthmanagement.com/high-net-worth/what-are-qualified-opportunity-zones>

others in the community. Thus, the program meets the city's goals of stabilizing communities that are facing displacement while adding to the affordable homeownership stock.

**ACTIONS/ALTERNATIVES CONSIDERED**

That the City Council adopt The Open Doors Initiative to assist the creation of affordable starter homes and empower city employees and first-time home buyers. The Open Doors Initiative will allow homeowners in R1 and R1A zones to apply to renovate their properties to become multi-family condominiums, while providing incentives for doing so. To qualify for zoning approval, families must agree to deed restrictions which prohibit them from selling the newly-created condominiums to anyone who is not an employee with the city of Berkeley or does not meet income requirements. These deed restrictions are meant to provide a path to home ownership for persons within the missing middle and workers with the city of Berkeley who could otherwise not afford to own a home in the city they serve.

**RATIONALE FOR RECOMMENDATION**

As noted above, the homeownership has become increasingly more difficult. By financially incentivizing R1 homeowners to convert to multi-family condominiums, the city of Berkeley will offer a path to older homeowners seeking to downsize to leverage their equity while providing Berkeley city workers with a supply of affordable condominiums. Over time, as the housing market rises, Berkeley city workers and moderate income persons who own these condominiums will be able to leverage the equity themselves when taking out loans, or sell the condominiums to other Berkeley city workers and moderate income persons.

**IMPLEMENTATION, ADMINISTRATION AND ENFORCEMENT**

To be determined.

**FISCAL IMPACTS OF RECOMMENDATION**

To be determined by an impact study.

**ENVIRONMENTAL SUSTAINABILITY**

Duplexing single family homes promotes environmentally sounded infill housing development. In addition, the Open Doors Initiative does not require the creation of additional parking spaces.

**OUTCOMES AND EVALUATION**

To be determined.

**CONTACT PERSON**

Councilmember Ben Bartlett:  
James Chang  
Katie Ly  
Matthew Napoli

510-981-7130  
[jchang@cityofberkeley.info](mailto:jchang@cityofberkeley.info)  
[katiely22@berkeley.edu](mailto:katiely22@berkeley.edu)  
[napoli.matthew@gmail.com](mailto:napoli.matthew@gmail.com)

**Attachment:**

- 1) **City of Berkeley Employee Salaries:**  
[https://www.cityofberkeley.info/uploadedFiles/Human\\_Resource/Level\\_3\\_-\\_General/SalaryListNONBENEFITED.pdf](https://www.cityofberkeley.info/uploadedFiles/Human_Resource/Level_3_-_General/SalaryListNONBENEFITED.pdf)





Office of the City Manager

ACTION CALENDAR  
September 10, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Kelly Wallace, Interim Director, Health, Housing and Community Services

Subject: Referral Response: Lava Mae Mobile Shower and Hygiene Services

INTRODUCTION

In response to two separate Council referrals, this report provides information on the City's ongoing collaboration with the nonprofit organization Lava Mae to provide the City's homeless community with access to mobile showers and hygiene services.

CURRENT SITUATION AND ITS EFFECTS

This report responds to two referrals: 1) referral # DMND0002483 that originally appeared on the agenda of the May 26, 2015 Council meeting and was sponsored by Councilmember Droste; and 2) a short term referral from the City Council that originally appeared on the agenda of the November 13, 2018 Council meeting and was sponsored by Councilmembers Davila and Hahn.

Coordinating mobile hygiene efforts in partnership with Lava Mae is a Strategic Plan Priority Project, advancing our goal to provide housing support services for our most vulnerable community members.

Staff from HHCS and Public Works coordinated with Lava Mae staff to select two pilot sites for mobile hygiene stations: West Berkeley at Second Street and Cedar Street (adjacent to the STAIR Center) and South Berkeley at the Progressive Baptist Church parking lot on Alcatraz Avenue and King Street (one block from Adeline Street). These sites were selected using several criteria: proximity to current encampments, geographic distribution across the city, ability to accommodate Lava Mae's truck and trailer and the access to necessary water and sewer infrastructure.

Lava Mae established weekly service beginning in May 2019, serving the South Berkeley site on Mondays and the West Berkeley site on Thursdays. Staff notified the service providers in the North County Coordinated Entry System and Lava Mae did direct outreach to local residents, businesses and encampments in proximity to the pilot sites. The South Berkeley location is averaging eight guests per service time (48 showers total) and the West Berkeley site is averaging seven guests (47 showers total). Lava Mae noted typically by this point they are averaging 20 guests per location. Lava Mae and HHCS staff are working together to identify ways to improve and increase

outreach and consider alternative options for pilot sites that may better reach the community, including the safe parking site as appropriate.

BACKGROUND

Lava Mae is a nonprofit organization founded in 2013 that provides mobile hygiene services, including hot showers, to homeless community members in the Bay Area and Los Angeles. They've served over 19,000 guests and provided over 69,000 showers since their launch. They've recently innovated one-stop "Pop-Up Care Villages" to dramatically expand access to essential services for people living on the streets.

ENVIRONMENTAL SUSTAINABILITY

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

POSSIBLE FUTURE ACTION

The City could consider entering into a Memorandum of Understanding with Lava Mae to coordinate and improve services and outreach for the local homeless community. The City could also consider hosting one of Lava Mae's "Pop Up Care Village" which brings in partners to provide expanded services including food, clothing, haircuts, animal care, vaccines, health screenings and access to legal and social services.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Lava Mae provides services free of charge to Berkeley residents. There are costs associated with the staff time required to conduct outreach, coordinate services and ensure water and sewer infrastructure is working properly.

CONTACT PERSON

Mike Uberti, Community Development Project Coordinator, HHCS, (510) 981-5114.

Attachments:

- 1: Original Referral Report #1 from May 26, 2015: Mobile Shower Referral
- 2: Original Referral Report #2 from November 13, 2018: Short-term referral to City Manager to complete steps necessary to establish Lava Mae services in Berkeley

CONSENT CALENDAR

May 26, 2015

To: Honorable Mayor and Members of the City Council  
From: Councilmember Lori Droste  
Subject: Mobile Shower Referral

RECOMMENDATION

Refer to the Homeless Commission and City Manager the establishment of a mobile shower unit in Berkeley and assess the feasibility/cost of such a project in comparison to existing programs.

BACKGROUND

In 2009, Berkeley had 680 people without permanent housing. With its large homeless population, Berkeley could benefit from a mobile shower program. The City's website currently lists two locations for showers available to the homeless- one in the downtown area, and one in Willard Park. A mobile shower unit could potentially serve more people in a more efficient manner.

The City of San Francisco has been developing a mobile shower program in conjunction with Lavamae.org. The program is housed in a former MTA bus and can serve multiple people in different communities every day. Lavamae.org offers resources, budgets, and outlines for replicating their project. This referral would use those resources and documents, as well as other information, to outline the feasibility of creating a similar model in Berkeley.

FINANCIAL IMPLICATIONS

Staff time

ENVIRONMENTAL SUSTAINABILITY

N/A

CONTACT PERSON

Councilmember Droste, 510-981-7180



Cheryl Davila  
Councilmember  
District 2

ACTION CALENDAR  
November 13, 2018

To: Honorable Mayor and Members of the City Council  
From: Councilmembers Cheryl Davila and Sophie Hahn  
Subject: Short-term referral to City Manager to complete steps necessary to establish Lava Mae services in Berkeley

RECOMMENDATION

Short-term referral to the City Manager to coordinate with Fire, Planning and Public Works Department Heads to provide permits, identify locations and allow access to water and disposal hook-ups necessary to bring Lava Mae shower services to Berkeley's homeless populations within 90 days for a 6-8 week pilot.

This includes:

- Determining locations to set up portable shower (Possible locations will be identified by the City of Berkeley Homeless Service Team but could include 2180 Milvia Parking Lot, Adeline & Alcatraz behind Here/There encampment, Harrison and 8<sup>th</sup>, the Corporation Yard and/or Jones and 2<sup>nd</sup>.)
- Identifying water source for hook ups designated to dispense water for showers, either fire hydrants (preferred) or garden hose spigots
- Parking permits for shower trailer
- Identifying sewage manholes designated to pump out/dump gray and black water (H<sub>2</sub>O) into the sewer system
- Calendaring a Fire Department inspection to inspect the propane to heat up the H<sub>2</sub>O on the first day of operation or through a dry run.

Starting January 2019, Lava Mae is prepared to bring shower service two days a week to two consistent locations (one day per a location) at no charge to the City of Berkeley or the users of the services. The proposal is to start with an 8-week pilot in two locations to test sites.

BACKGROUND

Lava Mae brings critical services to the streets to rekindle dignity and hope for people experiencing homelessness through their Mobile Hygiene Service and Pop-Up Care Villages. Doniece Sandoval founded Lava Mae in 2013 when she began by converting public transportation buses into showers and toilets on wheels to deliver hygiene and



rekindle dignity for our unhoused neighbors in San Francisco. Lava Mae has expanded their shower services to Oakland and Los Angeles, serving 15,000+ guests who have taken 52,000+ showers in mobile units across Los Angeles and the Bay Area.

Lava Mae also organizes day-long Pop-Up Care Villages that bring much needed essential services like dental care, holistic health services, haircuts, clothing and hot food offered in a friendly, community setting with art and live music. In addition, they have inspired 100+ new mobile hygiene programs across the United States and around the world, and launched the first-ever open source toolkit and platform to help people everywhere replicate their mobile hygiene service in their own communities.

Lava Mae has raised all of the funds needed to run their program through private sources. Therefore, all of Lava Mae's services are offered free of charge to those utilizing them and to the cities hosting their services. In order to provide these services, Lava Mae needs support in identifying water hook-up, disposal locations, and parking locations; and the required city permits. Anonymous demographic information collected by Lava Mae will be shared with the City of Berkeley. Lava Mae has secured a permit and meter from EBMUD to latch into hydrants.

#### FISCAL IMPACTS OF RECOMMENDATION

Lava Mae covers all costs. Lava Mae has a construction meter from EBMUD, which typically cost \$20 per service day for six hours of service water.

The cost to the City is staff time to issue permits, inspect propane system, and identify ideal locations for water hook ups, parking and sewer manholes for pump outs. The cost for the water could be absorbed by the City for approximately, two thousand dollars, annually to provide much needed shower services.

#### ENVIRONMENTAL SUSTAINABILITY

Bringing Lava Mae to Berkeley will increase public health of those who are homeless by providing access to clean showers, health and sanitation services. Lava Mae expanding its services to Berkeley can also be a resource in case of a climate emergency event or an earthquake if people lack access to home showers.

#### CONTACT PERSON

Cheryl Davila, Councilmember District 2                      510.981.7120

#### ATTACHMENTS & LINKS:

- Lava Mae details
- Lava Mae Pop-Up Care Village flyer
- [Lava Mae website](#)
- Video testimonies:
  - <https://youtu.be/rmpBGWEmYWk>
  - <https://youtu.be/Sa2xnW31q0s>



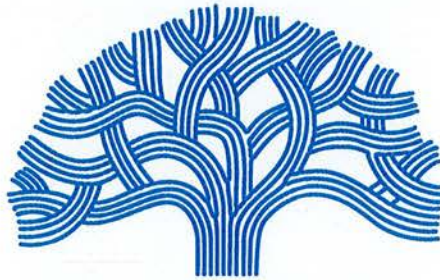
Lava Mae is a San Francisco based non-profit that brings critical services to the streets - delivered with an unexpected level of care we call Radical Hospitality - to rekindle dignity and hope for people experiencing homelessness through our Mobile Hygiene Service, Pop Up Care Villages, and BuildIt Toolkit for replication of our services.

We come equipped with a mobile hygiene trailer with three individual and private stalls featuring full bathrooms. One is ADA accessible and designed for ease of use with wheelchair access. We provide all necessary hygiene items including fresh towels, socks, soap, shampoo/conditioner, moisturizer, razors, toothbrush/toothpaste, and many more. Our services are 5 ½ hours long of actual shower time and each guest gets 15-20 minutes. We typically serve anywhere from 30-50 guests in a day. **We cover all of the costs associated with providing our services.**

**In order to operate Lava Mae, we need:**

- **Parking:** Our truck and trailer total 40 ft in length which is about 2 parking spaces long. We need a City-sanctioned parking location and permit.
- **Water source:** We have an EBMUD hydrant meter so most hydrants will work depending on the fitting or adapter needed. We can also hook to a standard garden hose faucet bibb. We need the City to identify water hook-ups.
- **Sewage Manhole Dumping:** Our trailer comes with a 330 gallon black/greywater tank that needs to be dumped twice per a day of service. Preferably somewhere within a few blocks and relatively safe. We need the City to identify and approve a manhole for this use. The dumping process takes no more than 10-15 minutes.

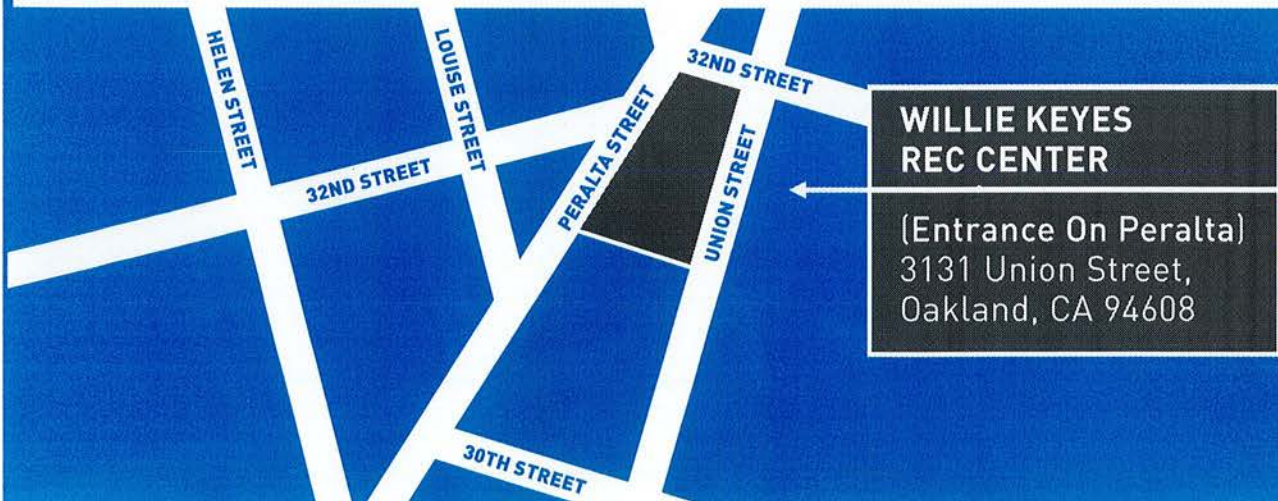
lava mae 



**POP-UP CARE VILLAGE**  
OAKLAND

**Tuesday, October 30th,**  
**11am - 4pm**

Hot Food, Clothing, Haircuts, Art, Medical,  
Live Music & More





## ORDINANCE NO. 7,668-N.S.

REPEALING AND REENACTING BERKELEY MUNICIPAL CODE CHAPTER 13.104,  
WAGE THEFT PREVENTION

Section 1. That Berkeley Municipal Code Chapter 13.104 is hereby repealed and reenacted as follows:

**Chapter 13.104**  
**WAGE THEFT PREVENTION**

Sections:

- 13.104.010 Findings.
- 13.104.020 Definitions.
- 13.104.030 Pay Transparency Acknowledgments from Permit Applicant, Contractor, and Qualifying Subcontractor.
- 13.104.040 Pay Transparency Attestations Following Project Completion.
- 13.104.050 Posting of Ordinance.
- 13.104.060 Determination of Construction Pay Transparency Compliance.
- 13.104.070 Issuance of a Certificate of Occupancy.
- 13.104.080 Private Right of Action.
- 13.104.090 City Manager Regulations.
- 13.104.100 Severability.

**13.104.010 Findings.**

A. The City of Berkeley is committed to protecting the public health, safety and welfare. The construction industry involves unique labor standards compliance challenges. Construction workers who do not receive all of their wages and mandatory benefits are likely to discover that despite the best efforts of State enforcement officials, many employees continue to be victims of wage theft because they are unaware of their rights or the State lacks adequate resources to advocate on their behalf. General contractors and Developer/Owners who receive City-issued permits and licenses and who benefit from the construction workers' labor may disclaim responsibility for making underpaid workers whole.

B. Testimony presented to the State of California's "Little Hoover" Commission stated that existing studies suggest that "the underground economy" is at least a \$10 billion problem in California. Statewide, the construction industry is the industry with the second highest level of labor standards violations (as measured by State Labor Commissioner penalty assessments), surpassed only by the restaurant industry. Deputy Labor Commissioners conducted 985 inspections in the private construction industry in 2012-13, yielding 595 citations that assessed \$5.3 million in penalties. Enforcement actions, however, are dwarfed by the number of contractors and projects in California, including projects in Berkeley. Over 300,000 state-licensed contractors performed about \$48 billion worth of private construction work in the State in 2014. The mismatch between the resources of the State and the scope of the issue of fundamental wage projections through disclosure and transparency requires the involvement of local

government police powers.

C. Assembly Bill 469, also known as the Wage Theft Protection Act of 2011, went into effect on January 1, 2012, adding section 2810.5 to the Labor Code. The act requires that all employers provide each employee with a written notice containing specified information at the time of hire.

D. This Chapter will ensure compliance with the Wage Theft Protection Act of 2011 by requiring confirmation by owners, contractors and subcontractors of the rate of pay and other legally required information regarding mandatory and voluntary fringe benefits pursuant to Labor Code section 2810.5.

### **13.104.020 Definitions.**

Whenever used in this chapter, the following terms shall have the meanings set forth below.

A. "City" shall mean the City of Berkeley.

B. "Completion of the project" means that construction is complete and the project is eligible for a Certificate of Occupancy or Temporary Certificate of Occupancy.

C. "Contractor" shall mean the prime contractor for the Project.

D. "Labor Commissioner" shall mean the Office of the Labor Commissioner within the State of California's Department of Industrial Regulations.

E. "Owner" shall mean the person or persons, firm, corporation or partnership exercising ownership of the Project.

F. "Permit Applicant" shall mean Owner, developer, or Contractor who applied for the building permit for the Project.

G. "Project" shall mean a new construction project of greater than 30,000 square feet that is not subject to local, state or federal prevailing wage requirements or does not have a valid Project Labor or Community Workforce Agreement.

H. "Project construction employees" shall mean employees of the Contractor or Subcontractor.

I. "Qualifying Subcontractor" shall mean a subcontractor of any tier whose portion of the work exceeds \$100,000 or one percent (1%) of the value of the construction cost of the Project.

J. "Responsible Representative" shall mean an officer (if a corporation), general partner (if a partnership or a limited partnership), managing member (if a limited liability company) or qualifying person associated with the Owner, contractor and/or subcontractor. A qualifying person is defined in Section 7068 of the California Business and Professions Code.

### **13.104.030 Pay Transparency Acknowledgments from Permit Applicant, Contractor, and Qualifying Subcontractor.**

A. Within 30 days of issuance of a building permit, the Permit Applicant shall provide to the City a Permit Applicant Pay Transparency Acknowledgment on a form approved by the City for this purpose. The form shall include an attestation under penalty of perjury under the laws of the State of California by a Responsible Representative of the Permit Applicant that: (i) the Permit Applicant has reviewed Chapter 13.104 of the Berkeley

Municipal Code; and (ii) following Project completion, if the City cannot make a finding of compliance with the provisions of this Chapter pursuant to section 13.104.060, the Permit Applicant will be responsible for demonstrating either (a) compliance with Labor Code sections 226 and 2810.5 or (b) the existence of a Labor Payment or a Lien Release Bond(s) pursuant to 13.104.070(B).

B. Within 30 days of the issuance of a building permit if the Contractor(s) and Qualifying Subcontractors have been selected by that date, but in any event no later than the Contractor or Qualifying Subcontractor's first day of work on the Project, for each Contractor and Qualifying Subcontractor, the Permit Applicant shall provide to the City a Contractor Pay Transparency Acknowledgment on a form approved by the City for this purpose. On each Contractor Pay Transparency Acknowledgment, a Responsible Representative of the Contractor or Qualifying Subcontractor must attest under penalty of perjury under the laws of the State of California, that: (i) the Contractor or Qualifying Subcontractor has reviewed Chapter 13.104 of the Berkeley Municipal Code; and (ii) either (a) Project construction employees will receive Labor Code Section 2810.5 compliant notices and Labor Code Section 226(a) compliant itemized wage statements, or (b) Project construction employees meet one or more of the criteria of Labor Code section 2810.5(c).

**13.104.040 Pay Transparency Attestations Following Project Completion.**

Within 10 days of the completion of the Project, for each Contractor and Qualifying Subcontractor, Permit Applicant shall provide to the City a Pay Transparency Attestation on a form approved by the City for this purpose. On each Pay Transparency Attestation, a Responsible Representative of the Contractor or Qualifying Subcontractor must attest under penalty of perjury under the laws of the State of California that: (i) the Contractor or Qualifying Subcontractor complied with Chapter 13.104 of the Berkeley Municipal Code; and (ii) either (a) Project construction employees received complete and accurate information pursuant to Labor Code Sections 226 and 2810.5, or (b) Project construction employees met one or more of the criteria of Labor Code section 2810.5(c).

**13.104.050 Posting of Ordinance.**

Each day work is performed on the Project, the Permit Applicant shall post and keep posted in a conspicuous location frequented by Project construction employees, and where the notice may be easily read by Project construction employees during the hours of the workday, a notice that: (i) contains the text of Chapter 13.104 of the Berkeley Municipal Code; (ii) explains that workers can report violations of Labor Code sections 226 and 2810.5 to the Labor Commissioner of the State of California; and (iii) provides current contact information, including office address, telephone number, and email address of the Labor Commissioner of the State of California.

**13.104.060 Determination of Construction Pay Transparency Compliance.**

Prior to approval of a Certificate of Occupancy for the Project, the City shall make a finding of compliance with the provisions of this Chapter. Such finding shall be issued if: (i) the City determines after review of the information provided pursuant to

sections 13.104.030 and 13.104.040 that the Permit Applicant, Contractor and all Qualifying Subcontractor(s) have complied with the provisions of this Chapter; and (ii) the City has not received any information that a complaint is pending before the Labor Commissioner, or that the Labor Commissioner has issued a final order of enforcement, regarding violations of Labor Code Sections 226 or 2810.5 by any Contractor or Qualifying Subcontractor at the Project.

**13.104.070 Issuance of a Certificate of Occupancy.**

A. The City shall issue a Certificate of Occupancy to the Permit Applicant if it makes a finding of Construction Pay Transparency Compliance pursuant to 13.104.060 and all requirements of the building code are met.

B. If the City cannot make a finding of compliance with the provisions of this Chapter pursuant to section 13.104.060 , the City will approve a Certificate of Occupancy only if:

- (i) the Permit Applicant demonstrates that the Permit Applicant, Contractor, and all Qualifying Subcontractors have complied with Labor Code sections 226 and 2810.5; or
- (ii) the Permit Applicant demonstrates the existence of a Labor Payment or a Lien Release Bond(s) for the Project. The bond shall be in an amount equal to 20 percent of the combined value of the contract(s) of all Contractor(s) and/or Qualifying Subcontractor(s) for which the City lacks Pay Transparency Acknowledgment or Attestations, or 125 percent of the amount of any Project-related, Labor Commissioner issued Civil Wage and Penalty Assessment(s) or mechanics lien(s), whichever is greater.

**13.104.080 Private Right of Action.**

Nothing in this chapter shall be interpreted to authorize a right of action against the City.

**13.104.090 City Manager Regulations.**

The City Manager may promulgate regulations for the administration and enforcement of this Chapter.

**13.104.100 Severability.**

If any word, phrase, sentence, part, section, subsection, or other portion of this chapter, or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this chapter, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The City Council hereby declares that it would have passed this title, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional.



Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on June 11, 2019, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Davila, Droste, Hahn, Harrison, Kesarwani, Robinson, Wengraf, and Arreguin.

Noes: None.

Absent: None.





Office of the City Manager

INFORMATION CALENDAR  
September 10, 2019

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Kelly Wallace, Acting Director, Health, Housing, and Community Services  
 Subject: Recommendations Status: Easy Does It City Grant Funding Audit

INTRODUCTION

On May 1, 2018, the City Auditor submitted its report, [\*Stronger Oversight Necessary to Ensure Continued Assistance for Severely Physically Disabled Persons\*](#)<sup>1</sup>, with recommendations to assist Easy Does It (EDI) in complying with its City grant agreement and strengthening its oversight and management of taxpayer money. The purpose of this information item is to update City Council on the status of implementing the audit recommendations. This is the first and final status report regarding this audit.

CURRENT SITUATION AND ITS EFFECTS

The audit included a total of 20 recommendations: four addressed to HHCS and 16 addressed to EDI. HHCS implemented one and EDI three before the City Auditor issued the report. Since the audit was released, HHCS has implemented all four outstanding recommendations. EDI reports that they have implemented 15 of its 16 recommendations, and that they are unable to address the final recommendation. The Auditor has reviewed the EDI response and closed the audit, but has determined that several recommendations have not yet been fully implemented as detailed in the attached Response Form. The remaining recommendations will carry forward into the HHCS FY2020 – 23 contract with EDI. EDI is expected to fully implement and sustain the implementation of the remaining audit items as part of their contract. Not implementing the remaining items could result in contract termination. HHCS will continue to monitor both EDI's program performance as well as their implementation of the remaining audit recommendations. HHCS will consult with the Auditor's office as needed regarding updates from EDI. Please see Attachment 1 for a detailed table of audit recommendations, corrective actions, and the Auditor's explanation for closing each recommendation.

BACKGROUND

Easy Does It is a small nonprofit organization that provides 24/7 emergency services to Berkeley residents with severe physical disabilities. Services include emergency

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<sup>1</sup> Stronger Oversight Necessary to Ensure Continued Assistance for Severely Physically Disabled Persons (05/01/18): <http://bit.ly/2vrlbnx>

attendant care, accessible transportation, equipment repair; and on-demand paratransit and case-management services. Easy Does It receives approximately \$1.3 million annually in Berkeley Measure E and Measure B grant funding to provide those services.

ENVIRONMENTAL SUSTAINABILITY

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

POSSIBLE FUTURE ACTION

HHCS will include conditions in EDI's new agreement for FY2020 – 23 grant agreements to ensure that EDI continues to implement the City Auditor's recommendations. Those recommendations are meant to ensure that EDI uses the City grant money as taxpayers' intended and is able to continue providing critical services to the severely physically disabled community in Berkeley.

HHCS will include in the contract conditions the expectation that EDI fully implement and sustain the implementation of the remaining audit items as part of their FY20 contract, including establishing a lower threshold for high-use clients resulting in required case management referrals. Not implementing the remaining items could result in contract termination. HHCS will continue to monitor both EDI's program performance as well as their implementation of the remaining audit recommendations.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

The recommendations of the audit were made to ensure efficient use of grant funds consistent with established City priorities and Measure E. HHCS will continue to monitor Easy Does It and will link performance consistent with the audit recommendations to its recommendations for the use of Measure E funds.

CONTACT PERSON

Kelly Wallace, Acting Director, HHCS, 510-981-5400.

Attachments:

1: Easy Does It Audit Recommendation Response Form

**City of Berkeley City Auditor’s Office  
Audit Findings and Recommendations Response Form**

| <b>Audit Title: Stronger Oversight Necessary to Ensure Continued Assistance for Severely Physically Disabled Persons</b> |                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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| <b>Finding 1: Easy Does It unable to substantiate compliance with funding requirements</b>                               |                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>Recommendations</b>                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                           | <b>EDI Response</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <b>Auditor Response May 2019</b>                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 1.1                                                                                                                      | Recruit and cultivate qualified people with the business and financial expertise necessary to serve as active Easy Does It board members. Include a process for vetting and voting on nominees to ensure members have the required skills and time to commit to the development and support of Easy Does It.                                                                              | <p>Expected: TBD</p> <p>Ongoing; first steps taken immediately</p> <p><b>Initial Status 5.1.18: Partially implemented.</b> Easy Does It is actively recruiting qualified board members with business and financial expertise. All candidates will be required to submit resume, references and be interviewed by board. The board will vote on candidate and candidate will be accepted with a majority vote.</p> <p><b>Updated 3.4.19: Implemented.</b> Easy Does It has a new treasurer with financial experience and continues to recruit qualified people.</p>                                                               | <p><b>Auditor Response:</b> We considered this recommendation closed. The addition of a new treasurer is a good first step of an ongoing process to have a board that consists of qualified people who are to be involved with strategic and financial planning, oversight, etc. The long-term solvency of the organization is dependent on EDI continuing to cultivate new board members who are able to help with strategic planning, risk management, and fundraising.</p> |
| 1.2                                                                                                                      | Have staff and board members jointly perform a risk assessment of all major processes to identify the operational weaknesses that leave Easy Does It vulnerable to fraud, misuse, and abuse, and result in noncompliance with funding requirements. Rate the risks to identify those most significant to preventing Easy Does It from achieving its mission and becoming fiscally stable. | <p>Expected: July 1, 2018</p> <p>Process started March 1, 2018</p> <p>Updated July 1, 2018</p> <p><b>Initial Status 5.1.18: Not implemented.</b> We are currently reviewing all of our major processes to identify operational weaknesses and making changes to prevent fraud misuse and abuse in noncompliance with funding requirements.</p> <p><b>Updated 3.4.19: Implemented.</b> Easy Does It reviewed and did a risk assessment all major processes. They updated their payroll procedures, client intake form and dispatch triage service call eligibility procedures to ensure compliance with funding requirements.</p> | <p><b>Auditor Response:</b> We consider this recommendation closed and implemented via the incorporation of our audit recommendations into the contract granting EDI city funding. Doing so provides a mechanism by which to hold EDI accountable for addressing the risks of fraud, waste, and misuse (noncompliance).</p>                                                                                                                                                   |

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| Recommendations |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | EDI Response                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Auditor Response May 2019                                                                                                                                                                                                                                                                                                                                                                                 |
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| 1.3             | <p>Have management and board members jointly establish a written strategic plan that includes short- and long-term goals using the recommendations from this audit and the risk assessment performed in response to recommendation 1.2. Include target implementation dates in the strategic plan. Prioritize implementation of goals identified as presenting the highest risk. Use the plan to guide the changes needed for an adequate system of internal controls, including the recommendations in this report.</p>                         | <p>Expected: October 2018<br/>                     Initial Phase Completion Expected: May 10, 2018<br/>                     Updated November 2018<br/> <b>Initial Status 5.1.18: Not implemented.</b><br/>                     The board and management will be having a board retreat in May to discuss development, implementation, and timeline to complete strategic plan.<br/> <b>Updated 3.4.19: Implemented.</b> Easy Does It developed a new strategic plan in November 2018 and are in the process of refining goals and target implementation dates.</p>                                                                                                                                                                                                                                                                                                                               | <p><b>Auditor Response:</b> We consider this recommendation closed and implemented via the incorporation of our audit recommendations into the contract granting EDI city funding. Doing so provides a mechanism by which to hold EDI accountable for addressing the risks of fraud, waste, and misuse (noncompliance); and laying out plan for long-term fiscal health and financial accountability.</p> |
| 1.4             | <p>Create and enforce written payroll processing and monitoring procedures that include practices for detecting and deterring fraud, waste, and abuse; and that ensure payroll accuracy. This includes but is not limited to:</p> <ul style="list-style-type: none"> <li>• Ensuring that no single person performs all the tasks related to a single transaction cycle.</li> <li>• Designating a second person to review and sign off on approved timesheets, changes to payroll data, time entry, and payroll pre-process registers.</li> </ul> | <p>Expected: May 31, 2018 [Revised employee handbook with updated policies and procedures]<br/>                     Initial Phase Completion Expected: April 30 2018 [Change in procedures]<br/>                     Updated May 2018<br/> <b>Initial Status 5.1.18: Not implemented.</b> We are writing up new payroll processing and monitoring procedures. We are dividing payroll tasks between office manager, program manager and bookkeeper so no single person performs all tasks. This segregation of duties will detect and deter fraud. We are also consulting our payroll company to aid in the development of these procedures. These procedures will then be reviewed by the executive director and approved by board to eliminate risk of fraud.<br/> <b>Updated 3.4.19: Implemented.</b> Employee handbook has been updated. All staff have been trained on overtime policy.</p> | <p><b>Auditor Response:</b> We consider this recommendation closed and implemented via the incorporation of our audit recommendations into the contract granting EDI city funding. Doing so provides a mechanism by which to hold EDI accountable for using payroll processing procedures designed to detect and deter fraud, waste, and misuse (noncompliance); and ensure payroll accuracy.</p>         |

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| Recommendations |                                                                                                                                                                                                                                 | EDI Response                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Auditor Response May 2019                                                                                                                                                                                                                                                                                                                                                                               |
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| 1.5             | Perform a staff scheduling and service needs analysis to establish optimal staffing schedules. Perform the analysis on a recurring basis, e.g., quarterly, to identify needed changes.                                          | Expected: June 1, 2018<br>Implemented June 1, 2018<br><b>Initial Status 5.1.18: Not implemented.</b> Running an emergency service organization is uniquely challenging in that emergencies do not follow schedules so there may not be a consistent time when emergencies arise. However we will do a review and an analysis to determine staffing schedules quarterly to determine optimal staffing levels.<br><b>Updated 3.4.19: Implemented.</b> Easy Does It did review all staff schedules and service needs and continues to do this on an ongoing basis. They have reduced some staffing during some shifts. However, due to the unpredictable nature of emergencies, they do not feel they can reduce staffing on every shift. | <b>Auditor Response:</b> We consider this recommendation closed and implemented via the incorporation of our audit recommendations into the contract granting EDI city funding. Doing so provides a mechanism by which to hold EDI accountable for using a staffing analysis to schedule attendants consistent with what is supported by Measure E as clarified by the City Attorney (see Rec. # 1.17). |
| 1.6             | Create and enforce written procedures for analyzing and managing staff schedules. Include the requirement for conducting the analysis on a recurring basis to keep up with scheduling change needs.                             | Expected: June 1, 2018<br>Completed June 1, 2018<br><b>Initial Status 5.1.18: Not implemented.</b> A written procedure will be developed to do review quarterly.<br><b>Updated 3.4.19: Implemented.</b> A written procedure was developed and is reviewed quarterly.                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <b>Auditor Response:</b> We consider this recommendation closed and implemented via the incorporation of our audit recommendations into the contract granting EDI city funding. Doing so provides a mechanism by which to hold EDI accountable for using a staffing analysis to schedule attendants consistent with what is supported by Measure E as clarified by the City Attorney (see Rec. # 1.17). |
| 1.7             | Establish and enforce clear written procedures for evaluating individual eligibility for Measure E services during client intake and service delivery. Use the City contract as a guide in creating the procedures and include: | Expected: April 6, 2018<br>Intake form changed: March 31, 2018<br>Dispatcher initial training: February 27, 2018<br>Effective immediately: Data from intake and service sheets are entered in Salesforce database                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <b>Auditor Response:</b> We consider this recommendation closed and implemented via the incorporation of our audit recommendations into the contract granting EDI city funding. Doing so provides a mechanism by which to hold EDI                                                                                                                                                                      |

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| Recommendations                                                                                                                                                                                                                                                                                                                                                                                    | EDI Response                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Auditor Response May 2019                                                                                                                                  |
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| <ul style="list-style-type: none"> <li>Definitions for severe physical disability and emergency that are in alignment with Measure E requirements.</li> <li>Requirement to complete intake and evaluation forms, and to thoroughly document and data enter Measure E eligibility criteria: residency, severity and type of disability, and reason the client situation is an emergency.</li> </ul> | <p>Completed April 2018</p> <p><b>Initial Status 5.1.18: Not implemented.</b> We will be redesigning new client intake form to include more detailed disability information to ensure alignment with Measure E definition of severe physical disability and to collect new data to coincide with new City Data Services information requirements. We usually ask clients to update their information yearly generally in the month of July. We are going to start updating client information as soon as new intake is complete. We will include questions:</p> <ul style="list-style-type: none"> <li>- Because of your disability do you experience substantial limitations and need personal assistance with activities of daily living such as dressing, meal prep, bathing, transferring, toileting, housekeeping, taking medication, mobility assistance?</li> <li>- Are you an IHSS recipient?</li> <li>- Are you a Regional Center client?</li> <li>- Do you use East Bay Paratransit?</li> <li>- Are you signed up with Berkeley Paratransit?</li> <li>- Do you know about the Berkeley Paratransit Voucher program?</li> </ul> <p>These changes to client intake will clearly show client has a severe physical disability even if they do not have an identified diagnosis.</p> <p>Some of our clients have cognitive and or intellectual disabilities and may not self-identify as having a severe physical disability but our highly experienced staff can clearly</p> | <p>accountable for using procedures to track and record services so that they can demonstrate that those services were eligible for Measure E funding.</p> |



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| Recommendations | EDI Response                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Auditor Response May 2019 |
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|                 | <p>make that determination onsite. We will review with staff in an upcoming staff meeting what is considered a severe physical disability and will train new staff on making that determination.</p> <p>It is also difficult to complete an intake with our homeless clients. They are often very suspicious and reluctant to answer intake questions and quickly become agitated if they feel we are prying too much. We have created a streamlined version of intake for our homeless clients in order to get basic information. We always attempt to get the information but if a client is highly agitated we will not do a complete intake for the safety of our staff.</p> <p>We will develop a written procedure for this process.</p> <p>During the dispatch process we are asking more questions to screen and triage emergency calls. We have updating our service sheets to include questions that will further determine if service call is an emergency. The following questions have been added:</p> <ul style="list-style-type: none"> <li>- I was unable to find assistance from other sources prompting my call to Easy Does It</li> <li>- Without this call I would have to call 911 for assistance.</li> <li>- I was unable to get assistance from other wheelchair repair shops within 24 hours</li> <li>- There was no other accessible transportation available to fill this urgent need</li> </ul> |                           |

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| Recommendations |                                                                                                                                                                                                                                                                                                                                                                                                 | EDI Response                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Auditor Response May 2019                                                                                                                                                                                                                                                                                                                                                          |
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|                 |                                                                                                                                                                                                                                                                                                                                                                                                 | <p>- This is an urgent call because The changes to service sheet clearly identify this service request as an emergency need. Dispatchers have been trained on the new procedures.</p> <p><b>Updated 3.4.19: Implemented.</b> Easy Does It has been using new intake forms, service sheets, and dispatch procedures since April 2018.</p>                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                    |
| 1.8             | <p>Update all forms used for client intake and eligibility evaluation with guidance for identifying the severe physical disability and emergency that are in alignment with Measure E requirements. Include on the intake form an area for staff to conclude as to whether the services provided are considered Measure E eligible. Use the City contract as a guide in creating the forms.</p> | <p>Expected: April 6, 2018<br/>                     Completed April 2018<br/> <b>Initial Status 5.1.18: Not implemented.</b> We will be redesigning new client intake form to include more detailed disability information to ensure alignment with Measure E definition of severe physical disability and to collect new data to coincide with new City Data Services information requirements.<br/> <b>Updated 3.4.19: Implemented.</b> Easy Does It has been using new intake forms since April 2018.</p> | <p><b>Auditor Response:</b> We consider this recommendation closed and implemented via the incorporation of our audit recommendations into the contract granting EDI city funding. Doing so provides a mechanism by which to hold EDI accountable for demonstrating that those services paid for with Measure E money were eligible for that funding source.</p>                   |
| 1.9             | <p>Record services to the financial system to clearly account for expenditures that are funded by Measure E and those that are not. Use the information collected during the improved screening, intake, and eligibility evaluation processes to identify the appropriate funding source.</p>                                                                                                   | <p>Actual: March 15, 2018; prior to audit issue<br/> <b>Initial Status 5.1.18: Implemented.</b> The bookkeeper has implemented cost centers into accounting system to delineate services to appropriate funding stream. New dispatch procedure and service sheets determine eligibility for Measure E and B funds.</p>                                                                                                                                                                                       | <p><b>Auditor Response:</b> We consider this recommendation closed and implemented via the incorporation of our audit recommendations into the contract granting EDI city funding. Doing so provides a mechanism by which to hold EDI accountable for properly recording expenditures to its financial system to track services funded by Measure E versus those that are not.</p> |

| <b>Audit Title: Stronger Oversight Necessary to Ensure Continued Assistance for Severely Physically Disabled Persons</b><br><b>Finding 1: Easy Does It unable to substantiate compliance with funding requirements</b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                               |
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| <b>Recommendations</b>                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <b>EDI Response</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <b>Auditor Response May 2019</b>                                                                                                                                                                                                                                                                                                              |
| 1.10                                                                                                                                                                                                                   | <p>Create written case management procedures and enforce the requirements for Measure E clients when usage exceeds the threshold. Ensure the procedures and any related forms are consistent with Measure E contract requirements for basic case management. Use the City contract as a guide in creating the procedures and include written processes for:</p> <ul style="list-style-type: none"> <li>• Identifying and documenting client overuse</li> <li>• Creating case management files</li> <li>• Assessing client needs</li> <li>• Developing a plan with the client</li> <li>• Identifying and documenting clients who refuse assistance</li> <li>• Documenting all support and intervention, including progress made in, or obstacles to, obtaining reliable attendant care</li> </ul> | <p>Expected: May 1, 2018<br/>                     Implemented May 1, 2018<br/> <b>Initial Status 5.1.18: Not Implemented.</b> We have established written case management procedures. We will review these procedures and make changes as necessary to comply with city contract. We have established a new Salesforce database that will make it easier for case manager to track usage of service and identify high-users more quickly. An immediate change now requires case manager to include a case note when a file is closed documenting the outcome of case, referrals given if any and any follow up she intends to do.<br/> <b>Updated 3.4.19: Implemented.</b> Updated written case management procedures to include closing case file that document outcomes and referrals given. Case manager now uses Salesforce to track client usage of service and identify high users.</p> | <p><b>Auditor Response:</b> We consider this recommendation closed and implemented via the incorporation of our audit recommendations into the contract granting EDI city funding. Doing so provides a mechanism by which to hold EDI for using its stated thresholds and providing case management to those who exceed those thresholds.</p> |
| 1.11                                                                                                                                                                                                                   | <p>Enforce the use of the written Measure B voucher processing procedures developed by HHCS personnel to capture information necessary to obtain reimbursement from the City of Berkeley.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <p>Actual: March 1, 2018<br/> <b>Initial Status 5.1.18: Implemented.</b> We just received written Measure B voucher processing procedures from HHCS after this audit was performed. We will follow these procedures. HHCS has changed the vouchers multiple times in the last year and has not given us directions on new processing procedures despite our request they do so. HHCS has never notified us when a voucher was completed incorrectly.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                      | <p><b>Auditor Response:</b> We consider this recommendation closed and implemented. During our audit, we found this area to be low risk as EDI was generally in compliance with Measure B requirements. Therefore, we accept EDI's response.</p>                                                                                              |

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| Finding 1: Easy Does It unable to substantiate compliance with funding requirements                               |                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                           |
| Recommendations                                                                                                   |                                                                                                                                                                                                                                                                                                                   | EDI Response                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Auditor Response May 2019                                                                                                                                                                                                                                                                                                                                                                                                 |
| 1.12                                                                                                              | Create written and improved gas card and van use monitoring procedures that will allow management to detect fraud and misuse, and that require reconciliation of gas and van use to service data.                                                                                                                 | Actual: March 31, 2018<br><b>Initial Status 5.1.18: Implemented.</b> We have reviewed our gas card procedures. We have revised our log sheet to include mileage so it will be easier to detect fraud. We are also designating a specific card for each vehicle. We will update our written procedures to reflect these changes. We will train staff on procedure changes. Logs will be reconciled by transportation manager monthly, and office manager will do a reconciliation to detect fraud and misuse.                                                                                                                                                                                                                                                                | <b>Auditor Response:</b> We consider this recommendation closed and implemented. EDI created procedures that allow the agency to detect fraud and misuse as it relates to the use of a gas card.                                                                                                                                                                                                                          |
| 1.13                                                                                                              | Train staff on all procedures including those created in response the recommendations in this audit and any developed as a result of the risk assessment performed in response to recommendation 1.2. Monitor staff's work and provide additional training as may be warranted to ensure staff follow procedures. | Expected: TBD<br>Initial: March 1, 2018<br>Implemented March 1, 2018<br><b>Initial Status 5.1.18: Partially implemented.</b> We have monthly all staff meetings. As part of monthly staff meetings we do and will continue to review Easy Does It personnel policies and will train staff of procedure changes as they are made. We also hold bimonthly office team meetings and we will train on procedure changes as they are made.<br>The executive director and program manager have an informal open door policy in which we welcome staff to discuss individual concerns about any Easy Does It policy or procedure.<br><b>Updated 3.4.19: Implemented.</b> Easy Does It does ongoing monthly meetings with staff and train on new policies and procedures as needed. | <b>Auditor Response:</b> We consider this recommendation closed and implemented via the incorporation of our audit recommendations into the contract granting EDI city funding. Doing so provides a mechanism by which to hold EDI accountable for ensuring its staff receive training and, most specifically, understanding how Measure E money is to be used and identifying when services qualify that funding stream. |

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| Recommendations |                                                                                                                                                                                                                                                                                                                                            | EDI Response                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Auditor Response May 2019                                                                                                                                                                                                                                                                                                                                                                                               |
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| 1.14            | Create informational literature that helps educate the public on why Easy Does It service is almost entirely limited to Measure E eligible services. Provide this literature to new clients and their families, as well as staff, to help clarify any misconceptions about Easy Does It's service delivery restrictions and capabilities.  | <p>Expected: June 1, 2018</p> <p>Immediate: Sending information on limits of Measure E to clients that over use service. Completed June 1, 2018</p> <p><b>Initial Status 5.1.18: Not implemented.</b> We will be sending out information packets to all clients when we update our client intake forms. Packet information will outline our services and the limitations Measure E places on Easy Does It as an emergency service. We have already begun sending information on the limits of Measure E to clients that overuse service.</p> <p><b>Initial Status 3.4.19: Implemented.</b> Easy Does It sent out information to all clients about limits of Measure E program.</p>       | <p><b>Auditor Response:</b> We consider this recommendation closed and implemented via the incorporation of our audit recommendations into the contract granting EDI city funding. Doing so provides a mechanism by which to hold EDI accountable for educating its clients that EDI limits its own service delivery capabilities by significantly relying on Measure E funding meant for emergency response needs.</p> |
| 1.15            | If funding allows, implement a mobile, electronic data collection system that allows Easy Does It staff to capture and record client intake, service, and billing data to the central database. Train staff on the use of the system and enforce its requirements. Update procedures as may be necessary to reflect the use of the system. | <p>Expected: TBD</p> <p>Initial: March 2, 2018</p> <p><b>Initial Status 5.1.18: Partially Implemented.</b> We now have a new Salesforce database that is much more user friendly and easier to do data entry in than our previous Filemaker database. It is also easier to run reports and to determine if there is missing data. It allows us to enter service information when calls come into our dispatch program. We will continue to refine data capture as the database is fully implemented.</p> <p>We have made some personnel changes and data is now being inputted in a more timely manner. Our dispatchers are also now able to input a call directly into the database</p> | <p><b>Auditor Response:</b> We consider this recommendation closed and implemented. EDI is using Salesforce and will be required via its city contract to demonstrate it is properly tracking client information.</p>                                                                                                                                                                                                   |

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| Recommendations |                                                                                                                                                                                                                                                                                                                                                                                            | EDI Response                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Auditor Response May 2019                                                                                                                           |
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|                 |                                                                                                                                                                                                                                                                                                                                                                                            | <p>making it easier to track calls. Each call is assigned a case number and the case number will now be put on the service sheet so we can track a service throughout the service process. We will be writing up a procedure for how this process will work and outlining staff responsibilities and duties. We are also testing Verizon Field Force phone app to do data collection at the time of service.</p> <p><b>Updated 3.4.19: Implemented.</b> Easy Does It field tested Verizon Field Force phone app but determined it was not cost effective and did not fit the needs of staff. They are using the Salesforce database more efficiently and staff find it is capturing data sufficiently.</p> |                                                                                                                                                     |
| 1.16            | <p>If funding allows, integrate an electronic scheduling and timekeeping software application with the current payroll system that will allow for a more efficient analysis of staffing trends as aligned with service delivery needs. Train staff on the use of the system and enforce its requirements. Update procedures as may be necessary to reflect the use of the application.</p> | <p>Expected: TBD</p> <p>Not implementing due to lack of appropriateness for our agency.</p> <p><b>Initial Status 5.1.18: Not implemented.</b> We will discuss with our Salesforce consultant if it is capable to do electronic scheduling and timekeeping and determine if it is appropriate for our agency. Funding permitting we will consider purchasing a system if Salesforce does not allow us to do this function.</p> <p><b>Updated 3.4.19: Not Implemented.</b> Easy Does It looked into different software options but determined it was not useful or cost effective for our specific needs.</p>                                                                                                | <p><b>Auditor Response:</b> We consider this recommendation closed and implemented. EDI determined that funding did not allow for the purchase.</p> |

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| Recommendations |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | EDI Response | Auditor Response May 2019                                                                                                                                                                                                                                               |
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| 1.17            | <p>Request an opinion from the City Attorney on whether the use of Measure E, per the governing legislation, is intended for:</p> <ul style="list-style-type: none"> <li>• Persons who work or go to school, but do not reside, in the City of Berkeley.</li> <li>• Ensuring one male and one female attendant are on staff or on call at all times.</li> <li>• Ensuring optional staff availability to work with clients who are known to be abusive or who refuse to work with specific attendants.</li> <li>• 24-hour service availability.</li> <li>• Other items HHCS believe require clarification.</li> <li>• Maintain documented opinion to allow for transparency and reference.</li> </ul> | n/a          | <p><b>Auditor Response:</b> We consider this recommendation closed and implemented. We verified that the City Attorney provided HHCS guidance.</p>                                                                                                                      |
| 1.18            | <p>Use the City Attorney opinion to:</p> <ul style="list-style-type: none"> <li>• Inform Easy Does It on whether or not Measure E money may be used for: non-Berkeley residents who work and/or go to school in Berkeley; staffing both a male and female attendant at all times; and providing 24-hour services.</li> <li>• Clarify in the scope of services of new City contracts using Measure E funding whether or not Measure E money may be used for: non-Berkeley residents who work and/or go to school in Berkeley; staffing both a male and female attendant at all times; and providing 24-hour services.</li> </ul>                                                                      | n/a          | <p><b>Auditor Response:</b> We consider this recommendation partially implemented. We verified that HHCS informed EDI of the City Attorney’s guidance but are waiting for the contract renewal to confirm this information was incorporated into the city contract.</p> |

| <b>Audit Title: Stronger Oversight Necessary to Ensure Continued Assistance for Severely Physically Disabled Persons</b><br><b>Finding 1: Easy Does It unable to substantiate compliance with funding requirements</b> |                                                                                                                                                                                                                                                                                                                   |                     |                                                                                                                                                                                                                                               |
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| <b>Recommendations</b>                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                   | <b>EDI Response</b> | <b>Auditor Response May 2019</b>                                                                                                                                                                                                              |
| 1.19                                                                                                                                                                                                                   | Work with EDI to lower the thresholds for high-use clients. For example, identify high-use clients as those with 10 or more calls a month, and require clients obtain case management services once they reach 20 calls in one month. Incorporate those thresholds into new City contracts for Measure E funding. | n/a                 | <b>Auditor Response:</b> We consider this recommendation partially implemented. EDI slightly modified their thresholds. However, we are waiting for the contract renewal to confirm this information was incorporated into the city contract. |
| 1.20                                                                                                                                                                                                                   | Communicate with Easy Does it when there are changes to Measure B requirements and provide EDI with updated Measure B procedures discussing those changes.                                                                                                                                                        |                     | <b>Auditor Response:</b> We consider this recommendation closed and implemented. HHCS has improved its communication with EDI regarding Measure B requirements.                                                                               |





Office of the City Manager

INFORMATION CALENDAR  
September 10, 2019

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Timothy Burroughs, Director, Planning and Development Department  
 Subject: LPC NOD: 2526 Hawthorne Terrace/#LMIN2019-0002

INTRODUCTION

The attached Notice of Decision for a City Landmark is submitted to the Mayor and City Council pursuant to Berkeley Municipal Code (BMC) Section 3.24.160, which states that “a copy of the Notice of Decision shall be filed with the City Clerk and the City Clerk shall present said copy to the City Council at its next regular meeting.”

CURRENT SITUATION AND ITS EFFECTS

The Landmark Preservation Commission (LPC/Commission) has granted City Landmark status to the property at 2526 Hawthorne Terrace. This action is subject to a 15-day appeal period, which began on August 26, 2019.

BACKGROUND

BMC/LPO Section 3.24.190 allows City Council to review any action of the Landmarks Preservation Commission in granting or denying Landmark, Structure of Merit or Historic District status. In order for Council to review the decision on its merits, Council must appeal the Notice of Decision. To do so, a Council member must move this Information Item to Action and then move to set the matter for hearing on its own. Such action must be taken within 15 days of the mailing of the Notice of Decision, or by September 10, 2019. Such certification to Council shall stay all proceedings in the same manner as the filing of an appeal.

If the Council chooses to appeal the action of the Commission, then a public hearing will be set. The Council must rule on the application within 30 days of closing the hearing, otherwise the decision of the Commission is automatically deemed affirmed.

Unless the Council wishes to review the determination of the Commission and make its own decision, the attached NOD is deemed received and filed.

ENVIRONMENTAL SUSTAINABILITY

Landmark designation provides opportunities for the adaptive re-use and rehabilitation of historic resources within the City. The rehabilitation of these resources, rather than their removal, achieves construction and demolition waste diversion, and promotes investment in existing urban centers.

POSSIBLE FUTURE ACTION

The Council may choose to appeal the decision, in which case it would conduct a public hearing at a future date.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

There are no known fiscal impacts associated with this action.

CONTACT PERSON

Fatema Crane, Landmarks Preservation Commission Secretary, Planning and Development, 510-981-7410

Attachments:

1: Notice of Decision – #LMIN2019-0002 for 2526 Hawthorne Terrace



L A N D M A R K S  
 P R E S E R V A T I O N  
 C O M M I S S I O N

---

N O T I C E O F D E C I S I O N

**DATE OF COMMISSION DECISION:** July 2, 2019

**DATE NOTICE MAILED:** August 26, 2019

**APPEAL PERIOD EXPIRATION:** September 10, 2019

**EFFECTIVE DATE OF DECISION (Barring Appeal or Certification):** September 11, 2019<sup>1</sup>

## 2526 Hawthorne Terrace

**Landmark application #LMIN2019-0002 for the consideration of City Landmark or Structure of Merit designation status for a residential property in the Hillside – APN 058-2247-002-01**

The Landmarks Preservation Commission of the City of Berkeley, after conducting a public hearing, **APPROVED** the following designation:

**DESIGNATION:** City of Berkeley Landmark

**APPLICANT:** Mark Hulbert, Preservation Architecture, 443 Seventh Street, Unit 302, Oakland, CA 94612

**ZONING DISTRICT:** R-1(H), Single Family Residential, Hillside Overlay

**ENVIRONMENTAL REVIEW STATUS:** Exempt from environmental review pursuant to CEQA Guidelines Section 15061

**The application materials for this project are available online at:**

<http://www.cityofberkeley.info/zoningapplications>

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<sup>1</sup> Pursuant to BMC Section 1.04.070, if the close of the appeal period falls on a weekend or holiday, then the appeal period expires the following business day. Pursuant to BMC Section 3.24.190, the City Council may “certify” any decision of the LPC for review, within fifteen days from the mailing of the NOD. Such certification shall stay all proceedings in the same manner as the filing of a notice of appeal.

LANDMARKS PRESERVATION COMMISSION  
NOTICE OF DECISION  
LMIN2019-0002  
2526 Hawthorne Terrace  
August 26, 2019  
Page 2 of 4

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**FINDINGS AND APPROVED APPLICATION ARE ATTACHED TO THIS NOTICE**

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**COMMISSION VOTE: 7-0-0-1**

**YES:** ABRANCHES DA SILVA, ADAMS, ALLEN, CRANDALL, FINACOM, O'MALLEY, SCHWARTZ

**NO:** NONE

**ABSTAIN:** NONE

**ABSENT:** CHAGNON

**TO APPEAL THIS DECISION (see Section 3.24.300 of the Berkeley Municipal Code):**

To appeal a decision of the Landmarks Preservation Commission to the City Council you must:

1. Submit a letter clearly and concisely setting forth the grounds for the appeal to the City Clerk, located at 2180 Milvia Street, 1<sup>st</sup> Floor, Berkeley; or by facsimile to (510) 981-6901. The City Clerk's telephone number is (510) 981-6900.
2. The appeal must be received prior to 5:00 p.m. on the "APPEAL PERIOD EXPIRATION" date shown above (if the close of the appeal period falls on a weekend or holiday, then the appeal period expires the following business day).
3. Submit the required fee (checks and money orders must be payable to 'City of Berkeley'):
  - a. The basic fee for persons other than the applicant is \$500. This fee may be reduced to \$100 if the appeal is signed by persons who lease or own at least 50 percent of the parcels or dwelling units within 300 feet of the project site, or at least 25 such persons (not including dependent children), whichever is less.
  - b. The fee for appeals of affordable housing projects (defined as projects which provide 50 percent or more affordable units for households earning 80% or less of Area Median Income) is \$500, which may not be reduced.
  - c. The fee for all appeals by Applicants is \$2500.

If no appeal is received, the landmark designation will be final on the first business day following expiration of the appeal period.

**NOTICE CONCERNING YOUR LEGAL RIGHTS:**

If you object to this decision, the following requirements and restrictions apply:

1. If you challenge this decision in court, you may be limited to raising only those issues you

LANDMARKS PRESERVATION COMMISSION  
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LMIN2019-0002  
2526 Hawthorne Terrace  
August 26, 2019  
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or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Landmarks Preservation Commission at, or prior to, the public hearing.

2. You must appeal to the City Council within fifteen (15) days after the Notice of Decision of the action of the Landmarks Preservation Commission is mailed. It is your obligation to notify the Land Use Planning Division in writing of your desire to receive a Notice of Decision when it is completed.
3. Pursuant to Code of Civil Procedure Section 1094.6(b) and Government Code Section 65009(c)(1), no lawsuit challenging a City Council decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a use permit, variance or other permit may be filed more than ninety (90) days after the date the decision becomes final, as defined in Code of Civil Procedure Section 1094.6(b). Any lawsuit not filed within that ninety (90) day period will be barred.
4. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.
5. If you believe that this decision or any condition attached to it denies you any reasonable economic use of the subject property, was not sufficiently related to a legitimate public purpose, was not sufficiently proportional to any impact of the project, or for any other reason constitutes a "taking" of property for public use without just compensation under the California or United States Constitutions, your appeal of this decision must including the following information:
  - A. That this belief is a basis of your appeal.
  - B. Why you believe that the decision or condition constitutes a "taking" of property as set forth above.
  - C. All evidence and argument in support of your belief that the decision or condition constitutes a "taking" as set forth above.

If you do not do so, you will waive any legal right to claim that your property has been taken, both before the City Council and in court.

LANDMARKS PRESERVATION COMMISSION  
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**PUBLIC COMMENT:**

Communications to Berkeley boards, commissions or committees 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 a City board, commission or committee, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. 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 secretary to the relevant board, commission or committee for further information.

**FURTHER INFORMATION:**

Questions about the project should be directed to the project planner, Fatema Crane, at (510) 981-7410 or [fcrane@cityofberkeley.info](mailto:fcrane@cityofberkeley.info). All project application materials, including full-size plans, may be viewed at the Permit Service Center (Zoning counter), 2120 Milvia Street, between 8 a.m. and 4 p.m., Monday through Friday.

**ATTACHMENTS:**

1. Findings
2. Landmark Application, received **MARCH 29, 2019**

ATTEST:   
Fatema Crane, Secretary  
Landmarks Preservation Commission

cc: City Clerk  
Property Owner:  
Daniel McDonald  
2526 Hawthorne Terrace  
Berkeley, CA 94708

Application Author:  
Mark Hulbert, Historic Architect  
Preservation Architecture  
443 Seventh Street, Unit 302  
Oakland, CA 94612

# ATTACHMENT 1 , PART 2

## FINDINGS & CONDITIONS

JULY 2, 2019

### 2526 Hawthorne Terrace

### The George D. and Ellen G. Blood Residence(s)

#### City of Berkeley Landmark Application #LMIN2019-0002

#### PROJECT DESCRIPTION

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Landmark Designation of the property at 2526 Hawthorne Terrace- the George D. and Ellen G. Blood Residence(s)

#### CEQA FINDINGS

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1. The project is found to be exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq.) pursuant to Section 15061.b.3 of the CEQA Guidelines (activities that can be seen with certainty to have no significant effect on the environment).

#### LANDMARK PRESERVATION ORDINANCE FINDINGS

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2. Pursuant to Berkeley Municipal Code (BMC) Section 3.24.110.A Paragraph 1.b of the Landmarks Preservation Ordinance, and based on the evidence presented in the Landmark application, the Landmarks Preservation Commission of the City of Berkeley (Commission) finds that the subject buildings exhibit architectural merit as the work of master architect Walter H. Ratcliff Jr. (1881-1973), and outstanding examples of the Tudor Revival architectural style. Some of the identifiable features of the Tudor Revival are the steeply-pitched roofs, tall narrow windows – many with multi-paned glazing – massive chimney crowned with decorative chimney pots, and half-timbering details. This project was developed late in Ratcliff's career and may represent his most fully realized Grand Tudor design.

#### FEATURES TO BE PRESERVED

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1. This designation shall apply to the subject property and the following distinguishing features shall be preserved:

##### **Main Building – 1495 Euclid Avenue**

- Overall exterior, side-gabled building form with front and rear crossing gables, steeply pitched roofs, unpainted stone terrace with monumental front chimney
- Front terrace with unpainted stone walls, steps and paving
- Semi-octagonal, 2-story bay window at front, with slate roof; and wood clad oriel windows at north front, north side and rear

- Painted stucco cladding and ornamental plaster
- Rubble and cut limestone cladding and detailing, limestone casings
- Wood half-timbering and wood trim; exposed wood roof eaves, verge rafters and rafter tails
- Wood entry doors, front and rear, clear finish, bronze door hardware
- Wood, multi-lite glass doors, painted and clear finishes
- Wood windows, true-divided multi-lites, picture windows, leaded glazing
- Brick and unpainted stone masonry chimney at south side; masonry chimneys at roofs
- Roofs and roofing - slate clad roofs, exposed copper roof drainage assemblies, copper and lead flashings
- Rear balcony with wood cap rail, tile deck

### **Carriage House – 2526 Hawthorne Terrace**

- Overall exterior, side-gabled building form with steeply pitched roof, front stair and covered porch
- Stucco cladding
- Wood half-timbering and wood trim
- Rubble and cut limestone cladding and detailing, wood and limestone casings and trims
- Roofs and roofing - slate clad roofs, exposed copper roof drainage assemblies, copper and lead flashings
- Unpainted stone entry stair

### **Landscape**

- Unpainted stone retaining wall at Euclid sidewalk (predates house) and at south side
- Unpainted stone paths, steps and walls at front yard and front terrace
- Unpainted stone paths at rear yard
- Tiled in-ground fountain at rear yard
- Overall character of the informal plantings, trees, and shrubs that frame the main building and views of it from Euclid Avenue





Office of the City Manager

INFORMATION CALENDAR  
September 10, 2019

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Timothy Burroughs, Director, Planning and Development Department  
 Subject: LPC NOD: 1911 Fourth Street/#LMSAP2019-0005

INTRODUCTION

The attached Landmarks Preservation Commission Notice of Decision (NOD) is presented to the Mayor and City Council pursuant to Berkeley Municipal Code/Landmarks Preservation Ordinance (BMC/LPO) Section 3.24.240.A, which requires that “a copy of the Notice of Decision shall be filed with the City Clerk, and the City Clerk shall present said copy to the City Council at its next regular meeting.”

CURRENT SITUATION AND ITS EFFECTS

The Landmark Preservation Commission (LPC/Commission) has approved a Structural Alteration Permit (SAP) for the subject City Landmark property. This action is subject to a 15-day appeal period, which began on August 26, 2019.

BACKGROUND

BMC/LPO Section 3.24.300 allows City Council to review any action of the Landmarks Preservation Commission in granting or denying a Structural Alteration Permit. In order for Council to review the decision on its merits, Council must appeal the Notice of Decision. To do so, a Council member must move this Information Item to Action and then move to set the matter for hearing on its own. Such action must be taken within 15 days of the mailing of the Notice of Decision, or by September 10, 2019. Such certification to Council shall stay all proceedings in the same manner as the filing of an appeal.

If the Council chooses to appeal the action of the Commission, then a public hearing will be set. The Council must rule on the application within 30 days of closing the hearing, otherwise the decision of the Commission is automatically deemed affirmed.

Unless the Council wishes to review the determination of the Commission and make its own decision, the attached NOD is deemed received and filed.

ENVIRONMENTAL SUSTAINABILITY

Landmark designation provides opportunities for the adaptive re-use and rehabilitation of historic resources within the City. The rehabilitation of these resources, rather than their removal, achieves construction and demolition waste diversion, and promotes investment in existing urban centers.

POSSIBLE FUTURE ACTION

The Council may choose to appeal the decision, in which case it would conduct a public hearing at a future date.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

There are no known fiscal impacts associated with this action.

CONTACT PERSON

Fatema Crane, Landmarks Preservation Commission Secretary, Planning and Development, 510-981-7410

Attachments:

1: Notice of Decision – #LMSAP2019-0005 for 1911 Fourth Street



L A N D M A R K S  
P R E S E R V A T I O N  
C O M M I S S I O N

---

N O T I C E O F D E C I S I O N

**DATE OF BOARD DECISION:** July 2, 2019  
**DATE NOTICE MAILED:** August 26, 2019  
**APPEAL PERIOD EXPIRATION:** September 10, 2019  
**EFFECTIVE DATE OF PERMIT (Barring Appeal or Certification):** September 11, 2019<sup>1</sup>

## 1911 Fourth Street – Spenger’s Fish Grotto

**Structural Alteration Permit #LMSAP2019-0005 to install a new rooftop elevator penthouse, a new half-wall enclosure and a roof overhang above the proposed path of travel for a voluntary ADA upgrade at the Spenger’s Fish Grotto site.**

The Landmarks Preservation Commission of the City of Berkeley, **APPROVED** the Structural Alteration Permit for this project.

**APPLICANT:** Jason Andre, Studio KDA, 1810 Sixth Street, Berkeley, CA 94710

**ZONING DISTRICT:** C-W, West Berkeley Commercial District

**ENVIRONMENTAL REVIEW STATUS:** Categorically exempt from environmental review pursuant to Section 15331 of the CEQA Guidelines for Historical Resource Rehabilitation.

**The Application materials for this project are available online at:**  
<http://www.cityofberkeley.info/zoningapplications>

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**FINDINGS, CONDITIONS AND APPROVED PLANS ARE ATTACHED TO THIS NOTICE**

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<sup>1</sup> Pursuant to BMC Section 1.04.070, if the close of the appeal period falls on a weekend or holiday, then the appeal period expires the following business day. Pursuant to BMC Section 3.24.190, the City Council may “certify” any decision of the LPC for review, within fifteen days from the mailing of the NOD. Such certification shall stay all proceedings in the same manner as the filing of a notice of appeal.

LANDMARKS PRESERVATION COMMISSION  
NOTICE OF DECISION  
LMSAP2019-0005  
1911 Fourth Street  
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**COMMISSION VOTE: 7-0-0-1**

**YES:** ABRACHAS DA SILVA, ADAMS, ALLEN, CRANDALL, FINACOM, O'MALLEY, SCHWARTZ

**NO:** None

**ABSTAIN:** None

**ABSENT:** CHAGNON

**TO APPEAL THIS DECISION (see Section 3.24.300 of the Berkeley Municipal Code):**

To appeal a decision of the Landmarks Preservation Commission to the City Council you must:

1. Submit a letter clearly and concisely setting forth the grounds for the appeal to the City Clerk, located at 2180 Milvia Street, 1<sup>st</sup> Floor, Berkeley; or by facsimile to (510) 981-6901. The City Clerk's telephone number is (510) 981-6900.
2. The appeal must be received prior to 5:00 p.m. on the "APPEAL PERIOD EXPIRATION" date shown above (if the close of the appeal period falls on a weekend or holiday, then the appeal period expires the following business day).
3. Submit the required fee (checks and money orders must be payable to 'City of Berkeley'):
  - a. The basic fee for persons other than the applicant is \$500. This fee may be reduced to \$100 if the appeal is signed by persons who lease or own at least 50 percent of the parcels or dwelling units within 300 feet of the project site, or at least 25 such persons (not including dependent children), whichever is less.
  - b. The fee for appeals of affordable housing projects (defined as projects which provide 50 percent or more affordable units for households earning 80% or less of Area Median Income) is \$500, which may not be reduced.
  - c. The fee for all appeals by Applicants is \$2500.

**STRUCTURAL ALTERATION PERMIT ISSUANCE:**

If no appeal is received, the Structural Alteration permit will be issued on the first business day following expiration of the appeal period, and the project may proceed at that time. Information about the Building Permit process can be found at the following link:

<http://www.ci.berkeley.ca.us/permitservicecenter/>.

LANDMARKS PRESERVATION COMMISSION  
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1911 Fourth Street  
August 26, 2019  
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**NOTICE CONCERNING YOUR LEGAL RIGHTS:**

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If you object to this decision, the following requirements and restrictions apply:

1. If you challenge this decision in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Landmarks Preservation Commission at, or prior to, the public hearing.
2. You must appeal to the City Council within fifteen (15) days after the Notice of Decision of the action of the Landmarks Preservation Commission is mailed. It is your obligation to notify the Land Use Planning Division in writing of your desire to receive a Notice of Decision when it is completed.
3. Pursuant to Code of Civil Procedure Section 1094.6(b) and Government Code Section 65009(c)(1), no lawsuit challenging a City Council decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a use permit, variance or other permit may be filed more than ninety (90) days after the date the decision becomes final, as defined in Code of Civil Procedure Section 1094.6(b). Any lawsuit not filed within that ninety (90) day period will be barred.
4. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.
5. If you believe that this decision or any condition attached to it denies you any reasonable economic use of the subject property, was not sufficiently related to a legitimate public purpose, was not sufficiently proportional to any impact of the project, or for any other reason constitutes a "taking" of property for public use without just compensation under the California or United States Constitutions, your appeal of this decision must including the following information:
  - A. That this belief is a basis of your appeal.
  - B. Why you believe that the decision or condition constitutes a "taking" of property as set forth above.
  - C. All evidence and argument in support of your belief that the decision or condition constitutes a "taking" as set forth above.

If you do not do so, you will waive any legal right to claim that your property has been taken, both before the City Council and in court.

LANDMARKS PRESERVATION COMMISSION  
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**PUBLIC COMMENT:**

Communications to Berkeley boards, commissions or committees 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 a City board, commission or committee, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. 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 secretary to the relevant board, commission or committee for further information.

**FURTHER INFORMATION:**

Questions about the project should be directed to the project planner, Fatema Crane, at (510) 981-7410 or [fcrane@cityofberkeley.info](mailto:fcrane@cityofberkeley.info). All project application materials, including full-size plans, may be viewed at the Permit Service Center (Zoning counter), 2120 Milvia Street, between 8 a.m. and 4 p.m., Monday through Friday.

**ATTACHMENTS:**

1. Approved Findings and Conditions
2. Project Plans, received **APRIL 24, 2019**

ATTEST:   
Fatema Crane, Secretary  
Landmarks Preservation Commission

cc: City Clerk  
Applicant: Jason Andre  
Studio KDA  
1810 Sixth Street  
Berkeley, CA 94710  
  
Owner: Jamestown Premier Berkeley Grotto LLC  
1700 Montgomery Street, Suite 110  
San Francisco, CA 94111

# ATTACHMENT 1, PART 2

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## FINDINGS AND CONDITIONS

### 1911 Fourth Street

#### Structural Alteration Permit #LMSAP2019-0005

To install a new rooftop elevator penthouse, a new half-wall enclosure and a roof overhang above the proposed path of travel for a voluntary ADA upgrade at the Spenger's Fish Grotto site.

#### CEQA FINDINGS

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1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 153331 of the CEQA Guidelines ("Historic Resource Restoration/Rehabilitation"). Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project will not affect any historical resource.

#### SECRETARY OF THE INTERIOR'S STANDARDS FINDINGS

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Regarding the Secretary of the Interior's Standards for Rehabilitation, the Landmarks Preservation Commission of the City of Berkeley makes the following findings:

1. The property and subject portion of the building will continue to be used as they have been historically: as a commercial building containing a restaurant and retail space. Minimal change to its distinctive materials, features, spaces, and spatial relationships of the site will occur with this project.
2. The proposed work will occur on the 1954 building addition, and will avoid any alteration of the original c. 1892 Spenger's Cottage. Owing to this fact, no removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will occur with this project proposal
3. The proposed elevator penthouse and supporting features (half-wall path enclosure and extended roof overhang) are designed in a contemporary style that will reflect the time of their creation and specific functions. These proposed changes, therefore, will not create a false sense of historical development.
4. No changes to this property that have acquired historic significance in their own right are proposed.

5. This project scope is limited to alteration of the non-historic portion of this City Landmark building and will not affect distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize this property.
6. The property has undergone recent rehabilitation and no deteriorated areas of the property are known at this time or are called out as the subject of this request.
7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials are prohibited by the Conditions herein.
8. Any archeological resources at this site will be unaffected by the proposed work which includes no excavation.
9. Exterior roof alterations and related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.
10. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

#### **LANDMARK PRESERVATION ORDINANCE FINDINGS**

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1. As required by Section 3.24.260 of the Landmarks Preservation Ordinance, the Commission finds that proposed work is appropriate for and consistent with the purposes of the Ordinance, and will preserve and enhance the characteristics and features specified in the designation for this property. Specifically:
  - The proposed alterations are limited to the roof area of the subject building and will maintain the form and scale of the building facades as well as the commercial uses within the building.
  - This project will not affect any existing Shellmound-related resources as no excavation will be required to complete the proposed improvements.
  - The proposed work will not adversely affect the exterior architectural features of the Landmark building, the special character or historical, architectural or aesthetic interest or value of the structure and its site because the approved scope of building alterations is limited to the roof area and, in this location, would not affect the historic public façade of the Spenger's cottage and other significant features of the building.

#### **STANDARD CONDITIONS**

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The following conditions, as well as all other applicable provisions of the Landmarks Preservation Ordinance, apply to this Permit:



**1. Conditions Shall be Printed on Plans**

The conditions of this Permit shall be printed on the *second* sheet of each plan set submitted for a building permit pursuant to this Permit, under the title 'Structural Alteration Permit Conditions'. *Additional sheets* may also be used if the *second* sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings; 8-1/2" by 11" sheets are not acceptable.

**2. Plans and Representations Become Conditions**

Except as specified herein, the site plan, floor plans, building elevations and/or any additional information or representations, whether oral or written, indicating the proposed structure or manner of operation submitted with an application or during the approval process are deemed conditions of approval.

**3. Subject to All Applicable Laws and Regulations**

The approved use and/or construction is subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies. Prior to construction, the applicant shall identify and secure all applicable permits from the Building and Safety Division, Public Works Department and other affected City divisions and departments.

**4. Exercise and Lapse of Permits (Section 23B.56.100)**

B. A permit for the construction of a building or structure is deemed exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced.

A. A permit may be declared lapsed and of no further force and effect if it is not exercised within one year of its issuance, except that permits for construction or alteration of structures or buildings may not be declared lapsed if the permittee has: (1) applied for a building permit; or, (2) made substantial good faith efforts to obtain a building permit and begin construction, even if a building permit has not been issued and/or construction has not begun.

**5. Indemnification Agreement**

The applicant shall hold the City of Berkeley and its officers harmless in the event of any legal action related to the granting of this Permit, shall cooperate with the City in defense of such action, and shall indemnify the City for any award of damages or attorneys fees that may result.

**ADDITIONAL CONDITIONS**

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The following additional conditions are attached to this Permit:

- 6. Chemical Treatments.** Any chemical treatments needed as construction progresses will be undertaken using the gentlest means possible.

7. **Roof equipment.** Any above ground or roof equipment, such as transformer(s), utilities, fire apparatus, air conditioning units, compressors, etc. shall be shown to scale on the architectural drawings of the building permit set of drawings in both plan and elevation, in order to determine if additional screening and design review may be required.
  
8. **Colors.** Prior to staff sign-off of the building permit set of drawings, the applicant shall submit color and materials information for review and approval by staff.



Commission on Labor

INFORMATION CALENDAR

September 10, 2019

To: Honorable Mayor and Members of the City Council  
 From: Commission on Labor  
 Submitted by: Margy Wilkinson, Chairperson, Commission on Labor  
 Subject: Commission on Labor 2020-2021 Work Plan

INTRODUCTION

The Commission on Labor has updated its work plan, which outlines Commission objectives for the upcoming fiscal year. This work plan includes researching and gathering information; updating the Labor Bill of Rights; educating workers, children and young adults; and monitoring local labor disputes.

CURRENT SITUATION AND ITS EFFECTS

At the regular meeting on May 15, 2019, the Commission on Labor took the following action:

M/S/C (Schriner/Sharenko) to approve work plan for FY20-21, removing section E. in first section of FY18-19 work plan, and for Kyle Schriner to finalize the council report and plan.

Ayes: W. Bloom; P. Castelli; M. Jones; Neil McClintick; K. Schriner;  
 A. Sharenko; M. Wilkinson  
 Noes: None  
 Absent: J. Fillingim

BACKGROUND

See attached Work Plan.

ENVIRONMENTAL SUSTAINABILITY

No environmental impacts or opportunities were identified as a result of this recommendation.

POSSIBLE FUTURE ACTION

Based on Commission research and public hearings, new initiatives and recommendations to City Council may be submitted to City Council at such time deemed necessary.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

No fiscal impacts determined at this time.

CONTACT PERSON

Delfina Geiken, Commission Secretary, HHCS, (510) 981-7551

Attachments:

1: Commission on Labor Work Plan



Commission on Labor

Attachment 1

**Work Plan**  
**Approved May 15, 2019**

Research and gather information to report to City Council and support Commission's recommendations to City Council:

- a. Invite speakers to present relevant and current information regarding labor issues.
- b. Develop policies for recommendation to City Council in formal coordination with other City of Berkeley commissions to maximize the availability of subject matter experts and identify connections between labor and other relevant issues including, but not limited to, economic development and human rights.
- c. Examine City's policies and practices regarding workplace sexual harassment.
- d. Examine the University of California at Berkeley's policies and practices regarding workplace sexual harassment.

Labor bill of rights:

Review and update the Labor Bill of Rights and submit recommended revisions to City Council.

Education

- a. Facilitate education of workers in Berkeley about their rights and the process for addressing workplace sexual harassment.
- b. Facilitate education of workers in Berkeley about the City's policies and practices regarding Immigration and Customs Enforcement (ICE).
- c. Facilitate education of children and young adults in Berkeley about the benefits and opportunities of organized labor.

Local labor disputes

- a. Monitor on-going and new labor disputes
- b. Hold public hearings on labor disputes as requested/required
- c. Submit recommendations to Council based on information gathered from both sides of disputing parties.





Landmarks Preservation Commission

INFORMATION CALENDAR  
September 10, 2019

To: Honorable Mayor and Members of the City Council  
 From: Landmarks Preservation Commission (LPC)  
 Submitted by: LPC Secretary on behalf of the LPC  
 Subject: LPC Annual Report to City Council for the period May 2018 to May 2019

INTRODUCTION

The LPC has prepared a report on its activities during the period May 2018 through May 2019; see Attachment 1, "LPC Annual Report to the City Council." Reports on the Commission's activities are required on an annual basis, in accordance with Berkeley Municipal Code Chapter 3.24.090 (*Annual report required*).

CURRENT SITUATION AND ITS EFFECTS

On July 2, 2019, the Commission voted to adopt the attached report and forward it to City Council [Vote: 7-0-0-1 (one vacancy); Yes: Abranches Da Silva, Adams, Allen, Crandall, Finacom, O'Malley, Schwartz; No: none; Abstain: none; Absent: Chignon].

The Commissioners' Manual (2018) requires that the Commission Secretary present the Commission's communications to City Council within three weeks of receiving the final document; however, due to an internal oversight, this transmittal was delayed.

BACKGROUND

On June 6, 2019, Chairperson Finacom prepared and presented a draft of the report to the LPC; some Commissioners then responded with feedback and suggestions for further refinement of the information therein. On July 2, 2019, the Commission voted to adopt the final version of the report and to forward it to City Council.

Among the Commission's accomplishments during the reporting period, the Executive Summary of Attachment 1 (see page 1) highlights the following Commission activities:

- Designated a total of two properties as City Landmarks or Structures of Merit
- Granted eight requests for Structural Alteration of existing properties on the City's register
- Studied and then recommended City Council approval of a Mills Act contract for repair and rehabilitation of a recently designated City Landmark property

The report describes these and other accomplishments in detail, and it identifies issues the Commission would like to consider in the coming year(s).

ENVIRONMENTAL SUSTAINABILITY

Historic preservation practices encourage the adaptive re-use and rehabilitation of historic resources within the City. The rehabilitation of these resources, rather than their removal, achieves construction and demolition waste diversion, and promotes investment in existing urban centers.

POSSIBLE FUTURE ACTION

Other reports on the City's historic preservation-related activities, such as a copy of the City's Certified Local Government annual report to the California State Historic Preservation Officer, will be forwarded for Council's information per the City's standard practice.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

There are no financial impacts associated with reporting this information to City Council.

CONTACT PERSON

Fatema Crane, Commission Secretary, Department of Planning and Development,  
(510) 981-7410

Attachment:

1: Landmarks Preservation Commission Report to City Council on Commission Activities, adopted July 2, 2019



Landmarks Preservation Commission Annual Report to the City Council for the period May 2018 to May 2019

**Background:** The Landmarks Preservation Ordinance mandates (BMC Section 3.24.090) that *“The commission shall report its actions annually to the City Council not later than June 30.”* This report covers the reporting period implied by that provision.

**Executive Summary:** During the reporting period the Commission:

1. held eleven regular Commission meetings and several subcommittee meetings.
2. approved two Landmark designations (both submitted by property owners).
3. had under consideration three other Landmark nominations (one of these was designated a Structure of Merit in June, 2019, after the reporting period ended).
4. reviewed for historic significance seven demolition referrals of buildings over 40 years old. Considered, and took no action to initiate these properties.
5. approved one Mills Act contract and sent it forward to the Council.
6. reviewed eight Structural Alteration Permits for existing Landmark properties. Six were approved generally as proposed, with appropriate conditions; one was denied; one is still under consideration.
7. placed three properties on the Commission’s “Potential Initiations” list for possible Landmark consideration in the future.
8. undertook three “courtesy reviews” of projects for or adjacent to Landmark properties owned by entities exempt from City regulation.

These actions and activities are summarized in more detail later in this report.

The Commission also has several issues to raise for, and recommendations to make to, the Council as part of this report. The following two pages summarize these items. Most of these are items previously raised by the Commission with the Council. The Commission believes it would be helpful for the Council to have a work session with the Commission to discuss some of these items.

**Religious Exemptions:** The Commission encourages the Council to seek changes at the State level that would clarify and reform the conditions under which a religious property owner can claim hardship exemption from landmark designation. Changes might include a requirement that the owners detail and demonstrate in writing the economic circumstances they believe would cause hardship, and that they hold the mandated public meeting to consider asserting the hardship claim in the actual community where the proposed landmark is designated. (In Berkeley’s case, owners of a religious property held the required “public meeting” in Thousand Oaks, California.)

**Ordinance Review:** In 2017 the City of Berkeley was sued by the owners of a recently designated Landmark building. The City prevailed in court, although the decision has been appealed. The trial judge did suggest that Berkeley should clarify some terminology in the Landmarks Preservation Ordinance. The Commission's Policies and Procedures subcommittee has been working on a suggested set of revisions.

**Mills Act Fees:** The Mills Act is a State law which allows designated Landmark property owners, under City review, to re-allocate a portion of their property taxes (typically the taxes that would go to the County) to a targeted program of investment in rehabilitation of their historic property. The Commission notes that all Landmark property owners who apply for State Mills Act contracts are currently charged the same, substantial, fees by the City, regardless of size or use of the property. In some cases the fees charged may exceed the property tax benefit to the owners of smaller properties such as many single family homes, while owners of large commercial properties may reap substantial benefits. The City should consider more equitable, graduated, fee levels to permit use of the Mills Act and promote preservation, particularly by owners of limited means.

Some members of the Commission also believe that the City should place a moratorium on the granting of Mills Act applications until the city has an opportunity to study the financial impact of Mills Act applications that are already in force and assess whether from a financial standpoint Mills Acts should be continued. They believe a study should evaluate the fiscal impact on the budget of the City, the School District, and other government entities.

The process for monitoring Mills Act contracts should also be reviewed and clarified to ensure that property owners follow their obligations under the Mills Act and that the City has the means to effectively monitor the contracts.

**Historic Districts:** Commission members and community members have periodically noted the desirability of Berkeley updating and improving its process for creating historic overlays / districts that would provide preservation safeguards for geographically and historically related groups of buildings or sites. Many other cities with good preservation programs utilize a system of historic overlays / districts for historic neighborhoods. The Commission would like to explore this issue with the Council and seek ways to create a workable historic overlay / district program.

**Potential View Ordinance:** During discussion of the Campanile Way landmark application in 2017/18, Planning Staff suggested the Commission consider proposing a view ordinance that would specifically address the protection and preservation of historic views, particularly those that are public in nature.

**Certified Local Government Grant Application:** The State provides annual grants (recently averaging \$40,000) to Certified Local Governments to pursue specific preservation initiatives and projects, such as neighborhood surveys. For two years Berkeley has been unable to apply for this grant because a source of local matching funds has not been confirmed early enough in the application process. The Commission

hopes to recommend an application for the 2020/21 fiscal year. Staff and Council support will be needed for preparation and submission of an application early in 2020. To facilitate this, we recommend the Council set aside in the next biannual budget an amount equal to matching funds for one of these grants (approximately \$27,000). This money would not be committed until the Council reviewed and approved a specific grant application.

**Measure T-1 Properties:** Measure T-1 bond funding is affecting numerous designated City Landmark properties and potential historic resources. The Commission has established a subcommittee and good working relationship with Parks & Recreation and Public Works leadership. The next year will be crucial as several Landmark properties, particularly those in the Civic Center, undergo Measure T studies. It remains important that the City plan comprehensively and intelligently for the future of the Civic Center historic district and all the historic designated properties in that area, especially those that are partially vacant or in need of substantial rehabilitation (including the Veterans Memorial, Maudelle Shirek Building / City Hall, and Main Berkeley Post Office).

**Archaeological Resources:** We reiterate our past recommendation that the City should review and discuss currently ambiguous procedures for identification, documentation, management and protection of historic era and pre-historic archaeological resources in Berkeley. The City should identify and review State laws pertaining to archaeological resources and ensure that the City is in compliance; otherwise, Berkeley's CLG status could be endangered. The City should also ask the State Legislature to clarify the wording of new state laws that have created ambiguities in the definition of local historic resources.

**Relations with Exempt Property Owners:** The Commission has continued to work with owners of properties exempt from direct City regulation (including the University of California, and Berkeley Unified School District) to bring their projects involving historic properties to the Commission for courtesy reviews and comment. This process should be continued and strengthened. It is noted that the University has only come to the Commission once in the past year and subsequent University presentations have been delayed, despite the fact that pending University projects impact several City of Berkeley landmarks.

**Inclusion in Landmark Designation:** Earlier this year the Commission approved a proposal from the Chair that the LPC hold one or more community listening sessions or workshops to hear from the public, and discuss, what types of historic resources or areas of Berkeley's architectural or cultural history are under-represented in landmark designations to date. Action on this is planned, pending staff support for the logistics of a listening session process.

**Processing of Landmark Appeals:** Last year the Commission wrote to the Council regarding the improper processing of two appeal petitions submitted to the City. Both were appeals of landmark designations submitted by parties with no standing under the BMC to make appeals of landmark designations. Those who have standing under the

Ordinance to make an appeal are 50 or more residents of Berkeley, the Civic Arts Commission, the Planning Commission, or the owner of the property that is under consideration for Landmark designation. This is more restrictive than the appeal process for ZAB decisions. The City Council may also independently set a landmark designation for appeal.

Relevant excerpt from the LPO:

***3.24.300 Appeals--Procedures required--City Council authority.***

*A. 1. An appeal may be taken to the City Council by the City Council on its own motion, by motion of the Planning Commission, by motion of the Civic Art Commission, by the verified application of the owners of the property or their authorized agents, or by the verified application of at least fifty residents of the City aggrieved or affected by any determination of the commission made under the provisions of this chapter.*

Despite the fact that one appeal was filed by one individual who stated he represented an Oakland-based organization and did not submit any resident petition, and the other appeal was filed by a resident petition that was apparently not verified before acceptance, the City Clerk nonetheless accepted both appeals and the Council held public hearings and took action on them (sustaining one landmark designation, and overturning another).

We later asked the City Council to address the flawed processing of these appeals. No Council consideration was undertaken and no further information was formally received by the Commission from the Council or City staff. We renew this request. Improper processing of landmark issues endangers the City's valued CLG status with the State of California since being a Certified Local Government means, in part, that the City is expected to adhere to the rules of its preservation ordinance.

**Commission Meetings:**

During the reporting period the Commission conducted a full schedule of monthly meetings, with the exception of a January 2018 recess. There were 11 meetings held in the review period.

The Commission has a practice of establishing subcommittees to address some specific projects and issues. Most subcommittees have been formed to provide flexibility so a few members of the Commission with special interest or expertise in a particular building or preservation issue can go review a proposed project's details on-site, rather than having the full commission undertake the review. The subcommittee reports its actions or recommendations back to the full Commission. Subcommittee meetings are publicly noticed and open to the public. This has proved to be an effective way of evaluating project details, especially when site visits are made. Subcommittees are typically disbanded when review of a particular project is finished.

**Commission Membership:**

During the reporting period the nine member Commission saw one Commissioner resign for health reasons. Another long-time Commissioner was not reappointed by a new Councilmember. Two new Commissioners were appointed. The Commission currently has one vacancy (as of May, 2019).

The Commission encourages Councilmembers undertaking appointment of new Commissioners to give the current appointees the courtesy of informing them of that they are being replaced, well in advance of Commission meetings. In each of the past two years a long-time Commissioner has arrived at a LPC meeting ready to routinely participate, only to find a replacement appointee already seated. This practice of not informing Commissioners that they have been replaced is discourteous to volunteers who have been serving the City with their time and expertise on commissions, and the responsibility rests with individual Councilmembers.

**Landmark Initiations and Designations:**

A primary charge of the LPC is to consider and, if appropriate, designate, City of Berkeley landmarks, Structures of Merit and Historic Districts. During the past year the Commission received six requests to designate new Landmarks, and action was also completed by the City on two pending Landmark designations from the previous year. Landmark consideration begins with "initiation" that can take place in a variety of ways including a letter from a property owner or member of the public, a petition signed by 50 or more Berkeley residents, or a request from an individual Commissioner or the Commission as a whole.

Of the five landmark initiation proposals received in 2018/19:

1. two were initiated by the property owners, and considered and approved for designation by the Commission;
2. one was initiated by public petition, with the support of the property owner;
3. one was initiated by public petition, without the support of the property owner;
4. one was initiated by public petition organized by residents of the initiated property, without the support of the property owner.

As stated in our previous report for 2017-18, it should be noted that the Landmarks Commission has a long standing tradition of Commissioners researching and preparing landmark applications. This is consistent with the Commission mandate in the Landmark Preservation Ordinance that the Commission shall "establish and maintain a list of structures, sites and areas deemed deserving of official recognition, although not yet designated as landmarks, historic districts or structures of merit, and take appropriate measures of recognition" and also shall "carry out, assist and collaborate in studies and programs designed to identify and evaluate structures, sites and areas worthy of preservation." However, during this review year no Commissioner-authored landmark applications were submitted.

Of the properties designated in 2018/19 for Landmark or Structure of Merit status, none have applied for Mills Act contracts.

The table below shows the number and pace of landmark designations over the past 11 years.

As we noted in our Annual Report last year, the total designations represent only a very small fraction of total properties in Berkeley. There are about 332 designated Landmarks or Structures of Merit in Berkeley, representing only about 1 out of every 140 properties in the city. There is about one landmark, on average, for every three city blocks.

| CALENDER YEAR                        | NUMBER OF LANDMARKS DESIGNATED                                                                                 | <u>Calendar Year</u> | <u>Number of New Mills Act Contracts</u> |
|--------------------------------------|----------------------------------------------------------------------------------------------------------------|----------------------|------------------------------------------|
| 2019                                 | None during reporting period (one to date after reporting period, which will appear in 2019/20 Annual report). | 2019                 | <i>Pending</i>                           |
| 2018                                 | 5                                                                                                              | 2018                 | 1                                        |
| 2017                                 | 4                                                                                                              | 2017                 | 2                                        |
| 2016                                 | 2                                                                                                              | 2016                 | 1                                        |
| 2015                                 | 2                                                                                                              | 2015                 | 0                                        |
| 2014                                 | 6                                                                                                              | 2014                 | 6                                        |
| 2013                                 | 1                                                                                                              | 2013                 | 2                                        |
| 2012                                 | 3                                                                                                              | 2012                 | 0                                        |
| 2011                                 | 2                                                                                                              | 2011                 | 4                                        |
| 2010                                 | 2                                                                                                              | 2010                 | 0                                        |
| 2009                                 | 5                                                                                                              | 2009                 | 0                                        |
| 2008                                 | 2                                                                                                              | 2008                 | 0                                        |
| Eleven year total (through May 2019) | 34 total designations, averaging about 3 per year.                                                             | 2018                 | 9                                        |

**Commission Staffing:**

The Planning Department assigns two planners to the LPC; one acts as Commission Secretary. Current staff are Fatema Crane (Commission Secretary) and Alison Lenci (Commission Clerk). As in the past the Commission appreciates the professionalism of the staff support and, in particular, the ability of the staff to maintain poise and professionalism in the face of occasionally difficult and often stressful circumstances, tight deadlines and complex

workloads. In addition to their visible services at Commission meetings, the LPC staff do a great deal of work processing and preparing materials related to individual landmark properties.

The Commission notes once again to the Council that while the assigned level of staff support is sufficient for the Commissions basic operations, no Planning staff time is assigned to assist the Commission with initiatives beyond those basic operations. During the life of the Ordinance almost all historic research and Landmark applications have been done by Commission or community members on a volunteer basis. This means that the City of Berkeley does not really have a historic preservation program; instead, it only has assigned staff resources for the processing of externally generated proposals and permits for specific existing or potential historic resources. This places Berkeley in a position of being largely reactive, not proactive, on historic preservation issues, contrary to our ordinance and State expectations of CLG governments. Berkeley would and should be more engaged with historic resources through the provision of more staff time to support preservation work and initiatives beyond basic permit and application processing and reviews.

As we noted in our previous report, the lack of staff time for broader initiatives limits the ability of the Commission to pursue initiatives and programs called for in the Landmarks Preservation Ordinance. For example, the Landmarks Commission is given the following powers and duties by the Landmarks Preservation Ordinance. Powers and duties A, C, D, and F in particular are difficult to pursue with only the volunteer time / labor of individual Commissioners.

3.24.070 Powers and duties generally. In connection with the foregoing power and authority, the commission may:

- A. Establish and maintain a list of structures, sites and areas deemed deserving of official recognition, although not yet designated as landmarks, historic districts or structures of merit, and take appropriate measures of recognition, as more fully set forth in Section 3.24.330 below;
- B. Carry out, assist and collaborate in studies and programs designed to identify and evaluate structures, sites and areas worthy of preservation, and establish archives where pictorial evidence of the structures and their architectural plans, if any, may be preserved and maintained;
- C. Consult with and consider the ideas and recommendations of civic groups, public agencies and citizens interested in historic preservation;
- D. Inspect structures, sites and areas which it has reason to believe worthy of preservation with the permission of the owner or the owner's agent;
- E. Disseminate information to the public concerning those structures, sites and

areas deemed worthy of preservation, and may encourage and advise property owners and members of the community generally in the protection, enhancement, perpetuation and use of landmarks, property in historic districts and other officially recognized property of historical or architectural interests;

F. Consider methods other than those provided for in this chapter for encouraging and achieving historical or architectural preservation;

G. Establish such policies, rules and regulations as it deems necessary to administer and enforce this chapter, subject to the approval of the City Council. (Ord. 5686-NS § 1 (part), 1985; Ord. 4694-NS § 2(i), 1974)

### **Summary of details of Commission Actions during Reporting Period**

The Commission took these specific actions during the reporting year.

#### **Landmark Nominations Approved:**

- 2415 Blake Street (one parcel, two structures, and grounds). 1880s Victorian cottage, with freestanding mid-century Modern cottage and garden designed and added by previous architect / owner in the 1980s.
- 1 and 5 Canyon Road (one parcel, two structures and grounds). Arts and Crafts era home, grounds, and garage / cottage at the base of Panoramic Hill.

#### **Landmark Nominations Received and in process of review:**

- 1440 Hawthorne Terrace (single family home).
- 1450 Hawthorne Terrace (single family home).
- 1619 Walnut Street (small apartment complex. *This property was then designated a Structure of Merit in June, 2019, after the reporting period for this report ended. The appeal period has not yet concluded.*)

#### **Mills Act Contracts for Landmark properties Reviewed / Recommended to Council:**

- 2901 Benvenue (single family home).

#### **Demolition referrals of buildings over 40 years old:**

Considered and took no action to initiate these buildings for any further landmark consideration:

- 1000-1010 Carleton 1014-1016 Carleton 1020 Carleton
- 2710 Tenth Street
- 2198 San Pablo Avenue 1835 San Pablo Avenue. 2352 Shattuck Avenue.
- DRAFT Page 8 of 9
- Buildings placed on Potential Initiations List:
- 1013 Pardee
- 1940 Hearst Avenue 2222 Fifth Street



**Signage or other exterior alteration reviews on Landmark structures:**

- Cambridge Apartments commercial signage for new business (approved) 1414 Walnut Street, security fencing (approved)
- 2140 Shattuck Avenue (Wells Fargo Building), exterior lighting (approved) 2300 Shattuck Avenue (Corder Building), window replacement and alleyway gates and security additions. (approved)
- 2018 University Avenue (UC Theater) storefront improvements. (Pending, application incomplete.)
- 1915 Fourth Street (Spenger's Fish Grotto) (pending. Commission has appointed a subcommittee to review plans.)
- 2580 Bancroft. Demolition of a mid-century commercial building (Bancroft Center), renovation of a Julia Morgan designed commercial building (Fred Turner Building), construction of an 8 story commercial and apartment infill building. (Approved).
- 8 Greenwood Common. Proposed second floor addition. (Denied, with opportunity left open for applications to resubmit with modified plans.)

**Courtesy reviews of projects at historic resources exempt from LPC oversight:**

- Berkeley Community Theater (discussed and sent letter to Council)
- 2626 Bancroft Way / 2625 Durant Avenue (UC's Woo Hon Fai Hall, the former University Art Museum) (established subcommittee, sent comments)
- Upper Hearst Development (Sent comment letter to UC)

**Other reviews and actions:**

- Had Measure T-1 update from City Staff
- Approved motion to encourage State Historic Resources Commission to hold one 2019 meeting in Berkeley.
- Approved annual Certified Local Government (CLG) report prepared by Commission staff.
- Approved motion to hold one or more community listening sessions about landmark issues.





Parks and Waterfront Commission

INFORMATION CALENDAR  
September 10, 2019

To: Honorable Mayor and Members of the City Council  
 From: Parks and Waterfront Commission  
 Submitted by: Jim McGrath, Chairperson  
 Subject: Parks and Waterfront Commission 2019 Work Plan

INTRODUCTION

The Parks and Waterfront Commission has updated its work plan, which outlines Commission objectives for the upcoming fiscal year. This work plan includes researching and gathering information; updating the Labor Bill of Rights; educating workers, children and young adults; and monitoring local labor disputes.

CURRENT SITUATION AND ITS EFFECTS

At the regular meeting on June 12, 2019, the Parks and Waterfront Commission approved the commission's 2019 Work Plan, which will be used to guide the Commission's work throughout the year.

M/S/C (Wozniak/Brostrom/U) to approve the work plan and submit an Information Report to City Council.

Ayes: Brostrom; Cox; Diehm; Kamen; McGrath; Skjerpking; Wozniak;  
 Noes: None  
 Absent: None  
 Leave of Absence: Kawczynska

BACKGROUND

See attached Work Plan.

ENVIRONMENTAL SUSTAINABILITY

No environmental impacts or opportunities were identified as a result of this recommendation.

POSSIBLE FUTURE ACTION

Based on Commission research and public hearings, new initiatives and recommendations to City Council may be submitted to City Council at such time deemed necessary.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

No fiscal impacts identified at this time.

CONTACT PERSON

Roger Miller, Secretary, Parks and Waterfront Commission, 981-6704  
Jim McGrath, Chairperson

Attachment: 1: Parks and Waterfront Commission 2019 Work Plan

**Topic:** 2019 Parks and Waterfront Commission Work plan

**Prepared by:** Jim McGrath

**Date:** June 5, 2019

| No | Topic                      | Work Items                                                                                                                                                                | PW Commission Role                                                                                                         | Staff role                                                                                                                                    | SUB COMM | Schedule                                                                                                                         |
|----|----------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------|----------|----------------------------------------------------------------------------------------------------------------------------------|
| 1  | Marina Master plan         | <ul style="list-style-type: none"> <li>• CEQA</li> <li>• Land use changes</li> <li>• Live aboards</li> <li>• Identify capital projects</li> <li>• SLR analysis</li> </ul> | <ul style="list-style-type: none"> <li>• Public listening sessions</li> <li>• Participate in listening sessions</li> </ul> | <ul style="list-style-type: none"> <li>• Role of Parks and Planning not clear</li> <li>• CEQA Scoping</li> <li>• BCDC negotiations</li> </ul> | ?        | •                                                                                                                                |
| 1a | Parking Study and Analysis | <ul style="list-style-type: none"> <li>• Inventory spaces</li> <li>• Monitor use</li> <li>• Track BCDC permitting</li> </ul>                                              | •                                                                                                                          | •                                                                                                                                             |          | •                                                                                                                                |
| 1b | Pier/Ferry Study           | <ul style="list-style-type: none"> <li>• Determine existing ferry use</li> <li>• New breakwater?</li> </ul>                                                               | •                                                                                                                          | •                                                                                                                                             |          | •                                                                                                                                |
| 1c | Marina Fiscal              | <ul style="list-style-type: none"> <li>• Update infrastructure needs for marina</li> <li>• Update market comparisons for marina rentals</li> </ul>                        | <ul style="list-style-type: none"> <li>• Track funding</li> <li>• Track lease of seawall property</li> </ul>               | •                                                                                                                                             | Y        | <ul style="list-style-type: none"> <li>• Report to Council in May 2019</li> <li>• Final report to Council in May 2020</li> </ul> |
| 1d | Cesar Chavez Park          | <ul style="list-style-type: none"> <li>• Establish land uses, accessible trails for the remainder of the park</li> </ul>                                                  | <ul style="list-style-type: none"> <li>• Develop recommend parks projects</li> </ul>                                       | •                                                                                                                                             |          | •                                                                                                                                |
| 2  | Measure T1                 | <ul style="list-style-type: none"> <li>• Develop Phase 2 recommendation</li> </ul>                                                                                        | <ul style="list-style-type: none"> <li>• Develop Recommendation Outreach</li> </ul>                                        | <ul style="list-style-type: none"> <li>• Develop options</li> </ul>                                                                           | Equity   | <ul style="list-style-type: none"> <li>• Complete a recommended approach to a long range plan by Nov. 2019</li> </ul>            |
| 3  | Volunteer efforts          | <ul style="list-style-type: none"> <li>• Consider changes such as "Adopt a spot"</li> </ul>                                                                               | <ul style="list-style-type: none"> <li>• Develop response to council</li> </ul>                                            | <ul style="list-style-type: none"> <li>• Develop options</li> </ul>                                                                           |          | •                                                                                                                                |





Police Review Commission

## INFORMATION CALENDAR

September 10, 2019

To: Honorable Mayor and Members of the City Council  
 From: Police Review Commission  
 Submitted by: George Perezvelez, Chairperson, Police Review Commission  
 Subject: Police Review Commission Work Plan for 2019-2020

### INTRODUCTION

The Police Review Commission submits its work plan for the year beginning July 2019, in compliance with the 2016 City Council directive for commissions to submit work plans at the beginning of each fiscal year.

### CURRENT SITUATION AND ITS EFFECTS

The Commission adopted the attached work plan at its July 24, 2019 meeting. (M/S/C: Allamby/Calavita; Ayes: Allamby, Calavita, Chang, Earnest, Matthews, Perezvelez, Ramsey, Roberts; Noes: None; Abstain: None; Absent: Mikiten.)

The work plan includes a list of policy subjects that the Commission is or anticipates addressing in this fiscal year. The Commission is also interested in participating in more training about police procedures and tactics, staffing and organization of the police department, and training that officers receive. Additionally, the Commission would like to conduct more outreach to ensure that the public is aware of the Commission's existence and its role.

### BACKGROUND

The Police Review Commission was established by ordinance in 1973 to provide for community participation in setting and reviewing police department policies, practices, and procedures, and to provide a means for prompt, impartial, and fair investigation of complaints brought by individuals against the Berkeley Police Department.

Policy work is carried out by the Commission with support from staff, while complaint investigations are handled by staff with commissioner involvement if a case proceeds to hearing. Review of police policies, practices and procedures is largely determined by the Commission itself, while complaint investigations and hearings are externally driven.

### ENVIRONMENTAL SUSTAINABILITY

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

POSSIBLE FUTURE ACTION

While the attached work plan reflects the Commission's priorities as of the date of its adoption, it is subject to change throughout the year should more urgent or important matters arise. These matters may take precedence as a result of Council referrals, incidents involving the police, or requests from the community.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

No fiscal impacts of possible future action are anticipated for the current fiscal year.

CONTACT PERSON

Katherine J. Lee, Police Review Commission Officer, 510-981-4960

Attachments:

1: Police Review Commission Work Plan for 2019-2020





Police Review Commission

## **Police Review Commission 2019-2020 Work Plan**

### **Commission mission statement**

The general purpose of the Police Review Commission is to provide for community participation in setting and reviewing police department policies, practices, and procedures, and to provide a means for prompt, impartial, and fair investigation of complaints brought by individuals against the Berkeley Police Department. (B.M.C. sec. 3.32.010.)

### **Goal #1: Review and set BPD policies, practices, and procedures.**

#### a. Resources<sup>1</sup>

PRC staff, BPD staff, meeting space.

#### b. Program activities

A policy review may be initiated by the Commission, by a City Council referral, the Police Department, or a member of the public. The initial review steps may be undertaken by the Commission, a commission subcommittee, or staff, depending on the nature and breadth of the policy, practice, or procedure in question. The review could include: holding meetings and hearings to receive input from community members; meeting with and asking questions of the BPD; studying current policies, practices, and procedures; gathering policies from other jurisdictions; and surveying the literature regarding best practices.

If a subcommittee or staff perform the initial work, it will be presented to the full Commission for review and approval.

#### c. Outputs

Based on the information gathered, the Commission will make a recommendation to the BPD, City Manager or City Council about a change in a policy, practice, or procedure.

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<sup>1</sup> Unlike most other commissions, the Police Review Commission has a staff of three City employees dedicated to supporting the Commission's work.

d. Outcomes

The desired change is a new or improved policy, practice, or procedure. If new, it will provide guidance where it did not previously exist or was not well-documented. A revised policy, practice, or procedure will reflect a change to conform with new laws, to embrace best practices that have changed since the original policy was established, or to better align with community values.

- e. Specific policies, practices, or procedures to be addressed in the coming fiscal year will include ongoing, recurring, and new reviews.

Topics for which review was begun last fiscal year and will continue:

- New or revised policies and practices to address disparities in BPD pedestrian and traffic stop, citation, search, and arrest rates; and other efforts to ensure unbiased policing.
  - Specifically, a PRC Subcommittee is looking into the BPD practices of routinely asking detainees whether they are on probation or parole and, if they are, conducting searches.
- Conversion of all BPD General Orders into Lexipol policies.

Recurring topics:

- Memoranda of understanding and mutual aid pacts with other law enforcement agencies (an annual process).
- Surveillance Acquisition Policies and Surveillance Technology Use Policies, under the Surveillance Technology Use and Community Safety Ordinance, as needed when new technologies or new uses of existing technologies are proposed.

Possible new or renewed subjects of review:

- Revised policy governing the Use of Force by police officers.
- Assessment of use of body-worn cameras and re-visiting of policy recommendations made in March 2018.
- Evaluation of a proposed charter amendment to restructure the police commission and oversight staff.

Not all reviews of police policies, practices, or procedures can be anticipated in advance, as some issues are undertaken based on a request from the City Council or a civilian. Also, the PRC may undertake a review in response to particular police activity or incident.

**Goal #2: Process complaints regarding individual police officer misconduct.**

a. Resources

PRC staff are responsible for carrying out this goal, with critical participation by Commissioners. BPD staff are also involved.

b. Program activities

Staff will receive complaints of alleged misconduct by police officers, conduct an investigation, and, if warranted, prepare the case for a hearing before a Board of Inquiry. Rotating panels of three Commissioners serve as the BOI, except in death cases, where the Commission sits as a whole.

Cases may be closed without a hearing; the reasons for such closures include: mediation between the complainant and subject officer is completed; the complainant withdraws the complaint; or the complainant does not cooperate in the investigation.

c. Outputs

Following a BOI hearing, a Findings Report will be sent to the Chief of Police and City Manager, who may rely on the PRC's findings in determining whether to impose discipline.

Based on prior years, it is anticipated that roughly eight BOI hearings will be held in the coming fiscal year.

d. Outcomes

By providing a venue for investigation of complaints that is separate from the Police Department, civilians may view the process as more objective than investigations conducted by the Police Department internally. Addressing problematic behavior identified by the PRC may result in corrective action or discipline. Police officers' awareness of the PRC's complaint process may influence their behavior in a positive way.

**Goal #3: Participate in training.**

a. Resources

PRC staff and BPD staff

b. Program activities

Presently, Commissioners are not subject to any mandatory or prescribed course of training, other than the training that all commission chairs and vice-chairs must complete. Each Commissioner receives a 2-hour orientation from PRC staff covering topics relevant to service on the commission, the role of Commissioners and PRC staff in reviewing policy and processing complaints, and service on Boards of Inquiry. Commissioners are to meet with the Chief of Police and schedule a ride-along.

Currently, additional training on the organization of the BPD, police policies, relevant law, and officer training occurs sporadically. Topics presented to the PRC in the past year include BPD de-escalation training and response of BPD in conjunction with the Mobile Crisis Team to persons in mental health crisis.

In light of an October 2018 Council referral asking the PRC to explore mandatory training requirements, the Commission has asked the PRC Chair and PRC Officer to arrange for ongoing training.

c. Outputs

The results will be Commissioners who are better and more uniformly knowledgeable about police procedures, staffing and organization, training, tactics, and relevant law.

d. Outcomes

The outcome will be policy reviews and Board of Inquiry decisions that are based on a deep understanding of police work and police-community relations such that both the police and the community will have more confidence in the work of the PRC.

**Goal #4: Conduct outreach activities.**

a. Resources

PRC staff, printing of materials

b. Program activities

The Commission, as a whole or through a subcommittee, will develop and implement activities and strategies to better inform the community about the PRC's mission and services, including its policy review function and intake of civilian complaints about officer misconduct as an agency independent of the Police Department.

c. Outputs

The results will include increased presence at community fairs and other events; speaking to community groups, churches, and the like; holding Commission meetings at various locations; updated literature describing the Commission's work; a revamped and expanded website.

d. Outcomes

The outcome will be larger numbers of community members who are aware of the PRC and informed about its services and activities.

**Goal #5: Revise PRC Regulations for Handling Complaints Against Police Officers as needed.**

a. Resources

PRC staff and BPD staff.

b. Program activities

The complaint process, from intake through the BOI hearing, is governed by regulations promulgated by the PRC. The need to revise the regulations may arise when, for example: a deficiency is discovered; a way to streamline the process is identified; or a change is desired.

Regulation changes may be initiated by the Commission or by staff. The Commission as a whole may consider a revision, or establish a subcommittee for this purpose.

Depending on the specific change, a meet-and-confer with the police union may be required.

c. Outputs

The result will be amended PRC Regulations.

d. Outcomes

Amended Regulations will result in a process for handling complaints that is clearer; more efficient; conforms to current law; and reflects community values.





Office of the Mayor

INFORMATION CALENDAR  
September 10, 2019

To: Honorable Members of the City Council

From: Mayor Jesse Arreguín

Subject: Update on Assembly Bill 101 and Local Government Planning Support Grants

INTRODUCTION

Governor Gavin Newsom signed the State Budget into law on June 27, 2019. The FY 2019-2020 Budget totaling \$214.8 billion is the largest in state history. The budget specifically invests \$1.75 billion in funding for the production and planning of housing. Assembly Bill 101, the Housing Trailer Bill, details many of Governor Newsom's plans for increasing housing in California

BACKGROUND

Assembly Bill 101, the Housing Trailer Bill, details many of Governor Newsom's plans for increasing housing in California. The bill includes new Local Government Planning Support Grants, an Infill Infrastructure Grant Program, investments to address street homelessness and preventing displacement, and support for homeownership programs.

AB 101 provides substantial new one-time funding for a new Local Government Planning Support Grants Program. The California Department of Housing and Community Development (HCD) will allocate \$250 million to Councils of Governments and local jurisdictions to accelerate housing production. It is estimated that the Bay Area region will receive approximately \$50 million in combined funds from the program to be split 50/50 between the Association of Bay Area Governments (ABAG) and local jurisdictions.

**Berkeley will receive \$500,000 in funds from the program directly. Jurisdictional funds must be requested by July 1, 2020. These funds can be used for rezoning and plan updates to encourage development, for environmental clearance to eliminate project specific review, establishing workforce housing opportunity zones, revamping local planning processes, and creating or improving ADU ordinances.**

ABAG, as the regional Council of Governments, may request funding and allocate grants to local governments. Eligible uses for these grant funds include:

- Establishing regional or countywide housing trust funds for affordable housing
- A planning grant program to accelerate housing production in alignment with state goals

- Technical, staffing, or planning assistance to local agencies
- Updating housing elements to comply with state law
- Improving methodology for the distribution of the Sixth Cycle RHNA
- Developing local or regional policies to link transportation funds to housing outcomes
- Infrastructure planning, including for sewers, water systems, transit, roads, or other public facilities necessary to support new housing and new residents
- Feasibility studies
- Staffing needs to implement the program

Additional highlights include support for homeownership programs and rental assistance. The bill authorizes HCD to make grants to local agencies or nonprofits to build or repair accessory dwelling units (ADUs) for low-income homeowners under the CalHome Program, and for disaster relief for low-income homeowners. To assist renters, \$20 million is allocated for legal aid support.

AB 101 also creates a new system of penalties and incentives for housing production. Under AB 101, if the HCD determines a jurisdiction is not in “substantial compliance” with California housing element law, they are subject to a tiered system of penalties—court notices, escalating fines and local fund interceptions—designed to encourage local compliance. These penalties escalate from a conference call and notice at three months out of compliance, to fines of \$10,000-\$100,000 at twelve months. If the non-compliance persists after the initial imposition of these fees, the fines escalate by a factor of three after three additional months, and a factor of six after six months. All fines are deposited into the Building Homes and Jobs Trust Fund<sup>1</sup>.

To reward local jurisdictions, the bill intends to award additional points or preference in the scoring of competitive housing and infrastructure programs. Local jurisdictions that have been designated as “pro-housing” based on their adopted local policies, defined as those that facilitate the planning, approval, or construction of housing, will be awarded additional points or preference in the program applications for the following programs:

- The Affordable Housing and Sustainable Communities Program (Cap and Trade program)
- The Transformative Climate Communities Program (Cap and Trade program)
- The Infill Incentive Grant Program of 2007
- Additional bonus points may be awarded to other state programs when already allowable under state law

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<sup>1</sup> For more details on the fine schedule and additional penalties, see Attachment C of the ABAG-MTC summary attached.



Examples of “pro-housing” policies include many of the same policies that can be supported by Local Government Planning Support Grants. For a complete list and additional details on AB 101, see attachment 1.

#### ENVIRONMENTAL SUSTAINABILITY

There are no environmental impacts associated with the information in this report. New funding for updates to plans and ordinances to encourage more infill housing will enable local governments to create more housing along transit corridors and at transit hubs, reducing VMT and greenhouse gas emissions, and helping advance climate goals.

#### FINANCIAL IMPLICATIONS

Through this legislation \$500,000 will be available to Berkeley directly. In addition, the city will be eligible to apply for regional funds from the Local Government Planning Supports Grant Program through ABAG, as well as grants for creating ADUs through the CalHome Program.

#### CONTACT PERSON

Mayor Jesse Arreguín      510-981-7100

#### Attachments:

1: ABAG-MTC Summary of the FY 2019-20 State Budget Housing trailer Bill (AB 101)

**Metropolitan Transportation Commission and Association of Bay Area Governments  
Joint MTC Legislation Committee and ABAG Legislation Committee**

July 12, 2019

Agenda Item 4b

**Summary of the FY 2019-20 State Budget Housing Trailer Bill (AB 101)**

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**Subject:** Governor Newsom signed the FY 2019-20 State Budget on June 27, the largest in state history at \$214.8 billion. The budget invests \$1.75 billion in the production and planning of new housing. Assembly Bill 101, the budget's housing trailer bill, details many of the Governor's plans for moving forward on housing in the state.

**Summary:** The FY 2019-20 State Budget prioritizes affordable housing in many respects. An additional \$500 million may be allocated to low-income housing under the low-income housing tax credit program, and the bill also makes certain tax adjustments to this program. Importantly from a local and regional standpoint, the bill provides substantial one-time funding for a new Local Government Planning Support Grants Program, which requires the Department of Housing and Community Development (HCD) to allocate \$250 million to councils of governments and local jurisdictions to accelerate housing production. Of the total, \$125 million will go directly to cities and counties, and \$125 million will go to councils of government. Staff estimates that the region will receive approximately \$50 million in combined funds from this program, split 50/50 between ABAG and local jurisdictions, with the ABAG portion also available to be used as grants for local agencies. See Attachment A for full details on this program, including eligible uses of these funds, and Attachment B for the specific amount that each Bay Area jurisdiction is estimated to receive.

AB 101 also allocates \$500 million, through the Infill Infrastructure Grant Program, to capital improvement projects that facilitate development of infill projects or infill areas.

**A Stick and Carrot Approach**

The bill establishes a new penalty and reward structure for the state to impose financial penalties on local governments that violate state housing law as well as a reward system for jurisdictions that meet specified benchmarks by giving them priority for certain funds. Jurisdictions can also be brought to court by the Attorney General if they do not comply with their HCD-approved housing element, where they will be subject to fines, court follow-ups, and ineligibility for programs until they are compliant. HCD must also post on its website a list of jurisdictions that have failed to adopt a compliant housing element. See Attachment C for more details on penalties and rewards for housing-compliant jurisdictions.

**Major Investment in Homelessness**

To address homelessness, the bill distributes \$650 million to cities, counties and regional homelessness prevention agencies. Funding from this category is eligible for a variety of purposes, including development of permanent housing, subsidies for new and existing housing units, emergency shelters and navigation centers, and rental assistance. Funds will be distributed based on 2019 Point-in-Time (PIT) counts, which are snapshot counts of people experiencing homelessness on a single night, conducted by local Continuums of Care (CoCs) nationwide. Of the total, \$190 million will go to CoCs; \$275 million will go to cities over 300,000 people (Oakland, San Francisco and San Jose in the Bay Area); and \$175 million will go to counties. Based on 2017's PIT numbers (subject to change for 2019), the Bay Area could

expect to receive approximately \$118 million (\$21 million to CoCs, \$62 million to the three cities above, and \$35 million to counties).

The bill also requires that supportive housing for people transitioning from homelessness be allowed “by right” in areas already zoned to allow multifamily and mixed-use. Local agencies therefore may not impose certain requirements, such as conditional use permits or other discretionary review or approval, on transitional homeless navigation centers until 2027. Additionally, the California Environmental Quality Act (CEQA) will not apply to actions taken by agencies to build these centers through 2027.

**Homeownership Programs**

With respect to homeownership, this bill also increases the amount of money applicants can receive, and expands the uses of the money, through various established housing loan funds, including the Local Housing Trust Fund Matching Grant Program and the Housing Rehabilitation Loan Fund. Most notably, the bill appropriates \$500 million from the General Fund to the Self-Help Housing Fund, a program that makes loans to low- and moderate-income families to build their homes with their own labor. The bill also authorizes HCD to make grants to local agencies or nonprofits to build or repair accessory dwelling units (ADUs) for low-income homeowners under the CalHome Program, and for disaster relief for low-income homeowners.

**Rental Assistance**

To assist renters, the budget also includes \$20 million to provide legal aid for renters and assist with landlord-tenant disputes, including legal assistance for counseling, renter education programs, and preventing evictions, consistent with Governor Newsom’s proposal in the May Revise.

**Recommendation:** No recommendation

**Bill Positions:** None on file

**Attachments:** **Attachment A:** Local Government Planning Support Grants Program Details  
**Attachment B:** Bay Area Jurisdiction Funds under Local Government Planning Support Grants Program  
**Attachment C:** Penalties and Incentives for Housing Production

  
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Therese W. McMillan

**FY 2019-20 State Budget Housing Trailer Bill (AB 101)  
Local Government Planning Support Grants Program Details**

AB 101 provides substantial one-time funding for the Local Government Planning Support Grants Program, a new grant program to be administered by the Department of Housing and Community Development (HCD), to help implement the Sixth Cycle of the Regional Housing Needs Assessment (RHNA), covering the planning period of January 1, 2019 to August 31, 2027. The breakdown of the funds is as follows:

- \$250 million towards housing planning, including technical assistance/documents/process improvements, to accelerate housing production
- \$125 million directly to jurisdictions based on a 6-tier system
- \$125 million to councils of government (COGs), in matching amounts as provided to the total individual jurisdictions in the COG
- For the Bay Area, this amounts to \$25.5 million to ABAG and \$25.5 million to local jurisdictions directly. See Attachment B for the amount each Bay Area jurisdiction will receive.

**Fund Distribution to Jurisdictions: 6 Tiers**

- \$1,500,000 to localities with populations over 750,000
- \$750,000 to localities with populations between 300,000 and 749,999
- \$500,000 to localities with populations between 100,000 and 299,999
- \$300,000 to localities with populations between 60,000 and 99,999
- \$150,000 to localities with populations between 20,000 and 59,999
- \$65,000 to localities with populations under 20,000

**Regional Funding**

Funds to councils of government may be spent on the following uses:

- Establishing regional or countywide housing trust funds for affordable housing
- A planning grant program to accelerate housing production in alignment with state goals
- Technical, staffing, or planning assistance to local agencies
- Updating housing elements to comply with state law
- Improving methodology for the distribution of the Sixth Cycle RHNA
- Developing local or regional policies to link transportation funds to housing outcomes
- Infrastructure planning, including for sewers, water systems, transit, roads, or other public facilities necessary to support new housing and new residents
- Feasibility studies
- Staffing needs to implement the program

Until January 31, 2021, a region may request funds. HCD will then have 30 days to review the application. The region must develop an education and outreach strategy to inform local agencies and meet other tracking and reporting requirements as outlined in the bill. The region must submit a final report on the uses of the funds by December 31, 2024.

**Jurisdictional Funding**

Funds to jurisdictions may be used for all of the above *regional uses* on the local level, plus:

- Rezoning and updating plans to encourage development
- Completing environmental clearance to eliminate project-specific review
- Establishing Workforce Housing Opportunity Zones
- Revamping local planning processes to speed up production of housing
- Creating/improving accessory dwelling unit (ADU) ordinances

A jurisdiction may request funds until July 1, 2020, must meet certain reporting requirements as outlined in the bill, and submit a final report on the uses of the funds by December 31, 2024.

FY 2019-20 State Budget Housing Trailer Bill (AB 101)  
 Local Government Planning Support Grants Program  
 Bay Area Jurisdictional Funds

**Funding Tiers**

- \$1,500,000 to populations over 750,000
- \$750,000 to populations between 300,000 and 749,999
- \$500,000 to populations between 100,000 and 299,999
- \$300,000 to populations between 60,000 and 99,999
- \$150,000 to populations between 20,000 and 59,999
- \$65,000 to populations under 20,000

| <b>County/City/Town</b>             | <b>Population</b> | <b>Funding Tier<br/>Per Population</b> |
|-------------------------------------|-------------------|----------------------------------------|
| <i>County of Alameda -</i>          |                   |                                        |
| <i>Unincorporated</i>               | 149,536           | \$500,000                              |
| City of Alameda                     | 79,316            | \$300,000                              |
| City of Albany                      | 19,393            | \$65,000                               |
| City of Berkeley                    | 123,328           | \$500,000                              |
| City of Dublin                      | 64,577            | \$300,000                              |
| City of Emeryville                  | 11,885            | \$65,000                               |
| City of Fremont                     | 232,532           | \$500,000                              |
| City of Hayward                     | 159,433           | \$500,000                              |
| City of Livermore                   | 91,039            | \$300,000                              |
| City of Newark                      | 48,712            | \$150,000                              |
| City of Oakland                     | 432,897           | \$750,000                              |
| City of Piedmont                    | 11,420            | \$65,000                               |
| City of Pleasanton                  | 80,492            | \$300,000                              |
| City of San Leandro                 | 89,825            | \$300,000                              |
| City of Union City                  | 74,916            | \$300,000                              |
| <b>TOTAL, Alameda County</b>        | <b>1,669,301</b>  | <b>\$4,895,000</b>                     |
| <br><i>County of Contra Costa -</i> |                   |                                        |
| <i>Unincorporated</i>               | 173,406           | \$500,000                              |
| City of Antioch                     | 113,901           | \$500,000                              |
| City of Brentwood                   | 63,662            | \$300,000                              |
| City of Clayton                     | 11,653            | \$65,000                               |
| City of Concord                     | 129,889           | \$500,000                              |
| Town of Danville                    | 45,270            | \$150,000                              |
| City of El Cerrito                  | 25,459            | \$150,000                              |
| City of Hercules                    | 26,224            | \$150,000                              |
| City of Lafayette                   | 26,327            | \$150,000                              |
| City of Martinez                    | 38,490            | \$150,000                              |
| Town of Moraga                      | 16,939            | \$65,000                               |
| City of Oakley                      | 41,759            | \$150,000                              |
| City of Orinda                      | 19,475            | \$65,000                               |

| County/City/Town                        | Population       | Funding Tier<br>Per Population |
|-----------------------------------------|------------------|--------------------------------|
| City of Pinole                          | 19,498           | \$65,000                       |
| City of Pittsburg                       | 72,541           | \$300,000                      |
| City of Pleasant Hill                   | 35,055           | \$150,000                      |
| City of Richmond                        | 110,436          | \$500,000                      |
| City of San Pablo                       | 31,817           | \$150,000                      |
| City of San Ramon                       | 83,957           | \$300,000                      |
| City of Walnut Creek                    | 70,121           | \$300,000                      |
| <b>TOTAL, Contra Costa County</b>       | <b>1,155,879</b> | <b>\$4,660,000</b>             |
| <i>County of Marin -</i>                |                  |                                |
| <i>Unincorporated</i>                   | 69,343           | \$300,000                      |
| City of Belvedere                       | 2,148            | \$65,000                       |
| City of Corte Madera                    | 10,047           | \$65,000                       |
| Town of Fairfax                         | 7,721            | \$65,000                       |
| City of Larkspur                        | 12,578           | \$65,000                       |
| City of Mill Valley                     | 14,675           | \$65,000                       |
| City of Novato                          | 54,115           | \$150,000                      |
| Town of Ross                            | 2,526            | \$65,000                       |
| Town of San Anselmo                     | 12,902           | \$65,000                       |
| City of San Rafael                      | 60,046           | \$300,000                      |
| City of Sausalito                       | 7,416            | \$65,000                       |
| Town of Tiburon                         | 9,362            | \$65,000                       |
| <b>TOTAL, Marin County</b>              | <b>262,879</b>   | <b>\$1,335,000</b>             |
| <i>County of Napa - Unincorporated</i>  |                  |                                |
| City of American Canyon                 | 26,158           | \$150,000                      |
| City of Calistoga                       | 20,629           | \$150,000                      |
| City of Napa                            | 5,453            | \$65,000                       |
| City of St. Helena                      | 79,490           | \$300,000                      |
| Town of Yountville                      | 6,133            | \$65,000                       |
| 2,916                                   | \$65,000         |                                |
| <b>TOTAL, Napa County</b>               | <b>140,779</b>   | <b>\$795,000</b>               |
| <i>City and County of San Francisco</i> |                  |                                |
| <b>TOTAL, SF City &amp; County</b>      | <b>883,869</b>   | <b>\$1,500,000</b>             |
| <i>County of San Mateo -</i>            |                  |                                |
| <i>Unincorporated</i>                   | 66,027           | \$300,000                      |
| Town of Atherton                        | 7,070            | \$65,000                       |
| City of Belmont                         | 27,174           | \$150,000                      |
| City of Brisbane                        | 4,691            | \$65,000                       |
| City of Burlingame                      | 30,317           | \$150,000                      |
| Town of Colma                           | 1,512            | \$65,000                       |
| City of Daly City                       | 109,122          | \$500,000                      |
| City of East Palo Alto                  | 30,499           | \$150,000                      |

| <b>County/City/Town</b>          | <b>Population</b> | <b>Funding Tier<br/>Per Population</b> |
|----------------------------------|-------------------|----------------------------------------|
| City of Foster City              | 33,693            | \$150,000                              |
| City of Half Moon Bay            | 12,631            | \$65,000                               |
| Town of Hillsborough             | 11,769            | \$65,000                               |
| City of Menlo Park               | 35,790            | \$150,000                              |
| City of Millbrae                 | 23,154            | \$150,000                              |
| City of Pacifica                 | 38,674            | \$150,000                              |
| Town of Portola Valley           | 4,659             | \$65,000                               |
| City of Redwood City             | 85,319            | \$300,000                              |
| City of San Bruno                | 45,257            | \$150,000                              |
| City of San Carlos               | 29,864            | \$150,000                              |
| City of San Mateo                | 104,570           | \$500,000                              |
| City of South San Francisco      | 67,078            | \$300,000                              |
| Town of Woodside                 | 5,615             | \$65,000                               |
| <b>TOTAL, San Mateo County</b>   | <b>774,485</b>    | <b>\$3,705,000</b>                     |
| <i>County of Santa Clara -</i>   |                   |                                        |
| <i>Unincorporated</i>            | 88,368            | \$300,000                              |
| City of Campbell                 | 43,250            | \$150,000                              |
| City of Cupertino                | 59,879            | \$150,000                              |
| City of Gilroy                   | 55,928            | \$150,000                              |
| City of Los Altos                | 31,190            | \$150,000                              |
| Town of Los Altos Hills          | 8,785             | \$65,000                               |
| Town of Los Gatos                | 30,988            | \$150,000                              |
| City of Milpitas                 | 76,231            | \$300,000                              |
| City of Monte Sereno             | 3,787             | \$65,000                               |
| City of Morgan Hill              | 45,742            | \$150,000                              |
| City of Mountain View            | 81,992            | \$300,000                              |
| City of Palo Alto                | 69,397            | \$300,000                              |
| City of San Jose                 | 1,043,058         | \$1,500,000                            |
| City of Santa Clara              | 128,717           | \$500,000                              |
| City of Saratoga                 | 31,407            | \$150,000                              |
| City of Sunnyvale                | 155,567           | \$500,000                              |
| <b>TOTAL, Santa Clara County</b> | <b>1,954,286</b>  | <b>\$4,880,000</b>                     |
| <i>County of Solano -</i>        |                   |                                        |
| <i>Unincorporated</i>            | 19,580            | \$65,000                               |
| City of Benicia                  | 27,570            | \$150,000                              |
| City of Dixon                    | 19,794            | \$65,000                               |
| City of Fairfield                | 117,149           | \$500,000                              |
| City of Rio Vista                | 9,416             | \$65,000                               |
| City of Suisun City              | 29,447            | \$150,000                              |
| City of Vacaville                | 98,807            | \$300,000                              |
| City of Vallejo                  | 119,544           | \$500,000                              |
| <b>TOTAL, Solano County</b>      | <b>441,307</b>    | <b>\$1,795,000</b>                     |



| County/City/Town                         | Population       | Funding Tier Per Population |
|------------------------------------------|------------------|-----------------------------|
| <i>County of Sonoma - Unincorporated</i> | 141,781          | \$500,000                   |
| City of Cloverdale                       | 9,257            | \$65,000                    |
| City of Cotati                           | 7,919            | \$65,000                    |
| City of Healdsburg                       | 12,501           | \$65,000                    |
| City of Petaluma                         | 62,247           | \$300,000                   |
| City of Rohnert Park                     | 43,339           | \$150,000                   |
| City of Santa Rosa                       | 175,625          | \$500,000                   |
| City of Sebastopol                       | 7,885            | \$65,000                    |
| City of Sonoma                           | 11,556           | \$65,000                    |
| Town of Windsor                          | 28,565           | \$150,000                   |
| <b>TOTAL, Sonoma County</b>              | <b>500,675</b>   | <b>\$1,925,000</b>          |
| <br>                                     |                  |                             |
| <b>BAY AREA TOTAL</b>                    | <b>7,783,460</b> | <b>\$25,490,000</b>         |

Source: Department of Finance, 2019 Population Estimates  
<http://www.dof.ca.gov/Forecasting/Demographics/Estimates/e-1/>

**FY 2019-20 State Budget Housing Trailer Bill (AB 101)  
Penalties and Incentives for Housing Production**

AB 101, which passed the Senate and was pending approval on the Assembly Floor when this memo was finalized, creates a new system of penalties and rewards for local jurisdictions relative to compliance with state housing law and pursuit of “pro-housing” policies.

**Penalties**

Penalty-wise, for a jurisdiction that the California Department of Housing & Community Development (HCD) determines is not in “substantial compliance” with California housing element law, HCD must first issue written findings to the jurisdiction, which then has 30 days to respond to the findings. HCD must also offer the jurisdiction the opportunity for two meetings in person or via telephone to discuss the violation.

Next, HCD notifies the Attorney General that the jurisdiction is in violation of state law. The Attorney General, upon a finding of the court that the housing element does not substantially comply, requests that the court issue an order or judgment directing the jurisdiction to bring its housing element into substantial compliance.

If the jurisdiction has not complied with the order or judgment after twelve months, the court shall conduct a status conference. Following the status conference, upon a determination that the jurisdiction failed to comply, the bill requires that the court fine the jurisdiction, which shall be deposited into the Building Homes and Jobs Trust Fund. Fines are a minimum amount of ten thousand \$10,000 per month, but shall not exceed \$100,000 per month.

If the jurisdiction has not complied with the order or judgment after three months following the imposition of these fees, after another status conference, the court may multiply the fine by a factor of three. If the jurisdiction has still not complied with the order or judgment six months following the imposition of fees, the court may multiply the fine by a factor of six.

In the event that the jurisdiction fails to pay fines imposed by the court in full and on time, the court may require the State Controller to intercept any available state and local funds and direct such funds to the Building Homes and Jobs Trust Fund to correct the jurisdiction’s failure to pay. The court may also order remedies available under the Code of Civil Procedure, providing broad latitude to the court to use all the powers necessary to bring the jurisdiction’s housing element into substantial compliance.

**Incentives**

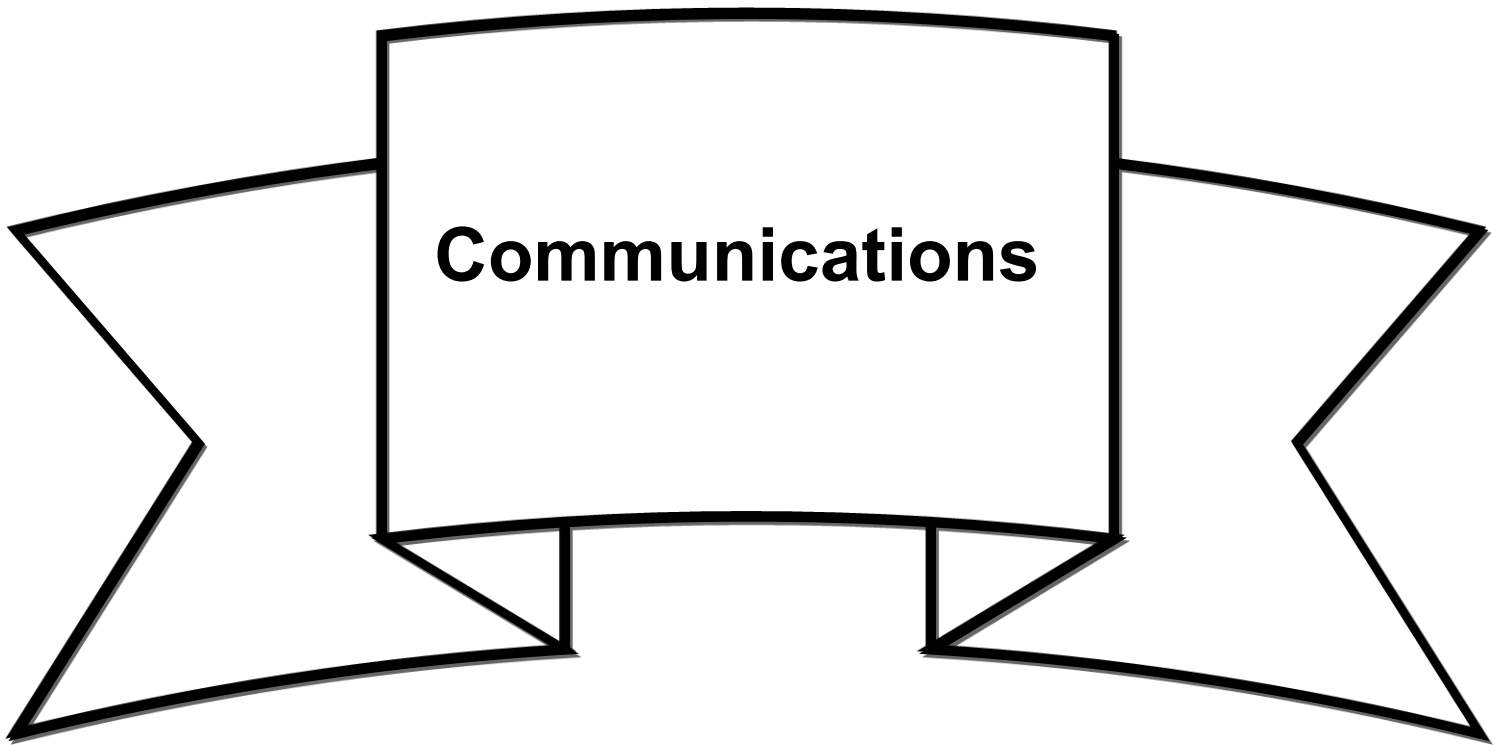
The bill intends to award additional points or other preference in the scoring of competitive housing and infrastructure programs to “pro-housing” jurisdictions. For award cycles commenced after July 1, 2021, jurisdictions that have adopted a housing element that has been found by the department to be in substantial compliance with the requirements, and that have been designated “pro-housing” based upon their adopted local policies, shall be awarded *additional points or preference* in the scoring of program applications for the following programs:

- The Affordable Housing and Sustainable Communities Program (Cap & Trade program)
- The Transformative Climate Communities Program (Cap and Trade program)
- The Infill Incentive Grant Program of 2007
- Additional bonus points may be awarded to other state programs when already allowable under state law.

The bill defines “pro-housing local policies” as policies that facilitate the planning, approval, or construction of housing. These policies include, but are not limited to:

- financial incentives for housing;
- reduced parking requirements for sites zoned residential;
- zoning allowing for use by right for residential and mixed-use development;
- zoning more sites for residential development or zoning sites at higher densities than required;
- adoption of accessory dwelling unit ordinances;
- reduction of permit processing time;
- creation of objective development standards;
- reduction of development impact fees; and
- Establishment of a Workforce Housing Opportunity Zone or housing sustainability district.





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**City Clerk Department**

2180 Milvia Street  
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