

# AGENDA



## BERKELEY CITY COUNCIL MEETING

**Tuesday, September 24, 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. Recognition of 50<sup>th</sup> Anniversary of Berkeley Free Clinic
2. Recognition of Sandy Bales
3. Recognition of Emmaline Campbell
4. Recognition of Indigenous People's Day
5. Adjourn in Memory of Sandy Floyd, Berkeley Resident

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

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

## Consent Calendar

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

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

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

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

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

## Consent Calendar

- 1. Agreement with East Bay Regional Park District for Drainage, Slope, and Maintenance Access Easements in Tilden Regional Park**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,675-N.S. 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.  
**First Reading Vote:** All Ayes.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, (510) 981-6300

## Consent Calendar

- 2. Contract No. 9900 Amendment: NetFile for Online Campaign Report, Form 700, and Lobbyist Registration Filing and Tracking**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract amendment with Westcoast Online Information Systems, Inc. dba NetFile, to increase the not-to-exceed amount by \$19,200 for a total not-to-exceed amount of \$133,200, to pay for regular annual maintenance costs for online campaign report and Form 700 filing and tracking, to add to the capacity of online filers by 350 to allow for the addition of commissioner Form 700 e-filing, and to add the services related to the new lobbyist registration filing system through May 31, 2023.  
**Financial Implications:** See report  
Contact: Mark Numainville, City Clerk, (510) 981-6900
- 3. Contract: NV5 for Web Content Copywriting Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with NV5 to develop content for the City's website. The contract would be for a one year period, starting September 25, 2019, for a total contract amount not to exceed \$150,000.  
**Financial Implications:** General Funds - \$150,000  
Contact: Matthai Chakko, City Manager's Office, (510) 981-7000
- 4. IKE Smart City Kiosk Locations, Phase One**  
**From: City Manager**  
**Recommendation:** Approve the locations for the first phase of deployment of 15 IKE Smart City Kiosks in the Downtown, Telegraph and Lorin commercial districts pursuant to Ordinance No. 7,626-N.S. granting the Franchise Agreement with IKE Smart City, LLC.  
**Financial Implications:** See report  
Contact: Jordan Klein, Economic Development, (510) 981-7530
- 5. Referral Response: Modifications to the Zoning Ordinance to Support Small Businesses**  
**From: City Manager**  
**Recommendation:** Refer to the Planning Commission modifications to the Zoning Ordinance that are designed to streamline the zoning review process for new or expanding small businesses in Berkeley  
**Financial Implications:** See report  
Contact: Jordan Klein, Economic Development, (510) 981-7530
- 6. Revisions to the Berkeley Revolving Loan Fund Administrative Plan**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving the revised Administrative Plan for the Berkeley Revolving Loan Fund (RLF).  
**Financial Implications:** See report  
Contact: Jordan Klein, Economic Development, (510) 981-7530

## Consent Calendar

- 7. Contract No. 31900273 Amendment: Bay Area Community Services (BACS) to Add Funds for Housing Problem-Solving**  
**From: City Manager**  
**Recommendation:** Adopt a resolution authorizing the City Manager to execute a contract amendment to add \$300,000 to the existing four year (FY20-23) contract with Bay Area Community Services (BACS) for Coordinated Entry System operations, for a revised total contract amount not to exceed \$6,880,149. These funds will be used as flexible funding for people experiencing homelessness and presenting at the North County Housing Resource Center.  
**Financial Implications:** See report  
Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400
- 8. Operating Funding for Community Housing Development Organizations From: City Manager**  
**Recommendation:** Adopt a Resolution: 1. Approving operating funding in the amount of \$28,115 each for FY 2020 for Community Housing Development Organizations (CHDOs) Resources for Community Development and Satellite Affordable Housing Associates; and 2. Authorizing the City Manager to execute all original or amended documents or agreements to effectuate this action.  
**Financial Implications:** See report  
Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400
- 9. Referral Response: Tenant Opportunity to Purchase Act (TOPA) Ordinance**  
*(Continued from June 11, 2019)*  
**From: City Manager**  
Contact: Kelly Wallace, Housing and Community Services, 981-5400
- 10. Settlement Authority of City Manager for Workers' Compensation Claims From: City Manager**  
**Recommendation:** Adopt a Resolution to establish and grant authority to the City Manager to settle workers' compensation claims up to \$75,000 per employee claim.  
**Financial Implications:** See report  
Contact: LaTanya Bellow, Human Resources, (510) 981-6800
- 11. Adopt a Resolution Authorizing the City Manager to Provide a Three Percent (3%) Special Class Commercial License Premium to the Solid Waste Supervisor Job Classification**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution to: (1) Provide Public Employees Union, Local One's (Local One) a three percent (3%) Special Class Commercial License Premium to the Solid Waste Supervisor Job Class; and, (2) provide the incumbents in the Solid Waste Supervisor classification a three percent differential pay (Add Pay) to maintain internal pay equity.  
**Financial Implications:** See report  
Contact: LaTanya Bellow, Human Resources Director, (510) 981-6800



## Consent Calendar

**12. Contract: Ghilotti Construction Company for John Hinkel Park Improvement Project**

**From: City Manager**

**Recommendation:** Adopt a Resolution: 1. Approving the plans and specifications for John Hinkel Park Improvement Project, Specification No. 19-11321-C; and 2. 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 Ghilotti Construction Company, for the John Hinkel Park Improvement Project at 41 Somerset Avenue, Berkeley, CA 94704, in an amount not to exceed \$790,306, which includes a contract amount of \$658,588 and a 20% contingency in the amount of \$131,718.

**Financial Implications:** Measure WW Parks Bond Fund (Fund 345) and Parks Tax Fund (Fund 138) - \$790,306

Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

**13. Contract: The Dutra Group for the South Cove ADA Accessible Gangway Project at the Berkeley Marina**

**From: City Manager**

**Recommendation:** Adopt a Resolution: 1. Approving the plans and specifications for the South Cove ADA Accessible Gangway Project, (Bid Specification No. 19-11340); and 2. Accepting the bid of The Dutra Group as the lowest responsive and responsible bidder on the Project, and authoring the City Manager to execute a contract with The Dutra Group, and any amendments, extensions, or change orders until completion of the Project in accordance with the approved plans and specifications in an amount not to exceed \$261,100, and authorizing a 15% contingency of \$39,165.

**Financial Implications:** See report

Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

**14. Contract: Mar Con Builders, Inc. for Live Oak Community Center Seismic Upgrade Project**

**From: City Manager**

**Recommendation:** Adopt a Resolution: 1. Approving the plans and specifications for the Live Oak Community Center Seismic Upgrade project, Specification No. 19-11320-C; and 2. Accepting the bid of the lowest responsive and responsible bidder, Mar Con Builders, 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 Mar Con Builders, Inc., for the Live Oak Community Center Seismic Upgrade project at 1301 Shattuck Avenue, Berkeley, CA 94704, in an amount not to exceed \$6,271,635, which includes a contract amount consisting of base bids and three alternates of \$5,226,363 and a 20% contingency in the amount of \$1,045,272.

**Financial Implications:** \$6,271,635

Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

## Consent Calendar

- 15. Contract: Don Fowler Construction for Berkeley Tuolumne Camp Repairs, Specification 19-11333**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution: 1. Approving plans and specifications for the Berkeley Tuolumne Camp Cabin Repairs Project (Specification No. 19-11333); 2. Accepting the bid of the lowest responsible bidder, Dow Fowler Construction; and 3. Authorizing the City Manager to execute a contract and any amendments, extensions or other change orders with Don Fowler Construction until completion of the Project in accordance with the approved plans and specifications, in an amount not to exceed \$228,735, which includes a 15% contingency for unforeseen circumstances.  
**Financial Implications:** \$228,735  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
- 16. Grant Application for Technical Assistance to Develop a Proposal for Challenge Grant for Housing Protection and Preservation**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to submit a grant application in the amount of \$7,000 to The San Francisco Foundation, in order to receive technical assistance from SEEDs Collaborative to help develop a competitive Partnership for the Bay's Future Challenge Grant proposal, and to accept grant funds and execute a resulting grant agreement.  
**Financial Implications:** See report  
Contact: Timothy Burroughs, Planning and Development, (510) 981-7400
- 17. Contract No. 31900106 Amendment: Coastland Civil Engineering for On-Call Civil Engineering Services for the Sanitary Sewer Program**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 31900106 with Coastland Civil Engineering (Coastland) for On-Call Civil Engineering Services for the Sanitary Sewer Program, increasing the contract by \$500,000, for a total amount no to exceed \$900,000, and extending the term of the contract from June 30, 2021 to June 30, 2022.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, (510) 981-6300
- 18. Contract No. 10485 Amendment: Fehr & Peers, Inc. for On-Call Transportation Planning Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 10485 with Fehr & Peers, Inc. for On-Call Transportation Planning Services, increasing the contract by \$225,000, for a total amount not to exceed \$725,000.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, (510) 981-6300

## Council Consent Items

- 19. Support H.R. 2809 – The Improving Access to Nutrition Act of 2019**  
**From: Mayor Arreguin and Councilmembers Robinson and Bartlett**  
**Recommendation:** Adopt a Resolution in support of H.R. 2809 – The Improving Access to Nutrition Act of 2019. Send a copy of the Resolution to Congressperson Barbara Lee, Senators Dianne Feinstein and Kamala Harris, and President Donald Trump.  
**Financial Implications:** None  
Contact: Jesse Arreguin, Mayor, (510) 981-7100
- 20. United Against Hate Week 2019**  
**From: Mayor Arreguin, and Councilmembers Wengraf, Harrison, and Bartlett**  
**Recommendation:** Adopt a Resolution approving the D-13 expenditure of \$1,000 in an amount not to exceed \$250 per Councilmember, to Not in Our Town for United Against Hate Week scheduled for November 17-23, 2019.  
**Financial Implications:** See report  
Contact: Jesse Arreguin, Mayor, (510) 981-7100
- 21. Clean Air Day 2019**  
**From: Mayor Arreguin, and Councilmembers Wengraf, Harrison, and Bartlett**  
**Recommendation:** Adopt a Resolution declaring October 2nd, 2019 as Clean Air Day.  
**Financial Implications:** None  
Contact: Jesse Arreguin, Mayor, (510) 981-7100
- 22. Letter in Support of AB 342, Prohibiting the Use of Public Lands for Oil and Gas Production**  
**From: Councilmembers Davila, Harrison, and Hahn**  
**Recommendation:** Send a Letter to Governor Gavin Newsom In Support of AB 342 by State Assemblymember Al Muratsuchi, prohibiting the State of California from authorizing new construction of oil and gas infrastructure upon public lands and direct the city clerk or designee to send a letter to our state representatives.  
**Financial Implications:** None  
Contact: Cheryl Davila, Councilmember, District 2, (510) 981-7120
- 23. Letter in Support of SB 210, Implementing a Comprehensive Heavy Duty Vehicle Inspection and Maintenance Program**  
**From: Councilmembers Davila, Harrison, and Hahn**  
**Recommendation:** Send a Letter to Governor Gavin Newsom In Support of SB 210 by Senator Connie Leyva, authorizing the California Air Resources Board (CARB) to develop and implement a comprehensive heavy duty vehicle inspection and maintenance program, similar to Smog Check requirements for other vehicles, and direct the city clerk or designee to send a letter to our state representatives.  
**Financial Implications:** None  
Contact: Cheryl Davila, Councilmember, District 2, (510) 981-7120

## Council Consent Items

### 24. Pollinators and Habitat

**From: Councilmembers Harrison, Wengraf and Bartlett**

**Recommendation:** Adopt three referrals that will deepen Berkeley's commitment to protecting pollinator plants and establishing habitats that will protect pollinators and our environment:

1. Refer to City Manager to establish a City Liaison to the Bee City USA program.
2. Refer to Public Works Commission and Parks and Waterfront Commission consideration of how to incorporate pollinators and habitat into the Adopt-A-Spot initiative referred on April 2, 2019.
3. Refer to the City Manager to transition the City's medians to non-turf green infrastructure, including pollinator gardens when appropriate.

**Financial Implications:** See report

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

### 25. Naming Berkeley Paths for Women Founders of the Berkeley Path Wanderers Association

**From: Councilmember Hahn, Mayor Arreguin, and Councilmembers Wengraf and Davila**

**Recommendation:** Pursuant to Berkeley's Policy for Naming and Renaming Public Facilities, refer to the City Manager and Public Works Commission to consider and return to the City Council a recommendation regarding the naming and renaming of four Berkeley Paths, as identified on the map at Attachment 1, in honor of the four women founders of the Berkeley Path Wanderers:

(a) Rename a path off of Keith Avenue near Shasta Road, currently named Eleanor Path, to "Eleanor Hall Gibson Path," after founder Eleanor Hall Gibson, who passed away in 2016;

(b) Name the following paths, subject to a 2/3 vote of the City Council as provided at Section 2(B) of the Policy, as follows: (i) The extension connector of Walnut Street through the UC complex between Hearst and Berkeley Way to be named "Ruth Armstrong Path" in honor of Ruth Armstrong (Moskovitz); (ii) The path parallel to the top of Solano Avenue running along Los Angeles Avenue up the tunnel slope towards the Marin Circle, to be named "Jacque Ensign Way" in honor of Jacque Ensign; and (iii) The path [TBD] to be named "Pat DeVito Path" in honor of Pat DeVito.

**Financial Implications:** See report

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

### 26. Support for League of California Cities Resolution to CPUC

**From: Councilmembers Wengraf, Droste and Harrison, and Mayor Arreguin**

**Recommendation:** Adopt a Resolution in support of the League of California Cities' Resolution to the California Public Utilities Commission (CPUC) requesting that the CPUC amend Rule 20A to allow for the addition of projects in Very High Fire Hazard Severity Zones to the list of eligibility criteria and to increase funding allocations for Rule 20A projects.

**Financial Implications:** None

Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7120

## Council Consent Items

- 27. Support for ACA - 8: Elections: Voter Qualifications**  
**From: Councilmember Robinson and Mayor Arreguin**  
**Recommendation:** Adopt a resolution supporting ACA - 8, which would lower California's voting age to 17.  
**Financial Implications:** None  
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170
- 28. Budget Referral: RFP for a Freestanding Public Restroom Facility**  
**From: Councilmember Robinson**  
**Recommendation:** Refer to the budget process to set aside up to \$100,000 to issue an RFP for a freestanding, 24/7 public restroom facility in the Telegraph Business Improvement District.  
**Financial Implications:** See report  
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170
- 29. Referral: Telegraph Crosswalk Art Installations**  
**From: Councilmember Robinson**  
**Recommendation:** Refer to the Civic Arts Commission to develop and return to Council with a plan to:  
1. Create a public contest to design new crosswalk art on Telegraph at the intersections of Bancroft, Durant, Channing, Haste, and Dwight Streets.  
2. Build the winning design on the intersections.  
**Financial Implications:** See report  
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170
- 30. Russell St. Halloween Celebration: Relinquishment of Council Funds and Sponsorship**  
**From: Councilmember Droste**  
**Recommendation:** Adopt a Resolution approving the expenditure of an amount up to \$870 for the 2019 Russell St. Halloween Celebration with funds relinquished for this purpose from the discretionary Council Office Budget of Councilmember Droste and any other Councilmembers who would like to contribute. The Claremont Elmwood Neighborhood Association is the fiscal sponsor of the event.  
**Financial Implications:** See report  
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.*

*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.*

### 31. **ZAB Appeal: 2325 Sixth Street, Use Permit #ZP2017-0146**

#### **From: City Manager**

**Recommendation:** Conduct a public hearing and, upon conclusion, adopt a Resolution affirming the Zoning Adjustments Board (ZAB) decision to approve Use Permit #ZP2017-0146 to alter a 6,000 sq. ft. parcel at 2325 Sixth Street by 1) raising the existing one-story, 1,348 sq. ft. single-family residence with an average height of 12 feet - 7 inches, to create a new, 3,330 sq. ft. two-story duplex, with an average height of 22 feet, 2) increasing the total number of bedrooms on the parcel from three to seven, and 4) constructing a two-story, 472 sq. ft. accessory building with an average height of 19 feet - 3 inches, located 1 foot - 6 inches from the rear and side yard property line to the south, that would consist of a two-car garage on the ground floor and a workshop on the second floor.

**Financial Implications:** None

Contact: Timothy Burroughs, Planning and Development, (510) 981-7400

## Action Calendar – Old Business

32. **Referral Response: Issue a Request for Information to Explore Grant Writing Services from Specialized Municipal Grant-Writing Firms, and Report Back to Council** *(Continued from May 14, 2019)*  
**From: City Manager**  
Contact: Henry Oyekanmi, Finance, 981-7300

## Action Calendar – New Business

33. **Resolution for the Allowance of 3404 King Street to Operate a Shelter for Homeless Youth**  
**From: City Manager**  
**Recommendation:** Adopt a resolution that:
1. Authorizes the City Manager to negotiate a lease with Covenant House, for \$1 per year, for the purposes of becoming a lessee at 3404 King Street and establishing a public facility open to the homeless at that property.
  2. Authorizes the City Manager to negotiate a management agreement with Covenant House for said facility; and
  3. Authorizes the City Manager to amend Contract No. 31900239 with Covenant House to include the operation of a 12-bed transitional housing program and to increase the not-to-exceed amount of the contract by \$357,020 (the amount currently awarded to Fred Finch Youth Center for the Turning Point transitional housing program) to a new total of \$1,630,572.
- Financial Implications:** See report  
Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400

## Council Action Items

- 34. Referral: Develop a Bicycle Lane and Pedestrian Street Improvements Policy**  
**From: Councilmembers Robinson, Droste, Harrison, and Mayor Arreguin**  
**Recommendation:** Refer to the City Manager to develop a comprehensive ordinance governing a Bicycle Lane and Pedestrian Street Improvements Policy that would:
1. Require simultaneous implementation of recommendations in the City's Bicycle and Pedestrian Plans when City streets are repaved, if one or more of the following conditions are met: (a) Bicycle Plan recommendations can be implemented using quick-build strategies that accommodate transit operations. (b) Pedestrian Plan recommendations can be implemented using quick-build strategies that accommodate transit operations. (c) The Bicycle Plan recommends studying protected bike lanes as part of a Complete Street Corridor Study in the Tier 1 Priority list. (d) Improvements are necessary to comply with the Americans with Disabilities Act.
  2. Prioritize bikeways and Vision Zero high-fatality, high-collision streets under the five-year Paving Plan by requiring that 50 percent of the repaving budget go towards such streets until they meet a minimum surface standard established with input from the Public Works and Transportation Commissions.
  3. Encourage the use of quick builds by expediting quick-build projects under \$1 million. (a) "Quick-build" is defined as projects that a) require non-permanent features such as bollards/paint/bus boarding islands, b) make up less than 25 percent of the total repaving cost for that street segment, and c) can be a component of a Complete Street Corridor Study that includes evaluation after installation.
  4. Require staff to report progress back to Council every two years.
- Furthermore, refer to the City Manager to draft a revised version of the City's Complete Streets Policy that would clarify that the presence of an existing or planned bikeway parallel to an arterial does not exempt projects along said arterial from bicycle and micromobility improvements under the Policy.
- Financial Implications:** Staff time  
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170

## Action Calendar – Old Business

- 35. Referral Response: Lava Mae Mobile Shower and Hygiene Services** *(Continued from September 10, 2019)*  
**From: City Manager**  
Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400



## Action Calendar – Old Business

**36a. 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** *(Continued from September 10, 2019)*

**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 – Old Business

- 36b. 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** *(Continued from September 10, 2019)*

**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

- 37a. Utilization of City-Owned Property at 1281 University Avenue to House up to 8-10 RV Dwellers** *(Continued from September 10, 2019)*

**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

- 37b. Companion Report: Utilization of City-Owned Property at 1281 University Avenue to House up to 8 - 10 RV Dwellers** *(Continued from September 10, 2019)*

**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

## Action Calendar – Old Business

38. **Repealing and Reenacting BMC Chapter 13.104, Wage Theft Prevention**  
*(Continued from September 10, 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

39. **City Council Short Term Referral Process – Monthly Update**  
**From: City Manager**  
Contact: Mark Numainville, City Clerk, (510) 981-6900
40. **Deaccession of Berkeley Big People**  
**From: City Manager**  
Contact: Jordan Klein, Economic Development, (510) 981-7530
41. **Pathways STAIR Center: First Year Data Evaluation and Results-Based Accountability Dashboard**  
**From: City Manager**  
Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400
42. **2019 Housing Advisory Commission Work Plan**  
**From: Housing Advisory Commission**  
Contact: Mike Uberti, Commission Secretary, (510) 981-7400
43. **Planning Commission Workplan 2019-2020**  
**From: Planning Commission**  
Contact: Alene Pearson, Commission Secretary, (510) 981-7400

## 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](mailto:clerk@cityofberkeley.info)

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

#### COMMUNICATION ACCESS INFORMATION:

This meeting is being held in a wheelchair accessible location.

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

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



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

~~~~~

*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 September 12, 2019.*



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.*

### **Item #4: IKE Smart City Kiosk Locations, Phase One**

1. Andy Kellogg, on behalf of the Lorin Business Association

### **Item #31: ZAB Appeal: 2325 Sixth Street**

2. Jenkins Family, owners of 2325 Sixth Street
3. Mary Beth Thomsen
4. Toni Mester
5. Bacilia Macias Architecture

### **Item #40: Deaccession of Berkeley Big People**

6. Chuck Cornwall
7. Matthew Passmore, Chair of the Public Art Subcommittee

### **ZAB Appeal: 0 Euclid – Verizon Cell Tower**

8. Paul Teicholz
9. Bronwyn Hall
10. Angelina DeAntonis

### **Youth Spirit Works – Tiny House**

11. Sally Hindman, on behalf of Youth Spirit Artworks

### **Aquatic Park – E Coli**

12. Barbara Gilbert
13. Eric Friedman

### **Public Safety Cameras**

14. David Lerman

### **ADU Laws**

15. Paul Rubin

### **RV's**

16. Cymbre Potter
17. Eric Friedman

## **Communications**

### **Opportunity Zone**

18. Barbara Gilbert

### **Berkeley Housing Cooperative Village**

19. Tom Minogue Hastings

#### **5G**

20. Phoebe Anne Sorgen (2)

21. Stephanie Thomas

22. 19 form letters

### **City Vehicle Emissions Audit**

23. Dave Margulius

### **Marijuana Use**

24. Lynn Silver, on behalf of the public Health Institute

### **Adeline Plan**

25. South Berkeley Now!

### **Housing for a Diverse, Equitable and Creative Berkeley**

26. Abigail Gutmann-Gonzalez and Keith Brower Brown, on behalf of the East Bay Democratic Socialists of America

### **Berkeley Police Department Bicycle Enforcement Policies**

27. Liza Lutzker, Ben Gerhardstein, Ben Paulos and Robert Prinz, on behalf of Walk Bike Berkeley and Bike East Bay

### **Homelessness**

28. Juli Dickey

29. Diana Bohn

30. Erwan Illian

### **Facial Recognition**

31. Diana Bohn

32. Carol Denney

### **Non-Emergency Berkeley Police Department Phone Line**

33. David Lerman

### **Smoking in Multi-Unit Housing**

34. Carlos Rivas

## 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.





ORDINANCE NO. 7,675-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.

At a regular meeting of the Council of the City of Berkeley held on September 10, 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.

**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.

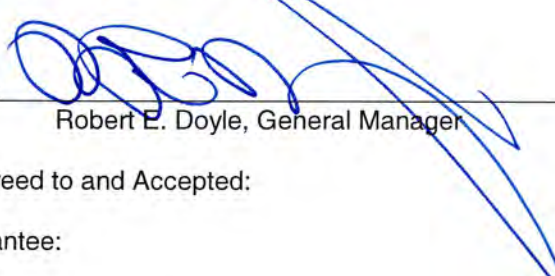
10. This instrument shall be binding on and shall inure to the benefit of the heirs, executors, administrators, successors and assigns of Parks and on the successors and assigns of Grantees.

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

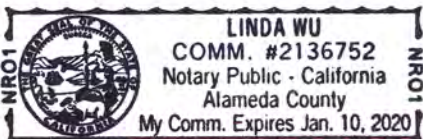
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

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

8/21/2018

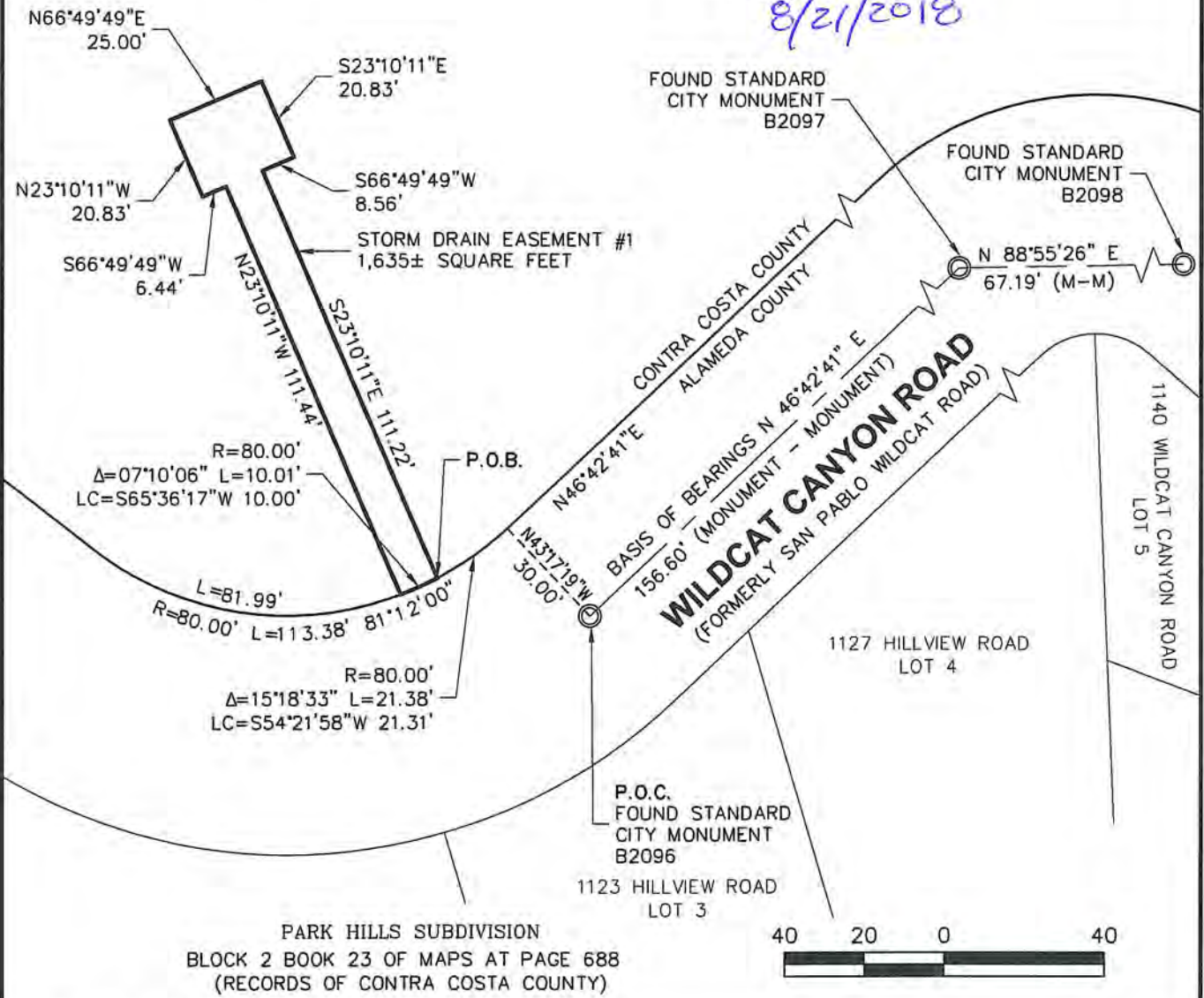
Date



EAST BAY REGIONAL PARK DISTRICT  
 TILDEN REGIONAL PARK  
 APN: 267-010-008  
 355± ACRES



SCALE: 1" = 40'



**QUIET RIVER**  
 Land Services Inc.  
 6747 Sierra Court, Suite K  
 Dublin, CA 94568  
 (925) 734-6788 Phone

|                                                                                          |          |                |              |
|------------------------------------------------------------------------------------------|----------|----------------|--------------|
| <b>EXHIBIT B: STORM DRAIN EASEMENT #1</b>                                                |          |                |              |
| EAST BAY REGIONAL PARK DISTRICT<br>WILDCAT CANYON ROAD<br>CONTRA COSTA COUNTY CALIFORNIA |          |                |              |
| ORINDA                                                                                   | 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

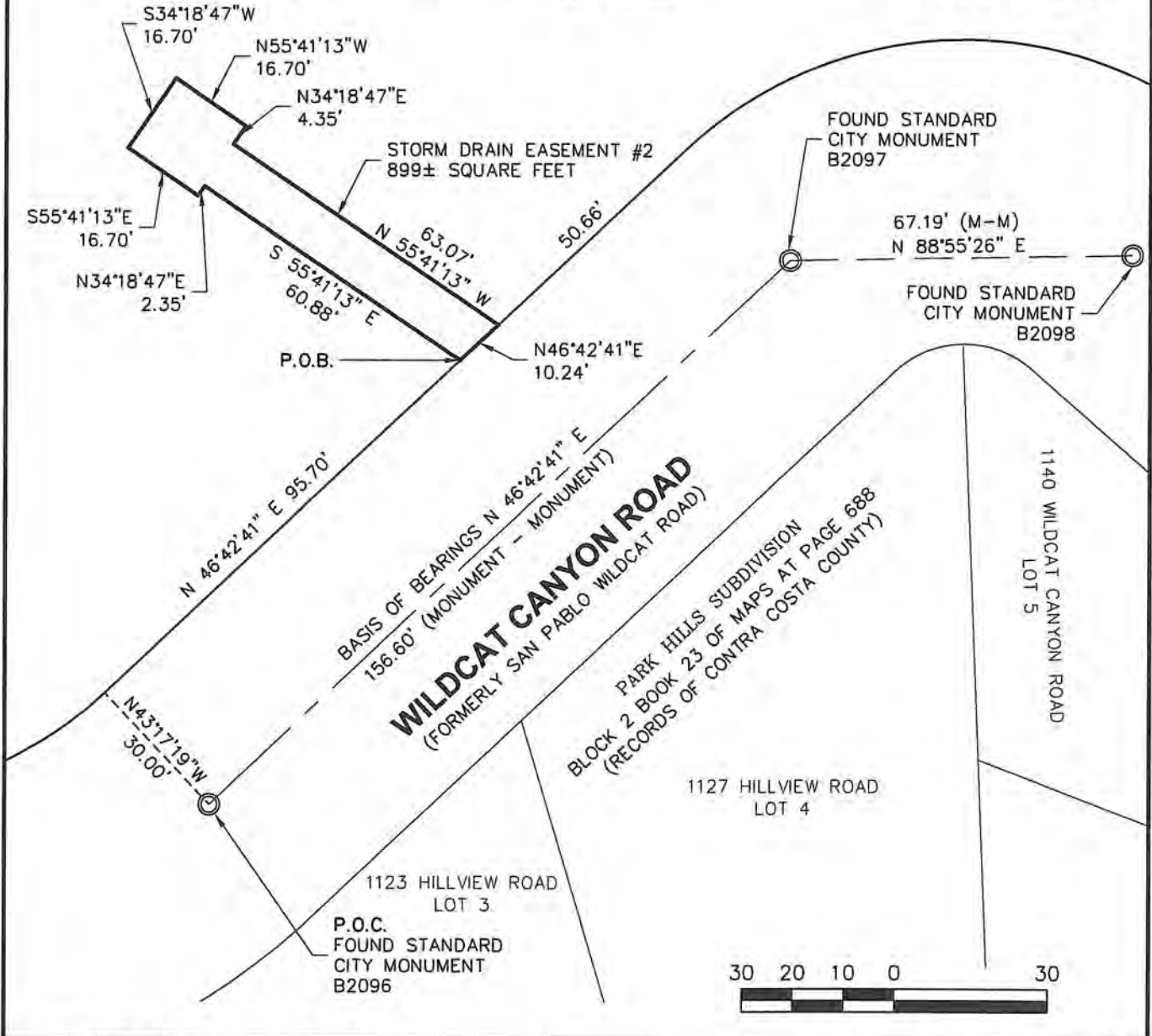




EAST BAY REGIONAL PARK DISTRICT  
 TILDEN REGIONAL PARK  
 APN: 267-010-008  
 355± ACRES



SCALE: 1" = 30'



**QUIET RIVER**  
 Land Services Inc.  
 6747 Sierra Court, Suite K  
 Dublin, CA 94568  
 (925) 734-6788 Phone

|                                                        |                     |              |                |
|--------------------------------------------------------|---------------------|--------------|----------------|
| <b>EXHIBIT D: STORM DRAIN EASEMENT #2</b>              |                     |              |                |
| EAST BAY REGIONAL PARK DISTRICT<br>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.



\_\_\_\_\_

Kevin M. McGuire, CA PLS #6437

8/21/2018

Date

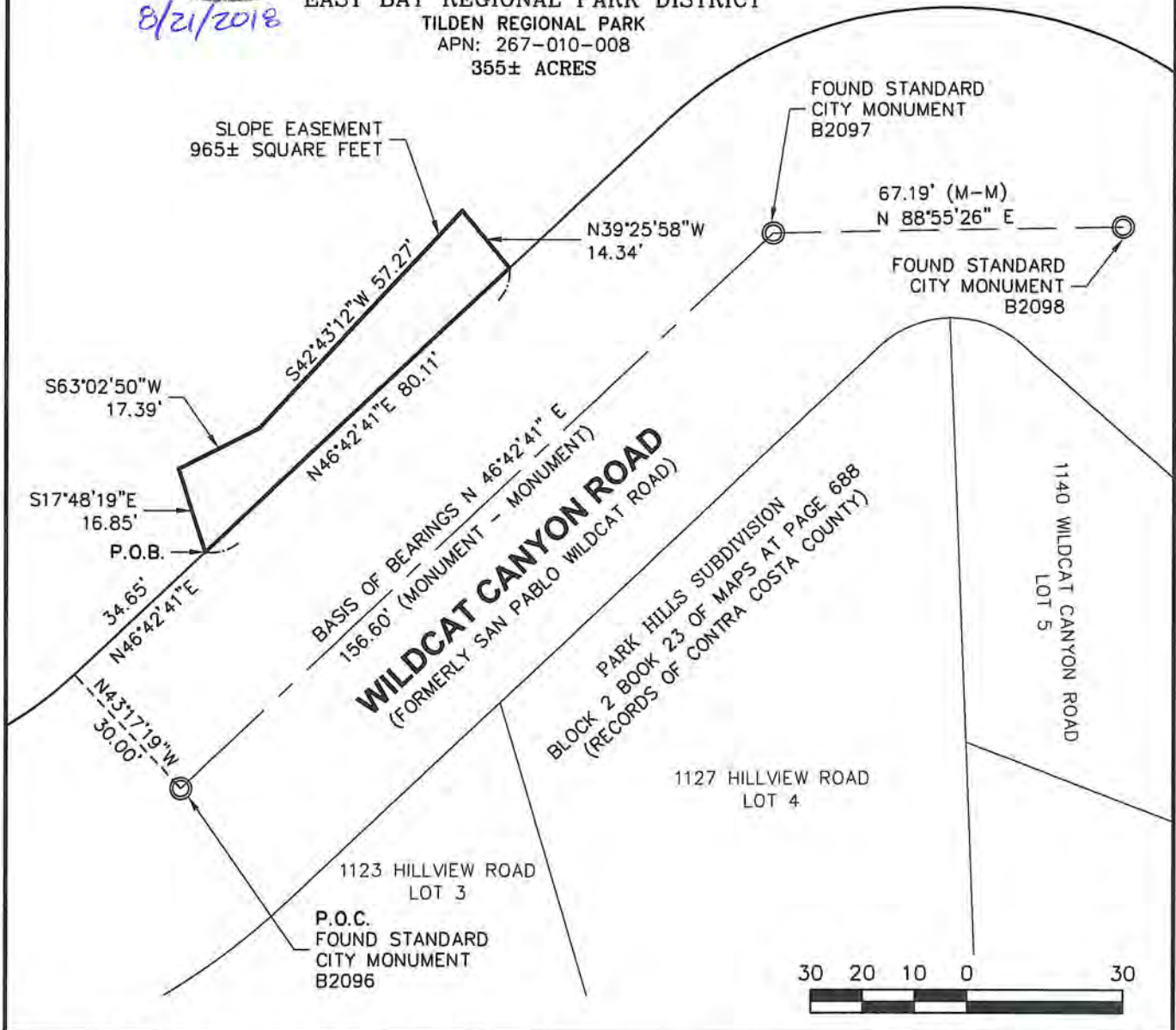




SCALE: 1" = 30'

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

|                                                                                          |          |                |              |
|------------------------------------------------------------------------------------------|----------|----------------|--------------|
| <b>EXHIBIT F: SLOPE EASEMENT</b>                                                         |          |                |              |
| EAST BAY REGIONAL PARK DISTRICT<br>WILDCAT CANYON ROAD<br>CONTRA COSTA COUNTY CALIFORNIA |          |                |              |
| ORINDA                                                                                   | HENG1607 | DRN. BY: MAS   | CHK. BY: KMM |
|                                                                                          |          | DATE: 08/21/18 |              |







Office of the City Manager

CONSENT CALENDAR  
September 24, 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. 9900 Amendment: NetFile for Online Campaign Report, Form 700, and Lobbyist Registration Filing and Tracking

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 9900 with Westcoast Online Information Systems, Inc. dba NetFile, to increase the not-to-exceed amount by \$19,200 for a total not-to-exceed amount of \$133,200, to pay for regular annual maintenance costs for online campaign report and Form 700 filing and tracking, to add to the capacity of online filers by 350 to allow for the addition of commissioner Form 700 e-filing, and to add the services related to the new lobbyist registration filing system through May 31, 2023.

FISCAL IMPACTS

The annual cost for the NetFile system includes all maintenance, upgrades, and customer support costs. The annual General Fund cost for the NetFile system is \$27,600. Funding for the contract amendment is available in the FY 2020 budget (account code 011-32-314-000-0000-000-411-611120). Over the span of the contract, the total amount will not exceed \$133,200.

CURRENT SITUATION AND ITS EFFECTS

In accordance with the provisions of the Government Code, the Berkeley Charter, the Municipal Code, and the Conflict of Interest Code, the City Clerk is the Filing Officer for campaign reports for city campaign committees and candidates as well as Form 700 reports filed by commissioners, employees, and consultants.

The City accepts forms from numerous campaign committees during an election cycle, and over 500 Form 700 filers consisting of commissioners, employees and city consultants. Additionally, in 2017 NetFile added the public finance module to accommodate the adoption of the Fair Elections Act; pursuant to the adoption of the Lobbyist Registration Act in 2018, a lobbyist registration module has been added. Tracking this amount of data requires a robust and efficient system such as NetFile.

NetFile allows the City to publically post campaign disclosure statements and Form 700 much faster than previously possible. In addition, the data in the campaign filings is more searchable and can be easily downloaded for analysis by the public.

The NetFile system has been a proven success for the City since 2007. Over the past 12 years NetFile has worked closely with City staff on the development and improvement of the software. In 2014, NetFile performed significant work to assist with the City's transition to mandatory electronic filing. The effort to allow commissioners to file Form 700s electronically results in additional costs. The addition of a lobbyist tracking module has been added to the scope of services performed by NetFile. This amendment will allow the City to continue to use NetFile to maintain a high level of public transparency and process efficiencies through automation.

#### BACKGROUND

The NetFile system is web based and hosted by the vendor. The original purchase and use of NetFile in 2007 was approved by the city's Technology Governance Group, and it has not resulted in additional ongoing workload commitments for IT staff.

#### ENVIRONMENTAL SUSTAINABILITY

Electronic filing of Form 700s and campaign statements reduces the amount of paper filings as well as car trips to downtown to file forms in person. The automation and electronic disclosure of public information provides greater access to the public, while reducing the use of paper and fossil fuel.

#### CONTACT PERSON

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

Attachments:

1: Resolution

RESOLUTION NO. -N.S.

CONTRACT NO. 9900 AMENDMENT: WESTCOAST ONLINE INFORMATION SYSTEMS, INC. DBA NETFILE FOR ONLINE CAMPAIGN REPORT AND FORM 700 FILING AND TRACKING

WHEREAS, in accordance with the provisions of the Government Code, the Berkeley Charter, the Municipal Code, and the Conflict of Interest Code, the City Clerk is the filing officer for approximately 35 City campaign committees as well as over 500 Form 700 filers; and

WHEREAS, the addition of online commissioner Form 700 e-filing will result in significant environmental benefits, greater compliance by filers, and easier, more efficient filing process for commissioners, and efficiencies for city staff; and

WHEREAS, the addition of commissioners as electronic filers results in a modest increase in the contract cost to the City; and

WHEREAS, the newly adopted lobbyist registration ordinance requires that these new services be added to scope of services for NetFile; and

WHEREAS, tracking this amount of paperwork requires an automated system that is powerful and efficient; and

WHEREAS, since implementation of the NetFile system in 2007, staff efficiency has increased, overtime costs have been reduced, errors on campaign filings have decreased, time that it takes to post filings to the web has been shortened, and public access to filings has improved; and

WHEREAS, funds are available in the current year budget in the general fund, budget code 011-32-314-000-0000-000-411-611120 and the contract has been entered into the City contract database.

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. 9900 with Westcoast Online Information Systems, Inc. dba NetFile, to increase the not-to-exceed amount by \$19,200 for a total not-to-exceed \$133,200 for the period June 1, 2015 through May 31, 2023 for online campaign reporting, lobbyist registration, public financing, and Form 700 e-filing and tracking. A record signature copy of said contract and any amendments is to be placed on file in the Office of the City Clerk.





Office of the City Manager

03

CONSENT CALENDAR  
September 24, 2019

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Matthai Chakko, Assistant to the City Manager  
 Subject: Contract: NV5 for Web Content Copywriting Services

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with NV5 to develop content for the City's website. The contract would be for a one year period, starting September 25, 2019, for a total contract amount not to exceed \$150,000.

FISCAL IMPACTS OF RECOMMENDATION

Funds for web content development are allocated in the FY 2020 General Fund budget in the amount of \$150,000.

CURRENT SITUATION AND ITS EFFECTS

The recommendation of NV5 for this contract is based on their response to Request for Proposals (RFP) Specification No. 18-11243-C for Web Content Copywriting Services and evidence of their ability to fulfill the Scope of Services. The City received eleven responses to the RFP. Three proposals were elevated to finalist status, and were scored and interviewed by a multi-departmental team in accordance with the selection criteria contained in the RFP.

BACKGROUND

The City is in the midst of a complete overhaul of its website, cityofberkeley.info. The project includes replacement of the City's content management system, a mobile-responsive redesign, and the development and implementation of citywide web management workflows.

In a 2017 community survey about the City's website, the number one issue community members named as their biggest source of frustration was the state of web content, which was repeatedly identified as too dense, voluminous, jargon-heavy, and repetitive.

To address these complaints, the City has developed a web style guide based on best practices in online readability and will be completely re-writing all content for the new website to conform to ease of use and accessibility standards. The writing will be done by contracted web copywriters, working in collaboration with City staff subject experts.

In February 2019, the City released RFP Specification No. 18-11243-C for Web Content Copywriting Services. The City received eleven responses to the RFP. The proposals were evaluated according to the scoring criteria contained in the RFP, and three proposals were elevated to finalist status. Finalists were interviewed and scored by a multi-departmental evaluation team.

NV5 received the highest scores from all members of the evaluation team based on their ability to best meet the selection criteria. This included demonstrated understanding of the scope of services and approach; previous work examples; qualifications and previous experience; references; and proposal pricing. The NV5 proposal was found to best meet the City's needs in all areas.

Conducting this work supports the City's Strategic Plan goal to be a customer-focused organization that provides excellent, timely, easily-accessible service and information to the community.

#### ENVIRONMENTAL SUSTAINABILITY

The expected improvement in website ease-of-use will help reduce travel associated with on-site visits to City offices.

#### RATIONALE FOR RECOMMENDATION

The response submitted by NV5 was ranked highest by the multi-departmental selection team and represents the best overall value to the City.

#### ALTERNATIVE ACTIONS CONSIDERED

The City could choose to not re-write web content for the City's website. However, without doing so the website will remain a source of frustration to community members.

Having city staff re-write the web content was considered, but staff do not have capacity to re-write all of the web content.

#### CONTACT PERSON

Matthai Chakko, Assistant to the City Manager, 981-7008

Attachments:

1: Resolution

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

CONTRACT: NV5 FOR WEB CONTENT COPYWRITING SERVICES

WHEREAS, Council authorized staff to release an RFP to solicit proposals for web content copywriting services; and

WHEREAS, a Request for Proposals (RFP) Specification No. 18-11243-C for the Web Content Copywriting Services was released in February 2019, and NV5 submitted a proposal in response to the RFP, which was evaluated and determined to be responsive in meeting all aspects of the scope of the work and selection criteria and the best selection for this contract; and

WHEREAS, funds to cover this expense are allocated in the 2020-2021 General Fund budget in the amount of \$150,000, budget code 011-21-201-000-0000-000-412-612990.

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 NV5 in an amount not to exceed \$150,000, for a one year period, starting September 25, 2019. A records signature copy of said agreement and any amendments to be on file in the Office of the City Clerk.







Office of the City Manager

04

CONSENT CALENDAR  
September 24, 2019

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Jordan Klein, Economic Development Manager  
 Subject: IKE Smart City Kiosk Locations, Phase One

RECOMMENDATION

Approve the locations for the first phase of deployment of 15 IKE Smart City Kiosks in the Downtown, Telegraph and Lorin commercial districts pursuant to Ordinance No. 7,626-N.S. granting the Franchise Agreement with IKE Smart City, LLC.

SUMMARY

In this report, the locations for the first phase of deployment of 15 IKE Smart City Kiosks in the Downtown, Telegraph and Lorin commercial districts are submitted to the City Council for review and approval.

FISCAL IMPACTS OF RECOMMENDATION

Once all 15 of the phase I kiosks are deployed, preliminary projections anticipate approximately \$401,310 per year in General Fund Revenue to the City of Berkeley.

CURRENT SITUATION AND ITS EFFECTS

Interactive Kiosk Experience (IKE) is a relatively new 'smart city' amenity that has been successfully deployed or is planned for deployment in cities across the country including Denver, San Antonio, Oakland, Los Angeles, Detroit, San Diego, and Baltimore. Visit Berkeley, our local destination marketing organization, has partnered with IKE Smart City, LLC to bring IKE in Berkeley. This advertisement-supported platform consists of digital, touchscreen kiosks that serve as information portals, economic development tools, engagement opportunities and safety resources. On October 30, 2018, City Council adopted Ordinance No. 7,626-N.S. granting a Franchise Agreement to IKE Smarty City, LLC, and modified two sections of the Berkeley Municipal Code to exempt IKE kiosks from regulations of signage and encroachments of the public right-of-way.<sup>1</sup>

In April through August 2019, the Office of Economic Development (OED), Visit Berkeley, and IKE Smart City conducted community outreach to determine the specific locations for the first phase of deployment of kiosks in the Downtown, Telegraph, and

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<sup>1</sup> [Facilitation of the Installation of IKE Smart City Kiosks; Amending Chapters 20.16 and 16.18 of the Berkeley Municipal Code](#), Item 30, Berkeley City Council Meeting, October 30, 2018

Lorin commercial districts. Those locations are presented here for City Council review (see Attachment 1). City Council approval of the proposed (or modified) locations would allow IKE Smart City to proceed to apply for and obtain engineering permits from the Public Works department, and subsequently to proceed with kiosk installation.

### BACKGROUND

IKE is a communication and advertising platform created to help cities and business improvement districts connect with citizens and visitors in dynamic new ways. Through a system of vivid, durable touchscreen displays, IKE aims to enhance the pedestrian experience in the City of Berkeley. IKE generates revenues through digital advertising, and is a self-sustaining platform that provides a meaningful recurring revenue stream to the city, and requires no capital or operational investment from the City.

IKE was developed in concert with the Downtown Denver Partnership, with the goal of building a wayfinding and city communication system for the digital age, and delivering it in a self-sustaining business model requiring no investment from the city. While originally designed to satisfy common goals of Business Improvement Districts (BIDs), a partnership with Discover Los Angeles has led to the development of functionality benefiting destination marketing organizations, such as our own Visit Berkeley. The implementation of IKE is also a Strategic Plan Priority Project, advancing the city's goal to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.

IKE encourages exploration and discovery of a city through enhanced wayfinding and communication. By presenting relevant information along pedestrians' path, IKE allows cities, BIDs and destination marketing organizations to connect with visitors and residents. IKE Kiosks offer the following information and features for users:

- Directories of local restaurants, stores and other businesses
- Events and attractions
- Turn-by-turn directions, with mobile integration to transfer those directions right to your cell phone or tablet
- Real time information on public transportation, ride sharing services, bike sharing
- Public safety announcements
- Weather updates
- Wi-Fi hotspot
- Job postings
- Shelter and human services information
- Public feedback opportunities through public polling or 'questions of the week'
- Other interactive features, such as a selfie photo booth feature allowing for integration with social media
- Information in multiple languages

The IKE kiosks feature an adjustable screen and are fully compliant with the Americans with Disability Act (ADA). The daylight viewable displays feature a local dimming LED

back light for high bright, high contrast picture quality, low power consumption and utilize a fan-less thermal management system for silent 24/7 operation.

The City of Berkeley's Franchise Agreement with IKE Smart City permits thirty (31) IKE digital kiosks throughout the City of Berkeley at major intersections and arteries, key points of interest and heavily foot-trafficked areas.

### *Community Outreach*

Staff collaborated with Visit Berkeley, IKE, commercial district associations, and other stakeholder groups to conduct outreach to members of the community to determine appropriate locations for the kiosks. Community outreach was conducted in accordance with the Franchise Agreement Section 8(A)(B) *Permitting process and prohibited locations*. OED hosted two community meetings in each commercial district where the kiosks are proposed to be installed; the community meeting schedule is summarized in Table 1 below. The meetings provided business owners, residents and other stakeholders the opportunity to give input on the most appropriate locations for the first 15 kiosks.

Table 1. Community Outreach Schedule

| <b>District</b>    | <b>Meeting Location</b>                       | <b>Date</b>     |
|--------------------|-----------------------------------------------|-----------------|
| Telegraph District | Raleigh's Bar & Grille, 2438 Telegraph Ave    | May 1, 2019     |
| Telegraph District | Phở K&K, 2533 Telegraph Ave                   | August 14, 2019 |
| Lorin District     | Ed Roberts Campus, 3075 Adeline St.           | May 9, 2019     |
| Lorin District     | Adelines Lab, 3140 Martin Luther King Jr. Way | August 14, 2019 |
| Downtown Berkeley  | David Brower Center, 2150 Allston Way         | May 23, 2019    |
| Downtown Berkeley  | Au Couquelet, 2000 University Ave             | August 14, 2019 |

### *Proposed Locations*

Attachment 1 includes maps of the proposed locations for installation of IKE Kiosks in Downtown Berkeley, the Telegraph District, and the Lorin. These locations were initially proposed by IKE Smart City based on criteria that included the following:

- In the public right-of-way / public property.
- Commercial areas with active frontages and high pedestrian volume.
- Maintain accessibility, including a minimum path of travel of 6 feet.
- Proximity to power sources, and avoiding conflict with other utilities.
- Avoiding conflict with transportation resources such as bus shelters or bicycle share.
- Proximity to public amenities, civic buildings, and arts and cultural institutions and venues.

Locations were refined based on feedback from community members gathered during the meetings listed above as well as other direct outreach.

*Next Steps*

If Council approves these locations, IKE Smart City may proceed to apply for permits to install the kiosks at these locations in accordance with Berkeley Municipal Code 16.12. Challenges related to accessing power or establishing power service at the proposed locations could cause delays in the installation of kiosks, and could necessitate modifications to the kiosk locations. Any changes to the locations for kiosk installation would be subject to Council review and approval.

ENVIRONMENTAL SUSTAINABILITY

The City of Berkeley's Climate Action Plan has several goals and recommended actions that will be advanced through the implementation of the IKE Smart City Kiosks. IKE Kiosks will feature real time transit information which will reinforce the City's commitment to sustainable transportation services.

RATIONALE FOR RECOMMENDATION

Pursuant to Ordinance No. 7,626-N.S. granting a Franchise Agreement with IKE Smart City, LLC, the City of Berkeley will permit the installation of up to thirty-one (31) IKE digital kiosks throughout the City of Berkeley at major intersections and arteries, key points of interest and heavily foot-trafficked areas. The agreement requires the locations for the first phase of deployment of 15 IKE Smart City Kiosks in the Downtown, Telegraph and Lorin commercial districts to be submitted to the City Council for final review and approval. The attached locations have been vetted by City of Berkeley Office of Economic Development, Visit Berkeley, commercial district associations, and community members. Staff has a high level of confidence for build-out of these fifteen sites during phase one based on the siting criteria noted above.

ALTERNATIVE ACTIONS CONSIDERED

Several other locations throughout the Downtown, Telegraph and Lorin commercial districts were considered.

CONTACT PERSON

Jordan Klein, Manager, Office of Economic Development, 510-981-7534  
Kieron Slaughter, Community Development Project Coordinator, 510-981-2490

Attachments:

- 1: IKE Smart City Kiosk Locations, Phase I
- 2: Public outreach materials



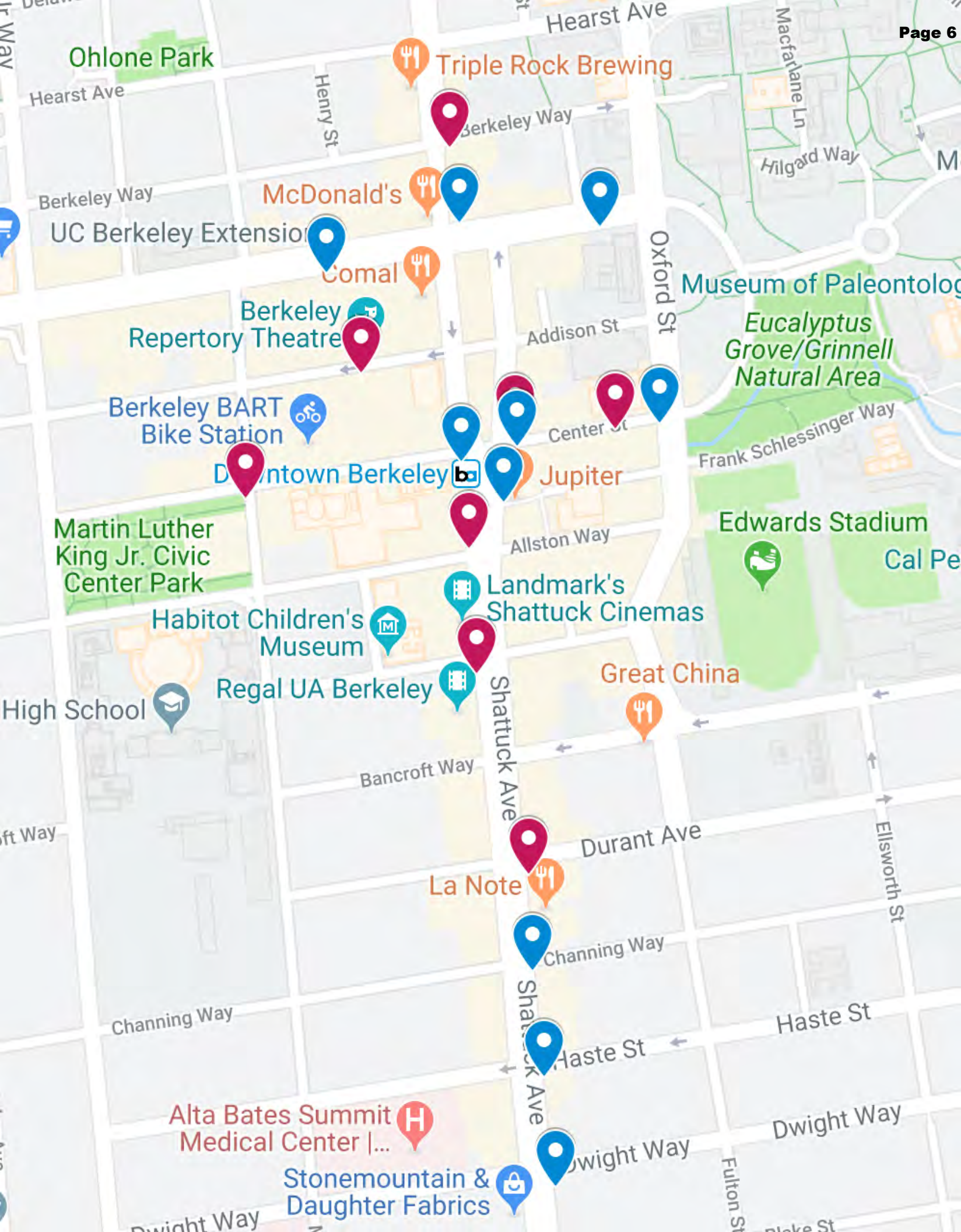
# ike

SMART CITY™

Connecting Cities with People  
City of Berkeley  
Final Location Selection  
8.21.19







**Downtown Berkeley Assoc.**

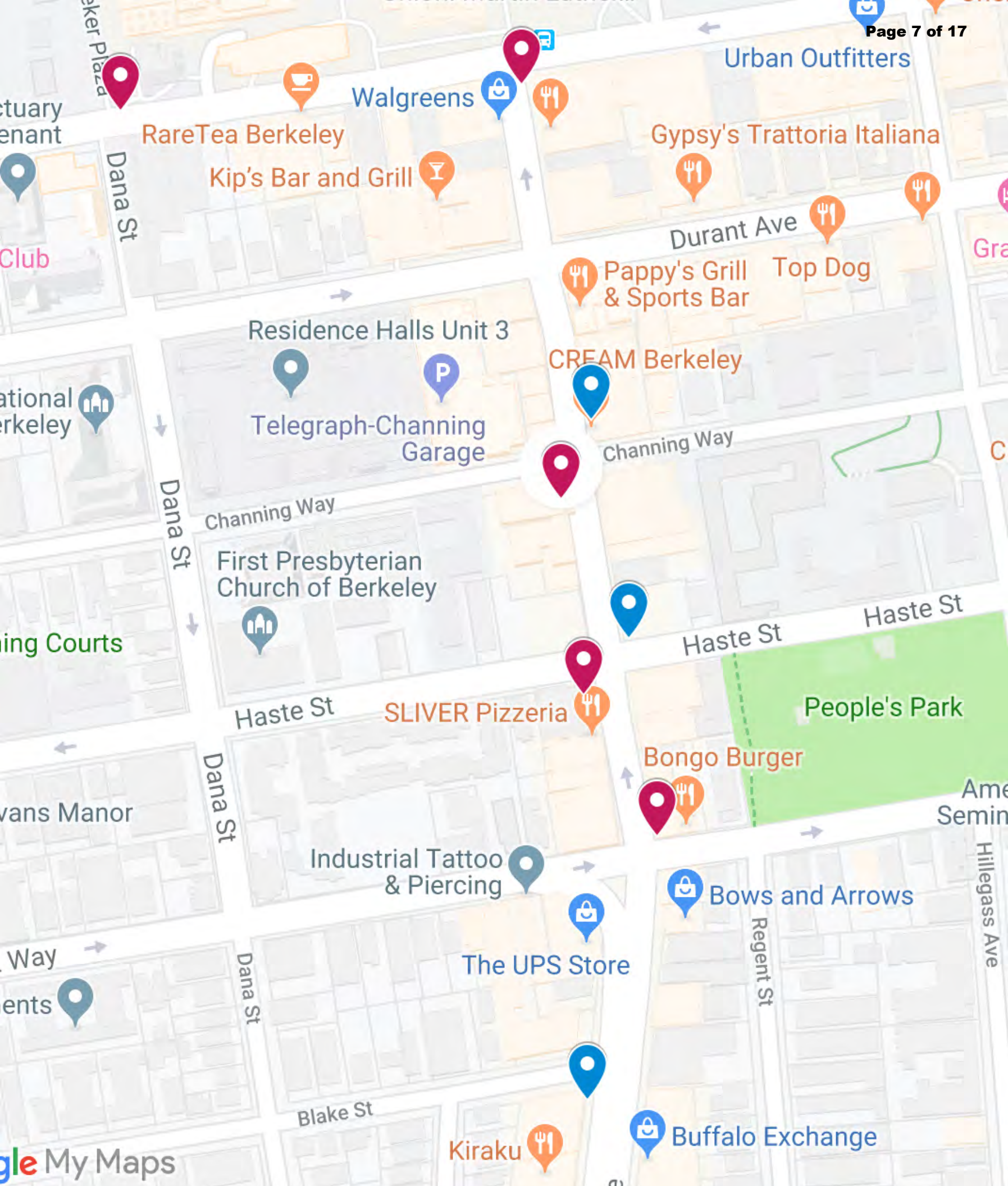
**8 Location Goal**

- 1 Center & Milvia SW (City Hall)
- 2 Shattuck & Durant
- 3 Shattuck & Kittredge
- 4 Shattuck & Allston
- 5 Center & Oxford
- 6 Addison (Shattuck & Milvia)
- 7 Berkeley Way & Shattuck
- 8 Shattuck & Center NE (New Hotel)

University & Shattuck  
 BART Plaza - Shattuck & Center W  
 University (Shattuck & Milvia)  
 Center & Shattuck SE  
 Shattuck & Haste  
 Shattuck & Dwight  
 Shattuck & Channing  
 Shattuck (Allston & Center) E  
 Center & Oxford 2  
 University & Oxford

Phase I Deployment Locations are Highlighted in Red.



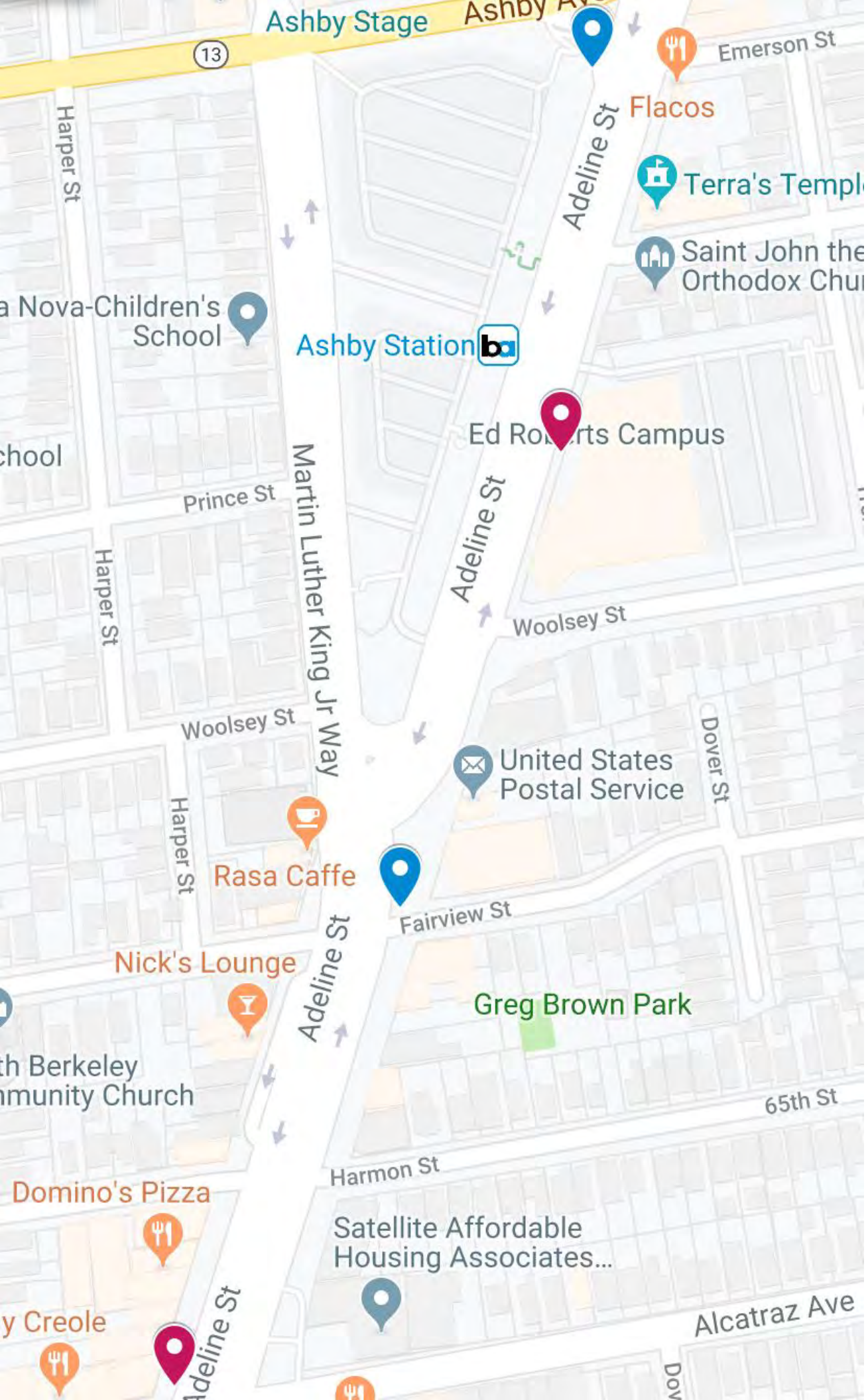


## Telegraph BID 5 Location Goal

- 1 Dana & Bancroft UC Berkeley N
  - 2 Telegraph & Bancroft
  - 3 Telegraph & Channing
  - 4 Telegraph & Haste
  - 5 Telegraph & Dwight
- Telegraph & Haste E  
Telegraph & Haste W  
Telgraph & Blake

Phase I Deployment Locations are Highlighted in Red.





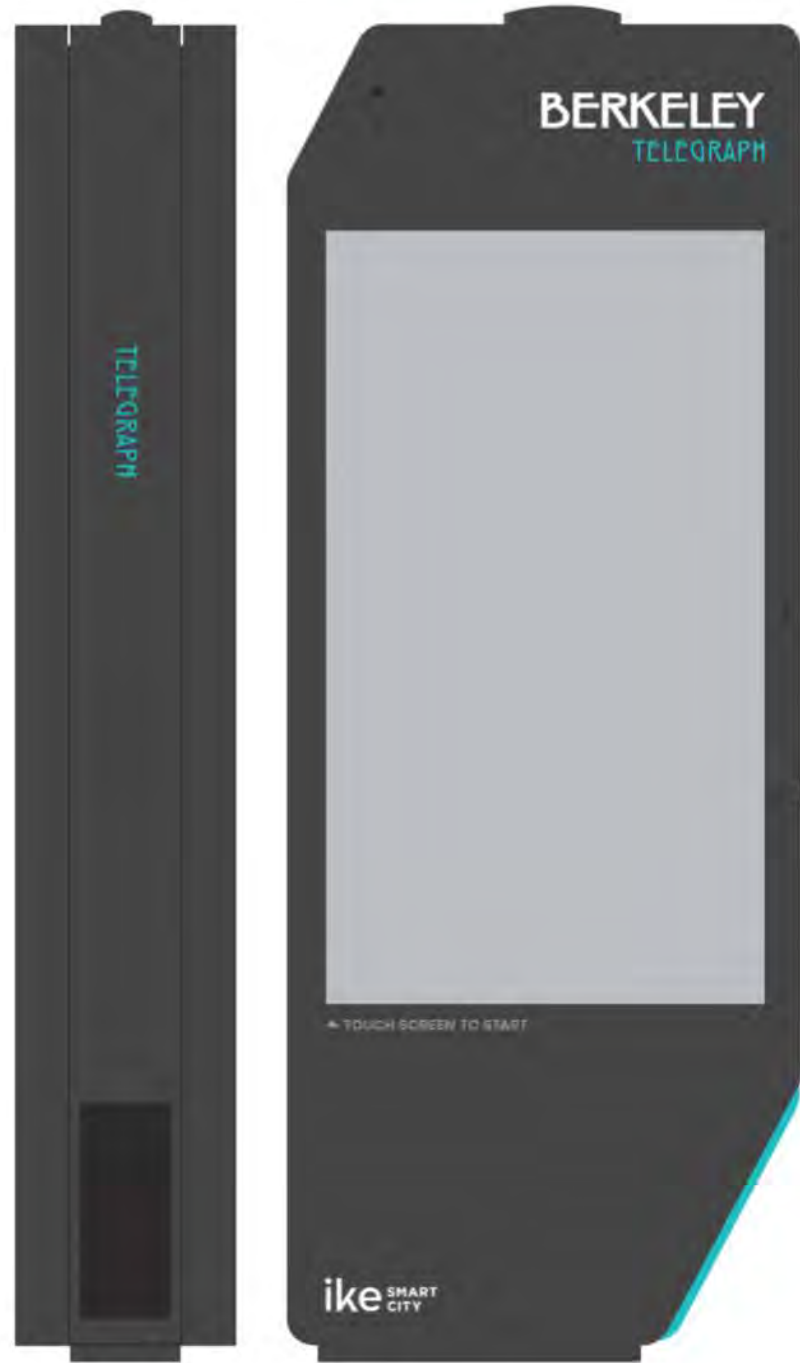
## Lorin District 2 Location Goal

- 1 Adeline & Alcatraz
- 2 Adeline & Woolsey E
- Adeline & Fairview E
- Adeline & Ashby

Phase I Deployment Locations are Highlighted in Red.



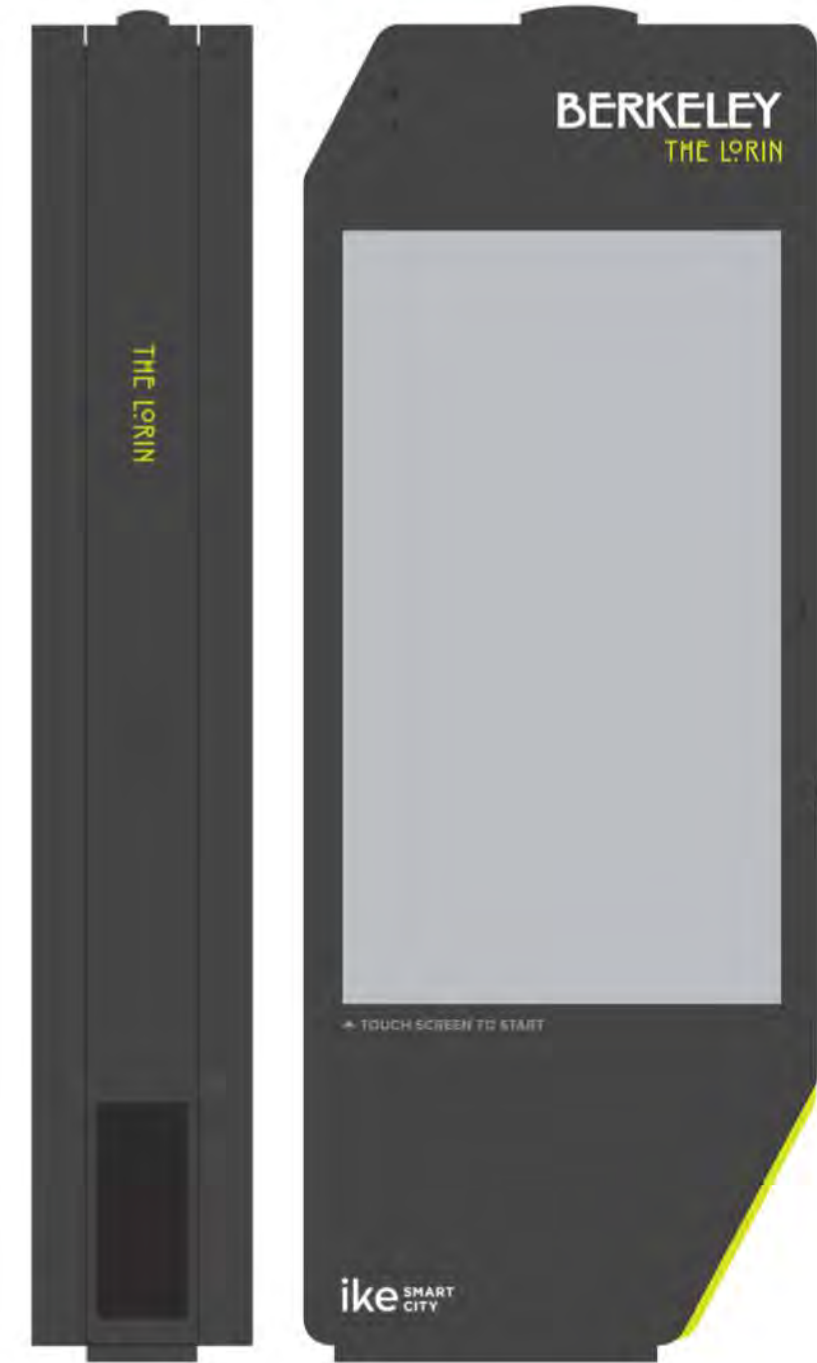
TELEGRAPH



DOWNTOWN



THE LORIN



## Public Outreach Materials



The City of Berkeley Office of Economic Development and Visit Berkeley invite you to learn more about IKE Smart City interactive, wayfinding digital kiosks at upcoming Community Outreach Meetings to be held **Wednesday, August 14, 2019.**

Three meetings are scheduled throughout the city to engage with interested parties in each of the Commercial districts receiving kiosks in the first phase of deployment.

Please join us to hear about the prospective locations for these exciting new interactive kiosks that will be installed throughout the City of Berkeley for use by residents and visitors.

**Downtown Berkeley 9:00 – 10:30am**

**Au Couquelet 2000 University Ave Berkeley, CA 97404**

**Telegraph Business District 2:00 – 3:30pm**

**Phở K & K 2533 Telegraph Ave Berkeley, CA 97404**

**Lorin Business District 5:00 – 6:30pm**

**Adelines Lab 3140 Martin Luther King Jr Way Berkeley, CA 94703**

For more information contact Kieron Slaughter at 510-9812490 or at [kslaughter@cityofberkeley.info](mailto:kslaughter@cityofberkeley.info) or Barbara Hillman at 510-549-7040 or at [bhillman@visitberkeley.com](mailto:bhillman@visitberkeley.com)


To learn more about IKE Smart City visit [www.ikesmartcity.com](http://www.ikesmartcity.com)



**THE DRINK** The Lorin District  
May 8 · 🌐

Hey Lorin folks - Come hear about IKE proposed locations in our neighborhood!

The Lorin Business Association invites you to learn more about IKE Smart City, Thursday, May 9, 4:15PM, Koret Boardroom at Ed Roberts Campus. Hear about the prospective locations for the new interactive kiosks that will be installed throughout the City of Berkeley including the Lorin District. [www.IkeSmartCity.com](http://www.IkeSmartCity.com)



4

Like Comment Share

**THE DRINK** The Lorin District  
August 5 at 4:06 PM · 🌐

Join us on August 14th to hear about IKE kiosks and their proposed locations in the Lorin!

The City of Berkeley Office of Economic Development and Visit Berkeley invite you to learn more about IKE Smart City interactive, wayfinding digital kiosks at upcoming Community Outreach Meetings to be held Wednesday, August 14, 2019....  
[See More](#)



IKE Smart City

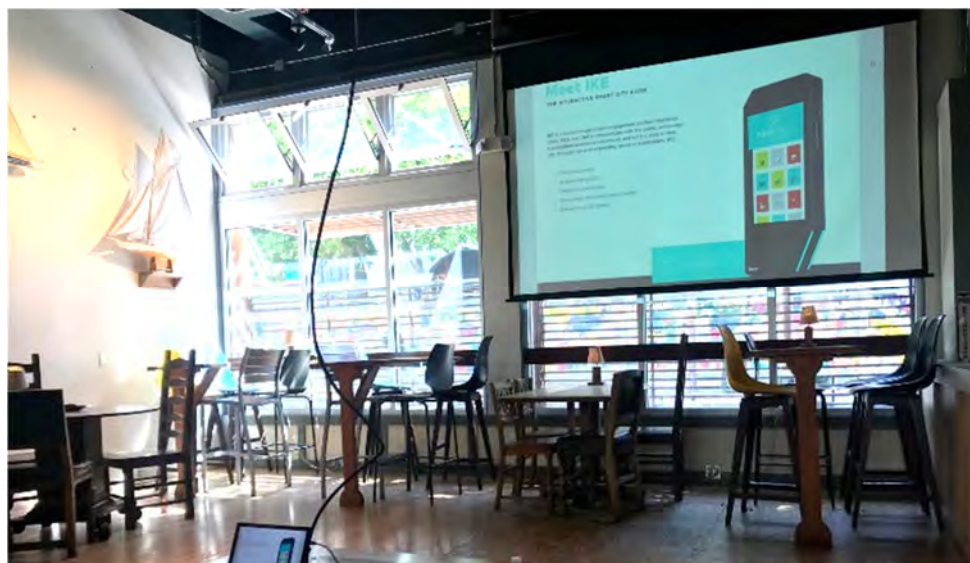
IKE Smart City



Telegraph Commercial District - Meeting #1  
 Raleigh's Bar & Grille, 2438 Telegraph Ave  
 May 1, 2019

IKE Smart City  
 Community Outreach Meeting - Sign in Sheet

| First Name | Last Name        | Business Name     | Phone Number | Email Address |
|------------|------------------|-------------------|--------------|---------------|
| Bonnie     | Gold             |                   |              |               |
| Ali        | Estami           |                   |              |               |
| SWAMI      | PRISANNATMANANDE |                   |              |               |
| Kieran     | SHREYAN          | DEB               |              |               |
| Ruben      | Leah             | U. Batus          |              |               |
| Rigel      | AL               | Parley            |              |               |
| Alexandro  | Robinson         | AMAPURMA          |              |               |
| Vernon     | OSYPER           | AMBASSADOR        |              |               |
| Rickey     | ANINA            | Ambassador        |              |               |
| Jeff       | Brown            | Ambassador        |              |               |
| Arwin      | Wick             | Ambassador        |              |               |
| Kevin      | Jeff             | Ambassador        |              |               |
| Steve      | Gilbert          | Ambassador        |              |               |
| Jon        | Justin           | Ambassador        |              |               |
| ANDREW     | Malaya           | The Ink Stone     |              |               |
| CAROL      | Gordon           | Gordon Commercial |              |               |
| CHRIS      | RUESS            | RUC-ELL           |              |               |
| Rick       | Loy              | UCD GSK           |              |               |
|            | Fairbanks        | Graduate Hotel    |              |               |
|            | LIPAVICK         | Berkeley Hotel    |              |               |
|            | PUSCH            | WEITE             |              |               |
|            |                  |                   |              |               |



Telegraph Commercial District - Meeting #2  
Phở K&K, 2533 Telegraph Ave  
August 14, 2019

IKE Smart City  
City of Berkeley  
Round 2 Community Outreach Meeting Sign In 8.13.19

| First     | Last    | Business         | Phone | Email |
|-----------|---------|------------------|-------|-------|
| KICOM     | SALGREN | CDP              |       |       |
| Timothy   | Green   | IK Berkeley      |       |       |
| BARBARA   | HILLMAN | TRIO             |       |       |
| LOAN      | REID    | VISIT BERKELEY   |       |       |
| JESSICA   | CHEN    | Sub              |       |       |
| Angie     | REID    | City of Berkeley |       |       |
| JACQUETTE |         |                  |       |       |
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**Lorin Business District - Meeting #1**  
**Ed Roberts Campus, 3075 Adeline St.**  
**May 9, 2019**

**IKE Smart City**  
**Lorin Business Association**  
**Community Outreach Meeting 1 5.9.19**

| First  | Last      | Business                   | Phone            | Email                                                                    |
|--------|-----------|----------------------------|------------------|--------------------------------------------------------------------------|
| Gina   | Moreland  | Habitat Children's Museum  | 510-947-1111 x11 | <a href="mailto:gina.moreland@habitat.org">gina.moreland@habitat.org</a> |
| Kieron | Slaughter | OED                        | 510-981-2460     | <a href="mailto:kieron.slaughter@oed.com">kieron.slaughter@oed.com</a>   |
| James  | Chang     | CM Bartlett Office         | 510-981-7130     | <a href="mailto:james.chang@bartlett.com">james.chang@bartlett.com</a>   |
| Matt   | Napoli    | CM Bartlett Office         | 510-981-2048     | <a href="mailto:matt.napoli@bartlett.com">matt.napoli@bartlett.com</a>   |
| Holly  | Bradford  | Holly Bradford Real Estate | 510-359-0940     | <a href="mailto:hbradford@hbradford.com">hbradford@hbradford.com</a>     |
| Newt   | McDonald  | Ephesian Children's Center | 510-883-2984     | <a href="mailto:newt@ephesian.org">newt@ephesian.org</a>                 |



Lorin Business District - Meeting #2  
 Adelines Lab, 3140 Martin Luther King Jr. Way  
 August 14, 2019

Lorin

IKE Smart City  
 City of Berkeley  
 Round 2 Community Outreach Meeting Sign In 8.13.19

| First   | Last      | Business       | Phone | Email |
|---------|-----------|----------------|-------|-------|
| Andrew  | Kellogg   | Adelines Lab   |       |       |
| Erin    | Stanley   | OED            |       |       |
| Mark    | Thompson  | IKE            |       |       |
| Jessica | Burton    | IKE            |       |       |
| Holly   | Bradford  | LBA            |       |       |
| DH      | MAYE ROIN |                |       |       |
| Steve   | Jake      | IKE            |       |       |
| BARBARA | HILLMAN   | VISIT BERKELEY |       |       |
|         |           |                |       |       |
|         |           |                |       |       |



Downtown Berkeley Commercial District – Meeting #1



David Brower Center, 2150 Allston Way  
 May 23, 2019

IKE Smart City  
 Community Outreach Meeting - Sign In Sheet

| First Name    | Last Name     | Business Name     | Phone Number | Email Address |
|---------------|---------------|-------------------|--------------|---------------|
| 2<br>LAVIE    | ZICH          | DAVIDSON DECK     |              |               |
| 7<br>MARK     | RHEADES       | RPG               |              |               |
| 4<br>Mark     | Thompson      | IKE Smart City    |              |               |
| 5<br>Anica    | BLOCKER       |                   |              |               |
| 6<br>Sony     | Odell-Swedley | Freight & Salvage |              |               |
| 7<br>David    | Barnes        |                   |              |               |
| 8<br>Carissa  | Lee           | AC Transit        |              |               |
| 9<br>Cherie   | Hill          | Berkeley Cultural |              |               |
| 10<br>W       | TIPINIG       | TIPINIG STUDIO    |              |               |
| 11<br>Krisa   | Shawley       | RED               |              |               |
| 12<br>Matt    | Tascher       | Tascher Planning  |              |               |
| 13<br>Marilyn | Wong          | citizen           |              |               |
|               | Thompson      | citizen           |              |               |



Downtown Berkeley Commercial District - Meeting #2



Au Couquelet, 2000 University Ave  
August 14, 2019

IKE Smart City  
City of Berkeley  
Round 2 Community Outreach Meeting Sign in 8.13.19

| First    | Last      | Business                     | Phone | Email |
|----------|-----------|------------------------------|-------|-------|
| ADAM     | SILVERMAN | CEO                          |       |       |
| Scott    | Adams     | CB District                  |       |       |
| Edwards  | Yee       | SWING                        |       |       |
| John     | Yee       | DBA                          |       |       |
| BARBARA  | HILLMAN   | Business Rep<br>MAY BERKELEY |       |       |
| Conrad   | Levine    | IKE                          |       |       |
| Frank    | Levinson  | IKE                          |       |       |
| Jessie   | Levinson  | YEE                          |       |       |
| Wendy    | Levinson  | DBA                          |       |       |
| Caroline | Moore     | The Theatre                  |       |       |
| Rita     | Manning   | DBA                          |       |       |
| Steph    | Sale      | IKE                          |       |       |
| SIMONE   | ARRALO    | HEATHER GELADO               |       |       |







Office of the City Manager

05

CONSENT CALENDAR  
September 24, 2019

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Jordan Klein, Economic Development Manager  
Subject: Referral Response: Modifications to the Zoning Ordinance to Support Small Businesses

RECOMMENDATION

Refer to the Planning Commission modifications to the Zoning Ordinance that are designed to streamline the zoning review process for new or expanding small businesses in Berkeley.

SUMMARY

In April 2017, City Council referred to the City Manager analysis of a number of policy and programmatic initiatives to support the City's small businesses, including "streamlining of zoning, permitting and licensing requirements and processes." In February of 2019, six changes to the Zoning Ordinance were enacted. Subsequently, staff from the Office of Economic Development (OED) have identified eight additional potential modifications to the Zoning Ordinance for the Council and Planning Commission to consider. These eight changes are proposed in Berkeley's commercial zoning districts to make the permitting review process for small businesses less complex and time consuming:

1. Consider permitting Group Instruction (Dance Studios, Yoga Studios, Martial Arts, Exercise) with a Zoning Certificate.
2. Clarify the threshold for design review and the applicability of design guidelines for sign applications in commercial districts.
3. Consider permitting the sale of Distilled Spirits that are incidental to a Food Service Establishment with an Administrative Use Permit (AUP) subject to performance standards.
4. Consider permitting standalone Beer and Wine Sales (such as Tap Rooms and Wine Bars) with a Zoning Certificate subject to performance standards.
5. Consider modifying the limitation on hours of operations in some commercial districts.
6. Consider the necessity of 'change of use' requirements in commercial districts.
7. Consider the appropriate levels of discretion for Arcades and Automatic Teller Machines (ATMs) commercial districts.

8. Update the Special Use Standards in Section 23E.16.040 for Alcoholic Beverage Sales and 23E.16.050 Amusement Arcades to reflect the proposed changes to the Zoning Ordinance.

These proposed revisions reflect input from the small business community and are seen by staff as relatively straightforward opportunities to modernize and improve the Zoning Ordinance to reflect present day conditions and community values. Each of these proposed modifications is designed to make the zoning review process for small businesses easier, clearer, and more streamlined.

#### FISCAL IMPACTS OF RECOMMENDATION

Modifications to the Zoning Ordinance, and the accompanying public hearings, will require staff time from the Planning Department, Office of Economic Development, and City Attorney's Office to produce staff reports and attend the required Planning Commission and City Council hearings. Proposed modifications are designed to simplify the planning review process for desirable business activities (including new business starts and expansions) and therefore may result in a modest increase in business license tax and sales tax revenues.

#### CURRENT SITUATION AND ITS EFFECTS

The Zoning Ordinance has evolved over decades to reflect Berkeley's changing values and the changing landscape of property development and land use. Its requirements are intended to guide the City's growth while preserving its existing character. However, businesses and people operate differently than they did 20 to 50 years ago, and some of the current permit thresholds and ordinance requirements do not recognize these changes. This results in a permitting process that can be unnecessarily lengthy and cumbersome, especially for independently-owned small businesses without the sophistication to navigate our complicated code and permitting process. Since its last major overhaul in 1999, the Zoning Ordinance has been updated in large and small ways at least 16 times to reflect new approaches to land use and changes in the ways businesses function and residents view their community. Staff has observed that it is particularly difficult for smaller, independently-owned businesses to navigate the permit review process and the associated timelines and expense. The modifications proposed here are designed with the unique needs and challenges of small businesses in mind. Further, these recommendations follow up on the recently adopted (January 2019) zoning modifications to support small business that have improved the experiences in several cases over a period of five months.

In order to update our ordinance to better accommodate today's locally-owned, small, independent enterprises that are highly desirable to our community, and to adhere to best practices in planning and sustainable economic development, staff recommends the eight modifications to the Zoning Ordinance listed above to provide regulatory relief for small businesses in their establishment or expansion phases. These changes are an important component and continuation of a broader effort to improve our organization's embrace of our customer service and Strategic Plan goals to "foster a dynamic, sustainable, and locally-based economy" and "provide excellent, timely, easily-



accessible service and information to the community,”<sup>1</sup> while honoring the City’s commitment to public participation and ensuring that new uses are compatible with neighboring land uses.

## BACKGROUND

On April 25, 2017, the City Council referred to the City Manager a bundle of recommendations entitled the “Small Business Support Package” with the objective to “to support the establishment of new, and sustainability of existing small and/or locally owned businesses.” Among the strategies that Council asked staff to analyze and implement included “streamlining of zoning, permitting and licensing requirements and processes for small/local businesses and not-for-profits, to reduce associated costs and delays, and, where appropriate, provide less onerous levels of review.”<sup>2</sup> In the Council’s annual referral prioritization exercise conducted in May 2017, the item was ranked as the Council’s top priority among the referrals not pertaining to housing.

Subsequently, during summer and fall of 2017, Office of Economic Development (OED) staff conducted significant outreach and research on Berkeley’s small businesses and compiled its findings in a work session report and presentation to council on January 16, 2018.<sup>3</sup> Small business owners and advocates identified the lengthy permitting review process as one of the primary barriers to small business startup and expansion in Berkeley. As a result, staff recommended six modifications to the Zoning Ordinance that were adopted by the City Council on January 22, 2019.<sup>4</sup> Over six months since the zoning modifications went into effect, several business have benefited from the amendments by reducing months of permit review time and additional expenses. For example, Thai Corner at 1277 Gilman Street, the Sundhari Spa at 1605 Solano Avenue, and AxeVentures at 2566 Telegraph Avenue each were able to open their business or expand their hours via a Zoning Certificate, rather than wait several months for an AUP. In addition, the zoning modifications were acknowledged by the Northern California Chapter of the American Planning Association (NorCal APA) with an Award of Merit in Economic Planning and Development.

The goal of this second round of zoning changes is again to improve and simplify the permitting experience for small businesses, which can in turn enhance the quality of commercial district offerings, help fill vacant storefronts, and generate more local and sustainable economic opportunities. The recommendations distill specific complaints, concerns, challenges, and staff observations into concise changes to the zoning ordinance designed specifically to alleviate long permit queues, clear up applicant confusion, and streamline the experience of doing business in Berkeley. The

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<sup>1</sup> See *City of Berkeley 2018-2019 Strategic Plan*, adopted by Berkeley City Council, January 16, 2018.

<sup>2</sup> See *Small Business Support Package*, adopted by Berkeley City Council, Item 41, April 25, 2017.

<sup>3</sup> See *Economic Development Worksession, Small Business Support*.

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

<sup>4</sup> See *Referral Response: Modifications to the Zoning Ordinance to Support Small Businesses*, adopted by City Council, Item 1, January 22, 2019

[https://www.cityofberkeley.info/Clerk/City\\_Council/2019/01\\_Jan/Documents/2019-01-22\\_Item\\_01\\_Ordinance\\_7635.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/01_Jan/Documents/2019-01-22_Item_01_Ordinance_7635.aspx)

recommendations are also informed by outreach, conducted February through August 2019, to neighborhood stakeholders, business owners, elected officials and commissioners. Staff aimed to identify and streamline the particular controls that lengthen the review process for desired and noncontroversial uses. In addition, the recommendations are consistent with purpose statements for commercial districts in section 23E of the Zoning Ordinance.

The following recommendations and rationale continue to iterate on the progress and inputs gathered from the first round of zoning amendments to support small businesses:

1. Consider permitting Group Instruction (Dance Studios, Yoga Studios, Martial Arts, Exercise) with a Zoning Certificate. Currently the Zoning Ordinance requires an AUP for Group Class Instruction in the majority of commercial zoning districts. A new yoga studio or exercise studio, or businesses interested in adding classes to an existing business, such as an art gallery or culinary business, are subject to discretionary review through an AUP application. The AUP requirement typically lengthens the zoning review process by three to six months, and typically increases the cost by roughly \$1,000 to \$4,000.

OED staff has observed an increase in business models that employ a combination of retail and/or food consumption with instruction, training and class offerings. As the prevalence of online purchases for soft goods (e.g., clothing, books, music) increases, these creative commercial uses are increasingly critical to the vitality and sustainability of neighborhood commercial districts. Therefore staff recommends amending the Zoning Ordinance to permit these uses in commercial districts with a Zoning Certificate.

2. Clarify the threshold for design review and the applicability of design guidelines for sign applications in commercial districts. Section 20.12.070 of the Zoning Ordinance and Section 23E.08.020 of the Sign Code have conflicting and contradictory language related to the threshold for the design review of a new sign and the requirements for a Sign Permit. In addition, the current application for Signs and Awnings throughout the City refer to the Downtown Sign Guidelines; those guidelines have been used for the review and processing of signs beyond Downtown. This has led to confusion for applicants, business owners and sign companies wishing to do business in Berkeley. The impact is especially detrimental to small, independent business owners interested in opening a new business with a new sign.

To remedy this, staff recommends a minor modification to the language in Section 23E.08.020 Applicability of Design Review in non-residential districts to clarify the types of signs that are subject to design review and signs that are exempt. In addition, the Planning Commission should determine whether the Downtown Sign Guidelines are suitable for the evaluation of signs throughout the City or only Downtown.

3. Consider permitting the sale of Distilled Spirits that are incidental to a Food Establishment with an Administrative Use Permit (AUP) subject to performance standards. Presently an operator of a food service establishment must obtain a Use Permit with a Public Hearing UP(PH) to serve distilled spirits. This review process is separate from and in addition to the review process an owner or operator is subject to by Alcohol Beverage Control (ABC), the state agency regulating the sale, service, and production of alcohol. The UP(PH) requirement typically lasts between five to eleven months, and includes \$5,215 in fees. The requirement also generates additional demands on Planning staff and the Zoning Adjustments Board, and uncertainty for food service purveyors.

Staff recommends the incidental service of distilled spirits at a food establishment be permitted via an AUP, subject to specific conditions of approval and the adopted performance standards which are approved by Berkeley's law enforcement officials and in line with the best practices employed by the state ABC. Nearby residents and property owners will still be notified of the proposed use and will have the ability to provide comments and appeal the Planning Department's decision.

4. Consider permitting standalone Beer and Wine Sales (such as Tap Rooms and Wine Bars) with a Zoning Certificate subject to performance standards. Currently, tap rooms, wine bars and tasting rooms are subject to the UP(PH) process in most commercial districts. As noted above, the UP(PH) requirement typically lasts between five to eleven months, and includes \$5,215 in fees. The requirement also generates additional demands on Planning staff and the Zoning Adjustments Board, and uncertainty for entrepreneurs interested in this type of business. This review process is separate from and in addition to the review process an owner or operator is subject to by Alcohol Beverage Control (ABC), the state agency regulating the sale, service, and production of alcohol.

Staff recommends that standalone beer and wine sales be permitted via a Zoning Certificate, subject to the performance standards which are approved by Berkeley's law enforcement officials and in line with the best practices employed by the state ABC. The City of Berkeley has an emerging wine and beer scene, resulting in additional tourism, tax revenue, manufacturing and job creation; this policy change could help to encourage its continued expansion.

5. Consider modifying the limitation on hours of operations in some commercial districts. Currently, several commercial zoning districts limit the hours of operation for businesses; e.g., businesses in the Elmwood District may not operate outside of 7am-11pm. In order for a business to exceed the existing limits, they must apply for a UP(PH) (adding approximately five to eleven months and \$5,215 in fees to the zoning approval process). This is a significant obstacle for many business owners and has served as a deterrent for entrepreneurs that may be interested in providing food and drinks to customers after 11:00 pm. Many of the City's entertainment activities end at or after 11:00 pm; in some

districts, the limits on hours of operations restricts businesses from offering complementary services. This could result in lost tax revenue, job opportunities and lost business to adjacent cities. Staff recommends that the Planning Commission consider removing the blanket restriction in some or all commercial districts, allowing business owners to maintain hours of operation that comply with any applicable State laws and are aligned with their business model and customer demand.

6. Consider the necessity for 'change of use' requirements in commercial districts triggered by square footage. Currently in some C-prefixed districts, a change of use above a certain square footage threshold necessitates an AUP or a UP(PH). A commercial change of use requirement based on square footage is atypical; surrounding jurisdictions do not impose this level of scrutiny on neighborhood serving business, which puts Berkeley at a competitive disadvantage in its attraction of new businesses to larger commercial spaces. Each district's Use Table makes allowances for different levels of discretionary review for particular uses based on square footage thresholds. This additional requirement therefore adds to the overall complexity of the zoning ordinance; as it is a supplemental requirement implemented via an asterisk, often it is initially overlooked by applicants.

Staff recommends that the Planning Commission review the appropriateness and benefits of an AUP for a Change of Use and consider eliminating the requirement in some or all commercial districts. Proposed uses would be evaluated and reviewed based on the levels of discretion defined in the Use Table for each district.

7. Consider the appropriate levels of discretion for Arcades and Automatic Teller Machines (ATMs) commercial districts. Commercial recreation uses that are classified as Arcades (e.g., Emporium and 90's Experience, Oakland, CA and the High Scores Arcade Museum, Alameda, CA) have become increasingly popular and prevalent. With the rise of internet sales posing challenges to retailers, these types of experiential commercial establishments have become increasingly important to the overall health of commercial districts. However, Berkeley's existing zoning controls make it difficult or impossible to open that type of establishment in most districts. Currently, Arcades are either prohibited or require a UP(PH), which adds approximately five to eleven months and \$5,215 in fees to the zoning approval process. The requirement also generates additional demands on Planning staff and the Zoning Adjustments Board, and uncertainty for entrepreneurs interested in this type of business.

ATMs also typically require an AUP or UP(PH), and in some districts are prohibited unless part of a Financial Institution. ATMs are often a beneficial and complimentary element for active commercial districts, especially if there's a lack of financial institutions in the area like some parts of Berkeley. Furthermore, the City of Berkeley is considering a policy that would require businesses to accept



cash. Staff recommends that the Planning Commission review the levels of discretion for Arcades and ATM's in commercial districts.

8. Update the Special Use Standards in Section 23E.16.040 for Alcoholic Beverage Sales and 23E.16.050 Amusement Arcades to reflect the proposed changes to the Zoning Ordinance. The Special Use Standards in Section 23E.16.040 for Alcoholic Beverage Sales and 23E.16.050 Amusement Arcades provide additional requirements and limitations for certain uses in the Zoning Ordinance. Several of the regulations are limiting and don't reflect the current standards in other jurisdictions. In addition, these sections would need to be modified to be consistent with the recommended Zoning Ordinance amendments above. Furthermore, the Public Convenience or Necessity findings for alcohol use and the distance buffers for Arcades are overly restrictive, don't reflect best practices and conflict with typical business practices. For example, Section 23E.16.040(A)(1)(b)(5) states "*no beer or wine may be distributed in its original bottle or can.*" Staff recommends that the Planning Commission consider updating the Special Use section of the ordinance to be reasonable, enforceable and be consistent with surrounding jurisdictions.

#### *Next Steps*

Staff recommends that City Council review and adopt this referral to Planning Commission. Subsequently, Planning Department staff would present the Planning Commission with information, case studies and analysis relevant to each proposed change, seek guidance from the Commission, and draft Zoning Ordinance amendments for the Commission's review. It is possible that some of the recommendations may be implemented as part of the Zoning Ordinance Revision Project (ZORP), a current initiative to modernize and streamline the Zoning Ordinance. Planning Commission hearings will provide opportunities for additional feedback from small business owners, citizens, neighborhood associations, and commercial district groups.

#### *Strategic Plan Connection*

This referral is a component of a Strategic Plan Priority Project (Small Business Support), advancing our goals to provide an efficient and financially-healthy City government; to foster a dynamic, sustainable, and locally-based economy; and to be a customer-focused organization that provides excellent, timely, easily-accessible service and information to the community.

#### ENVIRONMENTAL SUSTAINABILITY

Many of the City's environmental sustainability goals are inextricably tied to the overall health of the City's economy. Small businesses make up the bulk of Berkeley's economy. Small businesses often contribute to sustainable transportation and consumer behavior by providing opportunities to shop in neighborhood commercial districts that are accessible by foot, bicycle and transit.

#### RATIONALE FOR RECOMMENDATION

Berkeley's commercial districts, and the small businesses that comprise them, are vital to the City's economic, social and civic wellbeing. These zoning changes represent the

most immediate and straightforward approach the City can take to assist small businesses and potentially reduce commercial vacancies. They are designed specifically to support small independent operators seeking to invest and activate these districts, and will provide the community with needed goods and services. These changes also have the added addition of improving our city's internal permitting processes, by shortening timelines and improving customer service.

ALTERNATIVE ACTIONS CONSIDERED

Staff considered various other changes to levels of discretionary review and other zoning compliance review for commercial uses, but recommends moving forward with the modifications proposed above while continuing to gather input on additional changes.

CONTACT PERSON

Jordan Klein, Economic Development Manager, (510) 981-7534  
Kieron Slaughter, Community Development Project Coordinator, (510) 981-2490



Office of the City Manager

CONSENT CALENDAR  
September 24, 2019

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Jordan Klein, Economic Development Manager  
Subject: Revisions to the Berkeley Revolving Loan Fund Administrative Plan

RECOMMENDATION

Adopt a Resolution approving the revised Administrative Plan for the Berkeley Revolving Loan Fund (RLF).

FISCAL IMPACTS OF RECOMMENDATION

There is no immediate fiscal impact of the Council resolution approving the revised Administrative Plan. Staff anticipates that the modification of the administrative plan will result in the origination of more loans and an increased economic benefit to the City as a whole due to the potential creation of new businesses and business licenses.

CURRENT SITUATION AND ITS EFFECTS

The Loan Administration Board (LAB) worked with staff and partner organizations to recommend a set of targeted modifications to the current Administrative Plan that would make the program more accessible to worker owned cooperatives. At its July 2, 2019 meeting, the LAB voted to approve the attached modifications to the Administrative Plan (see attachment 1A) (M/S/C Shamszad/Crandall; Ayes: Shamszad, Crandall, Fernandez; Nays: none; Abstentions: Shoaf; Excused/Absent: (e), Sze, (a) Forbes. City Council action is required in order to finalize the changes to the RLF Administrative Plan.

BACKGROUND

In 1980, the City of Berkeley received a \$500,000 grant from the Economic Development Administration (EDA) to administer a commercial Revolving Loan Fund (RLF). The principal goals of the RLF are job creation and assistance to small women and minority owned- businesses. Businesses and nonprofit organizations located in Berkeley are eligible for loans with interest rates and terms that are below market. As loan recipients make payments, and as the loan portfolio earns income from interest charged on loans, these funds are used to provide additional loans to new loan recipients.

The original RLF Target Area included a portion of South Berkeley in the commercial areas along Adeline and Sacramento streets, generally between Russell Street on the

north and the Oakland border on the south. The subsequent expansion approved by U.S. Economic Development Administration (EDA) in 2005 moved the northern-most boundary to Dwight Street and west to San Pablo Avenue, leaving the southern and eastern boundaries the same. In 2010 the target area was expanded to encompass the entire City of Berkeley.

Worker owned cooperatives make vital contributions to Berkeley's local economy. Owned and run by employees, these businesses often provide higher wages, benefits, professional development, job security, and upward mobility for low to moderate income people. Just as importantly, these small businesses provide a diversity of locally owned services that become valuable community assets. In the City of Berkeley there are a number of worker cooperatives that have become part of the community's fabric such as The Cheese Board Collective, Biofuel Oasis and Missing Link Bicycle Cooperative.

Worker owned cooperatives are at a disadvantage to conventional hierarchical business ownership models when it comes to accessing startup capital. Equity investors and banks tend to be unfamiliar with, and are often unwilling to invest in, cooperatives with multiple owners and unique governance models. According to United for a Fair Economy, "one of the main barriers to business ownership for people of color is access to start-up capital" and worker cooperatives make business ownership more accessible.<sup>1</sup>

On February 9, 2016, Council referred to the City Manager the development of policies and programs to support worker cooperatives, including increasing access to capital.<sup>2</sup> OED and the Finance Department have undertaken a variety of activities in response to this referral, as outlined in an information report submitted to Council earlier this year.<sup>3</sup> Over the past ten months, OED staff and the Loan Administration Board, a City of Berkeley commission that provides oversight for the RLF, have worked with SELC staff to consider modifications to the RLF Administrative Plan to support worker owned cooperatives. The LAB formed a subcommittee to evaluate potential amendments to the Administrative Plan. At the July 2, 2019 LAB meeting, the Board voted to approve the amendments to the Administrative Plan, as indicated in attachment 1A and summarized below:

1. Enable the use of loan capital for conversion to worker ownership. Businesses at risk of closure because the owner is retiring or putting the business on the market will now be able to use RLF funds to help the workers acquire and democratically own and operate the business, keeping it rooted in Berkeley and elevating the jobs and wealth-building opportunities provided to its employees.

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<sup>1</sup> <https://institute.coop/news/creating-better-jobs-and-fairer-economy-worker-cooperatives>

<sup>2</sup> [Supporting Worker Cooperatives and Referral to City Manager to Develop a Worker Cooperative Ordinance](#), Item 27, Berkeley City Council Meeting, February 9, 2016.

<sup>3</sup> [Referral Response: Supporting Worker Cooperatives](#), Item 22, Berkeley City Council Meeting, February 19, 2019

2. Clarify and limit the personal guarantee requirement for cooperatives. Worker cooperatives will be able to select an ownership panel to provide the personal guarantee and credit report required to access RLF funds, rather than require every single member to provide such a guarantee. The amendment will allow a group of principals to produce 10% of the equity for an existing cooperative or a business converting to a cooperative, or 20% for a startup cooperative. This will result in more cooperatives being eligible for RLF funding, since having some members with damaged credit, or unable to take on the risk of a personal guarantee, will not be a barrier to eligibility. This policy will also reduce the risk each member would be required to take on.
3. Include the creation or retention of worker-owned jobs as a selection criteria. The creation of worker-owned jobs will now be included in the loan selection criteria. This will allow a wider range of applicants, specifically worker owned cooperative applicants to be eligible for a Berkeley Business Loan.
4. Add a new goal of the RLF to allocate a minimum of 10% of the loan portfolio to worker owned cooperatives of businesses converting to democratic worker ownership. This goal will provide clarity on the City and LAB's support for worker owned cooperatives and can provide additional guidance for LAB members when reviewing loan applications.

These changes will make the RLF more accessible to worker owned cooperatives seeking to obtain financing, and would make the City of Berkeley one of the first cities in the country to offer loan funding tailored to the needs of worker owned cooperatives. EDA requires that the City adopt an Administrative Plan to govern origination and servicing of loans. Any changes in the Administrative plan require a revision and adoption of a new Plan or an amendment to the Plan.

#### ALTERNATIVE ACTIONS CONSIDERED

None.

#### CONTACT PERSON

Jordan Klein, Economic Development Manager, 510-981-7534

Kieron Slaughter, Community Development Project Coordinator, 510-981-2490

#### Attachments:

1: Resolution

Exhibit A: Berkeley Revolving Loan Fund Administrative Plan

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

APPROVING AMMENDMENTS TO THE ADMINISISTRATIVE PLAN FOR THE  
BERKELEY REVOLVING LOAN FUND (RLF) TO SUPPORT WORKER OWNED  
COOPARTIVES

WHEREAS, the City of Berkeley received a \$500,000 grant from the federal Economic Development Administration (EDA) in 1980 to administer a commercial Revolving Loan Fund (RLF) for eligible businesses in the South Berkeley Target Area; and

WHERAS, the City approved a revision to the administrative plan in 2005, which included an expansion of the original target area; and

WHEREAS, the City approved a revision to the administrative plan in 2010, which included expansion of the target area to the entire City; and

WHEREAS, Worker owned cooperatives provide jobs that give their worker/owners democratic control over their workplaces, provide equity-building opportunities as business owners, and pay and benefits that can exceed industry standards; and

WHEREAS, Worker owned cooperatives are at a disadvantage to conventional hierarchical, capitalistic models when attempting to access startup capital; and

WHEREAS, RLF funding can provide a much needed resource to the growing number of businesses considering the worker owned cooperative form, and to business owners looking to retire in a way that values their efforts, legacy, and labor; and

WHEREAS, the Loan Administration Board considered amendments to the Administrative Plan so that the RLF can more effectively offer financing for both startup and newly converted worker owned cooperatives; and

WHEREAS, On July 2, 1019, the Loan Administration Board approved the recommended amendments to the Administrative Plan.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley hereby approves the revised Administrative Plan for the Berkeley Revolving Loan Fund, as required by the Economic Development Administration (EDA). A copy of said Plan shall be placed on file with the City Clerk.

Exhibits

A: Berkeley Revolving Loan Fund Administrative Plan

# City of Berkeley Revolving Loan Fund Administrative Plan

OFFICE OF ECONOMIC DEVELOPMENT  
CITY OF BERKELEY, CA  
1/31/2017



**CITY OF BERKELEY REVOLVING LOAN FUND  
ADMINISTRATIVE PLAN**

**EDA #07-39-02523**

**Approved by the Loan Administration Board,**

**Adopted by Berkeley City Council Resolution No. \_\_\_\_\_-N.S.,**

**Approved by the Economic Development Administration**

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## PART 1: THE REVOLVING LOAN FUND (RLF) STRATEGY

The RLF is designed to address areas of economic distress in the City of Berkeley and help implement the City's economic development strategy for the Target Area as summarized below.

Small businesses and start-ups often are unable to access private capital for financing business expansion and improvements. Those who can meet private capital procurement requirements may do so at higher prices. In order to lessen this burden to local businesses, the RLF is designed to supplement private financing for tenant improvements and fixed assets such as equipment for businesses. Use of RLF funds in tandem with private financing can reduce the cost of private financing, thereby increasing the availability of private capital to businesses that are located in Berkeley.

### A. TARGET AREA OVERVIEW

#### 1. The Changing Economic Climate in Berkeley

At the inception of the RLF in 1980, the Target (lending) Area was exclusively in South Berkeley, where many of the City's lowest income and minority residents were clustered. Though South Berkeley continues to be one of the economically depressed areas in the City, poverty and unemployment are somewhat less geographically concentrated in South Berkeley than they were in the 80s, 90s, and the aughts (00s).

Expansion of the Target Area in 2011 to the full City of Berkeley did not mean that the RLF ceased lending in South Berkeley, or ceased lending to retail businesses. In fact, the opposite occurred. Once the program had a larger target area, it netted more applicants to the loan program, and increased visibility of this viable business assistance resource. In order to promote small business growth and add jobs to the Berkeley employment base, the RLF continues to need the flexibility to consider loan requests from businesses throughout all of Berkeley that have the potential to create more and better-quality jobs.

This RLF Administrative Plan update stems from a regional strategy document, Building on Our Assets<sup>1</sup> that has been reviewed by the Economic Development Administration (EDA) and certified as a Comprehensive Economic Development Strategy (CEDS) and is currently in the process of being updated into a region-wide (Bay Area) CEDS.<sup>2</sup>

There are also several area plans that dictate the direction of economic development activity in the City of Berkeley. Within the boundaries of the Target Area there are specific area plans in place, including:

- Adeline Corridor Plan\* (\*anticipated adoption in 2018)
- Southside Plan (2011)
- Berkeley General Plan (2003)
- South Shattuck Strategic Plan (1997)
- University Avenue Strategic Plan (1996)
- West Berkeley Plan (1993)
- Downtown Plan (1990)
- South Berkeley Area Plan (1990)
- Waterfront Master Plan (1986)

<sup>1</sup>East Bay Economic Development Alliance, *Building on Our Assets, Economic Development & Job Creation in the East Bay*, A regional economic assessment, October 2011. See: [http://www.eastbayeda.org/ebeda-assets/reports/2013/Econ%20Report\\_Building\\_on\\_Our\\_Assets\\_Report\\_2011.pdf](http://www.eastbayeda.org/ebeda-assets/reports/2013/Econ%20Report_Building_on_Our_Assets_Report_2011.pdf)

<sup>2</sup> For more on the region-wide CEDS update, see: <http://abag.ca.gov/planning/economic.html>, anticipated fall 2017.

All other areas that do not fall within the area plans specified fall within the jurisdiction of the City of Berkeley's General Plan's Economic Development and Employment Element.

## 2. Target Area Resources and Assets

The commercial areas within the Target Area are primarily developed with a mix of residential and business clusters/corridors. The South Berkeley area can be characterized as neighborhood commercial districts on arterial streets: Adeline Avenue, Shattuck Avenue, Sacramento Street/San Pablo Avenue have a mix of smaller retail and service-sector businesses. Additionally, some light industrial and food processing establishments also exist along San Pablo Avenue. Research and Development (R&D) firms are highly concentrated in, but not limited to, the West Berkeley area. In the past decade, West Berkeley has experienced continued growth in biotechnology, pharmaceuticals, environmental services and food processing. While there was a vested effort to attract growth in the previous (pre-2011) Target Area (South Berkeley), there was very little success in doing so. The 2011 Target Area Expansion provided an opportunity to assist these growing sectors in their development, while continuing to assist traditional retail businesses along the south Berkeley commercial corridors.

The expansion of the Target Area continues to possess a number of resources and potential opportunities for synergistic economic development and growth, including:

- Availability of commercial zoned vacant or underutilized parcels along major traffic corridors,
- Numerous commercial districts with unique tenant mixes;
- Organized merchant associations in many districts of the city;
- Recent and planned public improvements along major corridors and BART stations;
- A high degree of community involvement and support for economic development and revitalization efforts;
- Commitment of a significant amount of City and federal resources, including the recent development projects and public improvements around the Downtown Berkeley and Ashby BART stations, transportation enhancements along San Pablo Avenue and University Avenue; and
- Availability of high quality educational and job-training resources through the neighboring University of California, the Berkeley Community College (Peralta District), and the City's First Source employment program and other local employment training programs.
- Unique to the City of Berkeley, the neighboring University of California, Berkeley and the Lawrence Berkeley National Laboratories are major draws for high tech businesses, many of which have ongoing business relationships with both the City and the University.

## 3. Implementation Programs and Activities

The City is implementing the following supportive programs in the Target Area:

- a) Business retention and attraction programs specific to unique commercial districts the Target Area

- b) Proactively engaging with financial institutions to access private capital for business expansion and attraction
- c) Encouraging participating businesses to utilize the RLF in tandem with private financing
- d) Providing a list of additional resources to assist borrowers in applying for financing
- e) Distributing information on local employment and business assistance programs
- f) Informing business owners on upcoming development of key properties, relevant capital improvement programs specific to the commercial area.

## **B. THE BUSINESS DEVELOPMENT STRATEGY**

### **1. Objectives of the Business Development Strategy**

The RLF is designed to assist in achieving the following economic development objectives and benefits for the Target Area:

- Provide financing mechanisms through which public investment will stimulate simultaneous private investment in the revitalization of commercial districts within the Target Area that otherwise would not have occurred;
- Provide a programmatic framework for the effective rehabilitation and conservation of commercial or industrial facilities;
- Provide incentives for the retention, expansion, and location of firms that will promote increased employment opportunities for residents, present a stronger non-residential tax base, and provide more opportunity for local participation in economic activities;
- Increase minority enterprise development;
- Increase women-owned business development;
- Link RLF borrowers with the City's First Source Employment program to increase local hires;
- Increase the growth potential of local businesses;
- Establish linkages with the surrounding commercial area's existing economy to ensure the RLF Funds are not used as a substitute but instead as a supplement for private investment;
- Generate additional tax revenues (from increased sales etc.) for the City of Berkeley;
- Assist firms in meeting local environmental standards; and
- Encourage the development of vacant land and the rehabilitation of dilapidated or vacant buildings for commercial purposes.

### **2. Targeted Sectors**

The City has targeted the following industry clusters in the Target Area for business assistance:

- Healthcare, including pharmaceuticals, medical devices, biotechnology and healthcare services;
- Environmental, including environmental technology and environmental services;
- Business services, including locally serving professional services, business related services, technical services, finance, and real estate services;
- Light manufacturing, including food processing; and
- Retail Trade.

### 3. Types of Business Assistance

The Office of Economic Development (OED) assists businesses in the Target Area with a full range of local economic development activities, including:

- Attracting new businesses to the City of Berkeley in the targeted sectors by identifying and marketing vacant sites and buildings in close collaboration with the commercial real estate community.
- Assisting new businesses in obtaining permits and financing. Assistance is provided to existing businesses to expand, including assistance with financing through the RLF and other available financing.
- Referral of new and existing businesses interested in business planning to community business counseling resources such as SCORE Easy Bay and the Alameda County Small Business Development Center (SBDC).
- Providing assistance in obtaining qualified employees that are also local residents through the City's First Source Employment Program.
- Providing technical assistance to businesses interested in the worker cooperative model as a succession plan.

## C. FINANCING POLICIES

RLF loans may be made to qualifying businesses for tenant improvements, fixed assets such as equipment and machinery, working capital, and real estate transactions. Loan funds may also be used to finance the conversion of a qualifying business to worker ownership if the applicant can demonstrate that (1) the business would close, downsize, or be significantly harmed if the business does not convert to a cooperative, and/or (2) jobs would be retained or gained through the conversion.

1. Loan Size – The standard loan size is \$35,000. The LAB may approve loan amounts larger than the standard maximum on an exception basis. The maximum individual loan size, per Economic Development Administration (EDA) program-wide policy, is to be no more than 25% of the RLF program's capital base at the time of the loan application.
2. Interest Rates - Interest rates on loans will be fixed. The standard RLF interest rate on RLF loans will be equivalent to the prime interest rate quoted in the *Wall Street Journal* plus 2% at the time of loan approval by the LAB. The RLF operator will follow the state's usury law, which determines the maximum legal interest rate. The minimum or floor interest rate for RLF loans is five percent (5 %) or seventy five (75%) of the prime interest rate listed in the *Wall Street Journal*. According to 13 CFR 307.15, the only exception for the above policy is if the prime interest rate listed in the *Wall Street Journal* exceeds fourteen (14%) percent, the minimum RLF interest rate is not required to be raised above ten (10%) if doing so compromises the ability of the RLF program to implement the financing policy.
3. Application Fee - There will be a \$250 fee for each loan application. The application fee will be credited towards the loan underwriting fee and will be refunded to the applicant if not approved.
4. Loan Fees – Loan fees will be 1% of the amount loaned.
5. Payment Terms - Payments will generally be made monthly; however, customized



payment structures may be extended to borrowers depending upon their individual cash flow needs. In the case of multiple disbursement loans for equipment or tenant improvements, there may be an interest-only period until the loan is fully disbursed, generally not more than 180 days. Temporarily reduced or deferred payments may be considered as options in structuring a workout plan.

6. Loan Terms - The standard loan terms will be 5-10 years fully amortized, depending on loan amount. In general, loan terms will not exceed the average useful life of the assets being financed. The loan term will be the lesser of the average useful life of the asset being financed or the term based upon the borrower's ability to pay. Smaller loans will generally have shorter terms.

7. Private Leveraging/Participation - RLF recipients are highly encouraged to participate in other financing institutions' loans and/or lines of credit. To provide context for this goal, there is an Economic Development Administration (EDA) portfolio-wide requirement in which the full RLF (all participants collectively) will leverage a minimum of two private dollars for each RLF dollar loaned. That is, the leveraging requirement applies to the portfolio as a whole rather than to the individual loan. Private "leveraging/participation" is defined as capital invested to the business by the borrower, others (partners) or financing from private entities such as banks or crowdsourced funding.

8. Equity/Borrower Injection General Requirement - The RLF will require all borrowers to inject owner equity as a percentage of the requested loan amount; this may be in form of owner equity and/or private financing. The borrower's equity injection should be as follows: at least 10% of requested loan amount for existing businesses and at least 20% of requested loan amount for startup businesses. In the case of a worker cooperative, the RLF will allow a group of principals to produce 10% of the equity for an existing cooperative or a business converting to a cooperative, or 20% for a startup cooperative. Additionally, start up business will be required to demonstrate significant industry experience or the equivalent. They will also be required to provide a secondary source of repayment and a complete business plan. Exceptions may be made on a case-by-case basis depending upon the particular project. In general, existing equity or existing cash injection into the business indicates a reasonable level of commitment to the business; therefore consideration will be given to existing equity in determining new equity required as a result of the project being financed.

9. Collateral- Collateral pledged and personal guarantees for each loan will depend upon the loan amount, the overall risk of the credit, and the availability of personal and business assets to be pledged as collateral. Loans will be secured by collateral to the maximum extent possible to ensure an adequate secondary source of repayment. Generally, collateral pledged through UCC-1 filings for RLF loans shall not be pledged to other lenders or for other obligations of a business.

10. Credit Memorandums - Each application will be reviewed for standard underwriting criteria. A credit memorandum summarizing the applicant's satisfaction of the criteria will be presented to the Loan Administration Board (LAB) prior to board consideration of loan approval. Generally, the credit memo will address the following qualities: location in the Target Area, management ability, market feasibility, primary source of repayment, secondary source of repayment, leverage, environmental issues, job creation, worker ownership opportunities, credit history, and the project or applicant's overall economic impact. Credit memorandums will also address other program requirements, such as the ratio of funds loaned to jobs created. Such memorandums may be prepared by consultants under contract to the City and supervised by the OED.

11. Financing Restrictions – RLF Capital may **not** be used to:

- a) Acquire an equity position in a private business;
- b) Subsidize interest payments on an existing loan;
- c) Provide the equity contribution required of borrowers under other Federal loan programs;
- d) Enable a borrower to acquire an interest in a business, either through the purchase of stock or through the acquisition of assets, unless the need for RLF financing is sufficiently justified and documented in the loan write-up/credit memo. Acceptable justification could include acquiring a business to substantially save it from imminent foreclosure, or acquiring it to facilitate a significant expansion or increased investment, or acquiring it by the workers to convert the business to a worker cooperative;
- e) Provide loans to a borrower for the purpose of investing in interest bearing accounts, certificates of deposit or other investment not related to the objectives of the RLF;
- f) Refinance debt unless:
  1. The loan application is determined “exempt” by EDA.
  2. It is sufficiently documented in the attendant credit memo that the RLF loan is not replacing private capital solely for the purpose of reducing the risk of loss to an existing lender(s), or
  3. An RLF loan is used to purchase the rights of a prior lien holder during an in-process foreclosure action in order to preclude a significant loss on an RLF loan. This action may be undertaken only if there is a high probability of receiving compensation within 18 months from the sale of assets sufficient to cover the RLF’s expenses plus a reasonable portion of the outstanding loan obligation
- g) Finance any activity that serves to relocate jobs from one commuting area to another. (A commuting area is that area defined by the distance people travel to work to and from the Berkeley area) unless:
  1. The applicant has moved or will move into the Target Area for reasons unrelated to RLF assistance;
  2. The applicant has relocated to the Target Area prior to the date of the applicant’s request for RLF assistance;
  3. The applicant will expand employment in the Target Area substantially beyond employment in the area where the business was originally located;
  4. The applicant is relocating from technologically obsolete facilities to remain competitive;
  5. The applicant is expanding into the new area by adding a branch affiliate of subsidiary while maintaining employment levels in the old area(s);

Additionally, all businesses that receive a RLF loan will sign First Source hiring agreements with the City as part of the standard loan contract procedure. The hiring agreement will ensure that businesses utilize the City of Berkeley’s First Source Program for the recruitment, referral, and consideration of Berkeley applicants for new and replacement employment.

## D. PORTFOLIO STANDARDS AND TARGETS

### 1. Lending Targets

The goal of the RLF is to target industry clusters to produce the following ranges for allocation of the portfolio:

- Healthcare, environmental services, business services: 50-65%
- Light industry: 10-35%
- Retail: 15-25%

An additional goal of the RLF is to allocate a minimum of 10% of the portfolio to worker cooperatives or businesses converting to democratic worker ownership.

A *maximum* of 25% of the portfolio shall be loaned to start-up businesses. Exceptions made to exceed this target shall be made only in situations where repayment is guaranteed through a very strong collateral position. Worker cooperatives shall not be considered start-ups for purposes of this section.

### 2. Private Investment Leveraging Ratio

As specified in the EDA Terms and Conditions, the portfolio shall maintain a private leverage ratio of 2:1, or \$2 of private dollars or funds to every \$1 in EDA funding.

### 3. Cost per Job

- a. Every project shall have a new job creation or jobs saved component.
- b. The portfolio shall target a cost per job ratio of \$20,000 or less.
- c. The maximum cost per job for any single loan will generally not exceed \$30,000.

## E. LOAN SELECTION CRITERIA

Priority in processing loan applications will be given to applications that further the targeting of RLF funds as outlined above. Loan applications will be considered for processing, if:

1. Staff can demonstrate credit worthiness based upon the financing policies of this plan;
2. The project is consistent with the business development strategy;
3. The loan will meet program goals to facilitate in the creation of higher paying, higher skilled, private sector jobs, diversify and strengthen the economy, and stimulate private investment. Priority will be given to those projects that provide the highest economic benefit, which may be evidenced by creation of worker-owned jobs; and
4. The loan is consistent with the goal of maintaining a diversified portfolio.

## F. PERFORMANCE ASSESSMENT PROCESS

The portfolio goals will be monitored at the time of the semi-annual report to EDA. If targets are out of line or a trend is noticed in this direction, these trends will be analyzed to determine if any modifications to the Plan and/or portfolio are required. This will be accomplished by utilizing the current database software that is utilized to generate the EDA report.

The EDA Administrative Plan will be reviewed annually as part of the annual certification. Changes will be made to the plan as deemed appropriate to ensure the plan is consistent with the area's current economic development strategy and that the RLF is being operated

in accordance with policies and procedures contained in the approved plan. (13 CFR 308.14).

## **PART 2: REVOLVING LOAN FUND ORGANIZATIONAL STRUCTURE AND OPERATIONAL PROCEDURES**

### **A. ORGANIZATIONAL STRUCTURE**

#### **1. Overview**

The City's Office of Economic Development Department (OED) is responsible for the implementation of the program and administration of the RLF. A RLF Program Manager, under the general direction of the Economic Development Manager, is responsible for developing, completing, coordinating, and servicing the loans generated by the RLF. OED staff works closely with private lenders to secure financing for businesses in coordination with City financing mechanisms. The City of Berkeley will provide referral assistance to RLF clients for services, including loan packaging and business counseling, and to coordinate technical assistance resources including assistance from banks, colleges, minority business development assistance centers, business development organizations and trade associations. The OED is responsible for receiving payments of all RLF loans using standard loan servicing software. The Program Manager provides monthly reports, upon request, on the status of all outstanding loans to OED Manager and the EDA for monitoring purposes.

#### **2. Loan Administration Board (LAB)**

The Loan Administration Board will generally schedule meetings "as needed", and will agree to review transactions requiring quick action on an "as needed" basis. Organizational and operational matters, including loan decisions, will be made by a majority vote of the appointed members of the Board. A quorum will exist whenever at least half of appointed members are in attendance. However, at least one LAB member with financing experience (similar to the type of loans to be made) must be present for each loan decision. No loan will be committed, no major loan modification or waiver agreed to, no loan foreclosure action initiated without formal prior review and comment (in the form of LAB minutes) of the Loan Board. Staff will recommend on interest rates, terms and conditions for all loans. The LAB will make the final determination on the pricing and other terms of all loans from the RLF.

#### **3. Conflict of Interest**

No officer, employee, or member of the City Council, LAB or other City board or commission that advises, approves, recommends or otherwise participates in decisions concerning loans or the use of RLF funds, or person related to the officer, another employee, or any member of the City Council, LAB or other City board or commission by immediate family, law, or business arrangement, may receive any benefits resulting from the use of RLF loan or grant funds.

In addition, the City may not lend RLF funds to an employee of the City or any member of the City Council, or the LAB. Former board members and members of his or her immediate family shall not receive a loan from the RLF for a period of two (2) years from the date that board member last served on the board. Immediate family is defined as domestic partner or significant other, parents, grandparents, siblings, children and

grandchildren, but does not include more distant relatives, including cousins, unless they live in the same household.

Exception: A benefit or loan may be conferred if the officer, employee, LAB member, City Council member or other board or commission member affected first discloses to the City on the public record the proposed or potential benefit and receives the City Attorney's written determination that the benefit involved is not so substantial as to reflect adversely upon or affect the integrity of the RLF's decision process or of the services of the officer, employee, or member of the City Council, LAB or other City board or commission. LAB members are responsible for disclosing any possible conflict of interest that may exist with respect to a particular action of the LAB, and recusing themselves from all relevant votes on said loan as appropriate.

An officer, employee, or member of the City Council, LAB or other board or commission shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment or any other thing of monetary value, for him or herself or for another person, from any person or organization seeking to obtain a loan or any portion of the RLF funds. Former LAB members and/or officers are ineligible to apply for or receive loan or grant funds for a period of one year from the date of termination of his/her services.

Loan board members that have other professional relationships (i.e., a banker with loan to borrower) with a prospective borrower cannot be present for deliberations, but may respond to questions from other members of the LAB, to avoid the appearance of a conflict of interest. All LAB members will be required to comply with local and state conflict of interest policies and filing requirements (see: 13 CFR 300.3).

## **B. LOAN PROCESSING PROCEDURES**

### **1. Standard Application Requirements**

Each potential borrower will be required to initially complete the City's standard loan application. Staff will review the application to determine if it meets the general intent and purpose of the RLF. In evaluation of applicants, staff will consider whether the project/loan:

- Meets the targeting criteria and is in one of the targeted clusters
- Demonstrates a reasonable assurance of repayment
- Is consistent with the portfolio job/cost ratio established for the RLF

*Potential borrowers are required to submit the following documents (as applicable) with their loan application:*

Financial Statement – Prior 3 years and current within 90 days, including:

- Balance Sheets
- Income/Expense Statement
- Articles of Incorporation/By Laws or Partnership Agreement (If Applicable)
- Resume(s) of Principal(s) (normally those with 20% ownership or more; worker cooperatives with no 20% or more owner shall submit resumes for all members)
- Certificate of Good Standing (corporations only)

Pro Forma Financial Projections - including:

- 1 year Income/Cash Flow Statement (Month to Month)
- Additional 2 years Cash Flow Projections



- Explanation of the underlying assumption supporting the cashflow projections
- Aging of Accounts Receivable and Payable- including:
- Accounts aging within 90 days and list of vendors and addresses and account numbers for any accounts over 30 days.
- Schedule of Business Debts- including:
- original amount of debt,
  - current balance outstanding,
  - payment amount(s),
  - interest rate,
  - collateral,
  - status (current/delinquent)
- Individual Federal Income Tax Return – (if proprietorship or partnership)  
Business Federal Income Tax Return – Prior year.  
IRS Form 4506 (Request for Copy of Tax Return)  
Verification of business space- including:
- (i.e. Deed of Trust, Lease/Rental Agreement, Purchase Agreement as applicable)
- Agreement of Landlord (for tenant improvement loans)  
Proof of Hazard and Liability Insurance  
Appraisals or independent evaluations on assets offered as collateral  
Evidence of Private Lender Commitment or Denial of funds letter(s)  
Proof of Berkeley Business License

Borrowers shall be approved based upon a reasonable assurance and determination of repayment ability and potential economic benefits to the community, i.e., number and quality of jobs they will create, worker ownership opportunities created, amount of taxes generated, extent to which they expand a targeted industry cluster and relation to other businesses and services.

## 2. Credit Reports

Standard commercial and personal credit reports on all principals owning 20% or more of a business under consideration for a loan and the business will be ordered and reviewed by the contracted underwriting party. In the case of a worker cooperative with no members owning more than 20%, a credit report on multiple designated members, whose interests together equal 50% or more, shall be ordered and reviewed. Adverse credit deficiencies that would cause the underwriter to question the ability and or willingness of the potential borrower to repay the loan will be deemed a valid reason for declining the request. A summary review of the results of the credit reports shall be a part of the loan write-up.

## 3. Uniform Commercial Code (UCC) Lien Search and/or Title Report

A UCC search may be completed to determine any existing liens, where personal property is being taken as security (i.e. equipment, or business assets). A real estate title report may be required in those instances where real property is being taken as collateral.

4. Appraisal Reports

Appraisal reports or other valuation determinations may be obtained, where existing fixed assets and/or real properties are being used as primary collateral. If completed,

appraisals will utilize qualified appraisers having expertise appropriate to the assets being pledged.

#### 5. Environmental Reviews

The RLF Administrator with the assistance of appropriate staff, shall assess the significance of all environmental impacts of activities to be financed in compliance with the National Environmental Policy Act of 1969 and other Federal environmental mandates, as per the Assurances (SF 424D as revised) executed with the Economic Development Administration (EDA). No activity shall be financed which would result in a significant adverse environmental impact unless the impact is to be mitigated to the point of insignificance. When necessary to ensure compliance, any required mitigation shall be made part of the loan conditions.

No project shall be approved which would result in the alteration of or have an adverse impact on any wetland without prior consultation with the U.S. Department of the Interior, Fish and Wildlife Service, and, if applicable, obtaining a section 404 permit from the Army Corps of Engineers.

Consistent with E.O. 11988, no project shall be approved which would result in new above ground development in a 100 year flood plain. This determination will be made by reviewing the proposed development against FEMA Flood Insurance Rate Maps.

The State Historic Preservation Officer, (SHPO) shall be notified of each loan proposal that involves significant new construction or expansion and asked to submit comments on the effect of the proposed activity on historic and archaeological resources. The RLF Administrator shall work with the SHPO and EDA in cases where the SHPO has recommended actions or has been determined an adverse impact.

All loan applicants shall be requested to provide information indicating whether or not there was hazardous materials such as EPA listed (see 40 CFR 300), hazard substances, leaking underground storage tanks, asbestos, polychlorinated biphenyls (PCB), or other hazardous materials on site that have been improperly handled and have the potential of endangering public health. If deemed necessary, loan applicants may be required to perform or provide evidence of a Phase I site assessment to identify possible sources of contamination, a Phase II site assessment to test soil and/or groundwater samples, and a Phase III site remediation involving mitigation of applicable contaminants. In cases where there are unresolved site contamination issues, the RLF Administrator shall work with the loan applicant and the appropriate state environmental agency office to resolve these outstanding issues.

#### 6. Standard Collateral Requirements

Loans will be secured to the fullest extent possible to protect the interests of the RLF as a secondary source of repayment. Loans may be secured with the following types of assets:

- Real property
- Machinery & equipment
- Inventory

- Accounts Receivable
- Stock pledges
- Patents and other intellectual properties
- Securities
- Intangibles
- Personal and/or corporate guarantees

A personal guarantee will be required of any principal having a 20% or more ownership in the company being considered; it shall also be required of the principal(s) trust(s) deemed to be controlled by him or her. In the case of worker cooperatives in which no single member has a 20% or more ownership interest, the cooperative shall designate multiple members, whose interests together equal 50% or more, to provide a limited (several) personal guarantee. This ownership panel shall be submitted to the LAB as an Exhibit. The panel may be amended over time, allowing for release of liability if a member leaves the cooperative, so long as the cooperative substitutes the personal guarantee of another member. The cooperative shall update the LAB on any amendment to the ownership panel, but no amendment to the Loan Agreement will be required. Personal guarantees may be collateralized with liens or property. Appropriate hazard and liability insurance shall be required, and key man life insurance shall be considered depending on the size and nature of the transaction and the health and ages of the principals. The City of Berkeley shall be named as a Loss Payee on the appropriate insurance policies. Trust deeds may be obtained and supported by lenders title policies in those cases where real property is pledged as collateral. Liens on all personal property will be perfected by UCC-1 filings. UCC searches will be conducted to determine encumbrances and to ensure the RLF obtains desired lien position. All RLF program funding is subject to the Davis-Bacon Act and Related Acts, which establishes a requirement for paying the local prevailing wages on public works projects for laborers, unless the EDA determines that loan amounts are so de minimis that property cannot be purchased or renovated with the loan.

#### 7. Standard Equity Requirements

Existing businesses may be required to inject at least 20% of the requested loan amount; start-up businesses are required to inject at least 20% of the requested loan amount. Assets (e.g. equipment), which are added to a project from outside sources, may be considered part of the equity investment, provided they are lien free.

#### 8. Loan Write-Up/Credit Memos

Written loan presentations (“credit memos”) to the Loan Administration Board will contain at a minimum the following information:

1. Evidence that the Borrower is in the Target Area approved by EDA.
2. Recommendation: Support funding recommendation based on analysis of the business' industry, its place in that industry, financial analysis, and ability to repay.
3. Findings: Indicate if borrower is eligible, under criteria established in the RLF Plan and EDA Grant Agreement.
4. Description of Business
5. Background and History of Business Operation: Describe the history and background of the business, including a brief industry analysis.
6. Detailed description of the borrower; i.e., is it a corporation, partnership, sole

- proprietorship, list owners and their percentage of the business.
7. List of names and relationships of the guarantors to the owners of the business as appropriate.
  8. Provide loan details:
    - (a) Loan Request: State the amount of the request and state the recommended monthly amortization and term.
    - (b) Interest: Indicate the rate, specifying a fixed rate.



(c) Use of Funds by category.

(d) Loan Fees: The maximum fee charged will be 1% of the total loan amount.

9. Purpose: Describe in detail the purpose of the loan by category, i.e., fixed asset financing, tenant improvements, etc. Be specific about sources and uses of proceeds to complete the project. Any proposed exceptions to loan policies need to be explained.
10. Credit Report: Indicate the results of the credit reports obtained on the principals, guarantors, and company.
11. Financial Analysis: Indicate the source of information for the analysis. Describe the company's financial performance as reflected by its financial statements, with special emphasis on revenues and operating income, leverage, cash flow, and debt capacity. Projection should be consistent with historical performance unless there is an extraordinary event such as a new contract. Any significant changes in financial positions or performance of the company must be explained.
12. Personal Financial Analysis: Write an analysis of the principal's and guarantor(s) personal financial statements. Any significant changes in financial position or performance must be explained.
13. Collateral: Describe the collateral pledged for this loan, and indicate the secured position of the RLF. If property is being pledged, show the present market value and the net equity available for all properties pledged. Date of appraisal, name of appraiser and loan to value must also be included.
14. Job/Cost Ratio: Divide the total loan amount by the number of jobs saved and/or created as a result of this loan. Recall, that the RLF program is subject to the Davis-Bacon Act and Related Acts, applying to contractors and subcontractors performing on federally funded or assisted contracts in excess of \$2,000 for the construction, alteration, or repair (including painting and decorating) of public buildings or public work.
15. Public Benefit: Describe the benefit of this loan in terms of jobs retained and/or created. Indicate the value of this borrower to the community. Specify whether this loan would create or preserve worker-owned jobs. Jobs saved are defined as jobs that would be imminently lost without RLF assistance.
16. Environmental Problems: Discuss any environmental review in connection with the loan, including, any City environmental review and the results of any required Phase I or Phase II environmental study. Attach an environmental checklist or other review that is relevant to consideration of the loan. Indicate what actions the borrower must take to comply with any environmental findings or requirements.

## 9. Procedure for Loan Approvals

When a loan is approved, staff will draft a memo stipulating the terms of approval and obtain the signature of the chairperson of the Loan Administration Board. The minutes of the LAB meeting shall reflect this approval and be circulated to all members of the Loan Board. RLF staff shall be directed to prepare and send a commitment letter with a time expiration date signed by the Manager of Economic Development to the prospective borrower, stating the terms and conditions of the committed loan consistent with the written credit memo to the LAB, and any provisions or changes recommended by the LAB. It shall also state *"this commitment is based on the fact that there have been no material adverse changes in the credit condition of the borrower since statements and information*

*has been submitted to the RLF. If any such material adverse changes have taken place, this commitment is void and not in effect."*

#### 10. Loan Decline – Appeal Process

The LAB will act upon recommendations for loan approval with the knowledge that the due diligence and underwriting on each loan has been completed, and upon reliance that the financial exhibits provided in the application are correct. Where a loan is denied by the LAB, an applicant may request further review by the LAB if the applicant can provide additional information that addresses the concerns of the LAB about the proposed loan. However, LAB decisions on loans are final and binding and cannot be appealed to the City Council.

### **C. LOAN CLOSING AND DISBURSEMENT PROCEDURES**

#### 1. General Closing Requirements

- a. Proof of equity, such as current bank account statements showing the needed funds on deposit, will be required for all loans requiring an equity injection;
- b. If existing debt is being converted to equity, or subordinated, evidence such as a subordination agreement, the original note, the conversion agreement, corporate resolutions and copies of shares issued will be required.  
Where another lender is involved in the financing of a business an inter-creditor agreement setting forth the respective rights of the parties shall be required where appropriate for the protection for the RLF.

#### 2. Loan Closing Documentation Requirements

- a. All loans will require a promissory note and a loan agreement.
- b. All loan documents will be reviewed and approved by the Office of the City Attorney prior to loan closing.
- c. Sole proprietorships using a "doing business as/dba" will be required to provide copies of fictitious name filings.
- d. Partnerships will be required to provide copies of the partnership agreements and buyout agreements if applicable.
- e. Corporations will normally be required to provide copies of the Articles of Incorporation, By Laws, certificates of good standing, and corporate resolution to borrow.
- f. All loans will require a security agreement where personal property secures a loan.
- g. Perfection of collateral will require UCC-1 filings on equipment and fixtures, inventory and receivables, recording deeds of trust on real property, and certificates of title or stock registration, as appropriate.
- h. UCC searches will be performed before loan board review to determine position. UCC searches may also be performed after loan closing and UCC filings to confirm that the desired lien position was actually obtained.
- i. Borrower will be advised if Lenders Title insurance will be required for all financed real property.

- j. Borrower will be advised if vehicle titles will be required to show the City of Berkeley as lien holder. If a third party owns the collateral, hypothecation and assignment agreements shall be required.
- k. All principals with 20% or more ownership (or multiple worker cooperative members who together own 50% or more) will normally be required to provide continuing guarantees, and subordination agreements, as appropriate.
- l. Inter-creditor Agreement, if necessary, to preclude prior lien holder from increasing debt, and/or to delineate collateral and responsibilities of lenders.
- m. Prior to closing, the borrower will present the required hazard and liability insurance policies, and any other insurance coverage such as key life insurance, as required
- n. Lease assignments will be taken as appropriate.

The Loan Agreement shall contain covenants that shall require the borrower to comply with Federal statutory and regulatory requirements that apply to activities carried out with RLF loans. The Loan Agreement shall contain a provision to protect and hold the Federal government harmless from and against all liabilities that the Government may incur as a result of providing an award to assist (directly or indirectly) in site preparation or construction as well as the renovation or repair of any facility or site. This applies to the extent that such liabilities are incurred because of ground water, surface, soil or other conditions caused by operations of the RLF Recipient or any of its predecessors on the property. The Loan Agreement shall also include a list of the Federal requirements that apply to RLF Borrowers as provided in the U.S. Department of Commerce Economic Development Administration Revolving Loan Fund Standard Terms and Conditions.

### 3. Loan Disbursement Requirements

- a. The borrower will certify in the loan agreement that the funds are to be used for the purposes intended as specified in the loan application. A positive covenant shall be included in the loan agreement stating the purpose of the loan. A breach of this covenant shall be deemed an event of default and the loan may be called.
- b. In instances where construction is in progress, a building control account may be established as necessary to avoid mechanics liens.

## **D. LOAN SERVICING PROCEDURES**

### 1. Loan Payment and Collection Procedures

The Office of Economic Development (OED) staff, including the RLF program manager, will provide borrowers with payment coupons annually and upon request, receive and deposit loan and interest payments into an interest bearing RLF bank account, and, upon request, advise OED Department Manager when funds are received. Additionally, upon request, the RLF Program Manager will provide monthly reports of disbursements, receipts of interest and principal and any past due accounts. Timely notification of any payment due and not paid will be provided to borrowers.

Late fees (which will be incorporated in the body of the Promissory note) shall be 5% of the payment outstanding and begin accruing on the next calendar day after the payment is due. If the loan is past due more than 15 business days, late fees shall commence.

2. Loan Monitoring Procedures

- a. Annual financial statements (defined to include a balance sheet and profit and loss statement, compiled by an independent accountant or certified by the chief financial officer and president) may be required on all loans. RLF staff shall monitor these and other dated requirements such as insurance renewals, and UCC renewals. If documents are not received on a timely basis as stipulated by the Loan Agreement, designated staff will be responsible for correcting the deficiency. Provisions will be made in the Loan Agreement that audited statements may be required.
- b. OED staff may visit each borrower on an as needed basis to determine whether the business is in line with its stated business plan. Each visit will be documented by memorandum, and will contain a summary of the progress the business is making (or not making) from a marketing and financial perspective, as well as an assessment of the business' future. This report shall be provided to the LAB.
- c. As part of the required semi-annual reports, jobs saved/created data will be compiled by OED staff and supplied to the EDA. All jobs will be reported in full time equivalents.
- d. All other required loan documentation and special provisions will be monitored by OED staff.

3. Late Payment Follow-up Procedures

- a. Upon being advised that a payment due was not made, RLF staff will contact the borrower promptly to determine the problem, if any exists.
- b. The loan servicer will send a written notice of delinquent payment 5 working days after due date with notification of late penalty, and will notify the RLF staff in writing.
- c. RLF staff will send a second written notice 30 days after the due date.
- d. RLF staff will send a third written notice 60 days after the due date.
- e. RLF staff will send a fourth written notice 90 days after the due date.
- f. During the first 30 days of delinquency, written and oral communication, as well as site visits by RLF staff will be utilized to resolve the delinquency.
- g. If, after 90 days a delinquency still exists and the loan has not been renegotiated or brought current, the loan will generally be determined to be in default and recovery of the security will commence.
- h. Any renegotiation of loan terms to remedy a default must be approved the LAB.
- i. If at any time during this 90-day period, the Economic Development Manager believes that the borrower cannot or will not bring the loan current, with Loan Administrative Board approval, RLF staff can declare the loan in default and begin recovery against collateral, if deemed appropriate.

4. Collection Procedures

The RLF staff will work to exercise all rights and privileges of a lender in order to collect the proceeds on delinquent loans. To ensure that the delinquent loan is collected in an appropriate, efficient, and timely manner, staff will:

- a. Prepare a plan of action with guidance by the Loan Administrative Board for collecting the loan and taking action against the collateral.
- b. Make sure all required loan documentation is in order.

- c. Consult with the City Attorney on all default notices and collection efforts and to insure that no laws or regulations will be violated by the collection effort and that all legally required actions are taken.
- d. Contact all other co-lenders as appropriate.
- e. List defaulted or chronically delinquent loans with credit bureaus.
- f. Notify the guarantors of the default and put them on notice that they are expected to make payment, in full, upon demand.
- g. Begin collection procedures and/or asset liquidation process.

5. Write-off Policy and Procedures

Loans with an outstanding balance that have been placed in default and remain outstanding after 180 days will generally be written off. However, collection efforts will continue until determined not to be cost effective or prospects for recovery no longer exist. A reasonable loss through defaults will be considered without establishing a loan loss reserve. All write-offs must be directed to the City's Finance Department for approval by the City Council.

**E. ADMINISTRATIVE PROCEDURES**

1. Procedures for Loan Files and Record Retention

All original primary loan documents will be maintained in the Loan/Collateral file, which will be stored in a secure location by the City Clerk. This file will contain the original note(s), loan agreement, collateral perfection documents (UCC-1 filings, deeds of trust, etc.), and all other original legal documents. All files will be filed and recorded as specified by the EDA Terms and Conditions. Each individual borrower will have a loan file consisting of two items: i) a credit file and ii) an application file.

The Credit File will contain copies of the appropriate legal documents needed to monitor the loan, as well as the original credit memo to the LAB, financial statements and tax returns, credit reports, personal financial statements, a copy of the commitment letter, copies of proof of insurance, site visit memorandum, job reports, and any other correspondence relating to the relationship between the borrower and the RLF. A chronological record shall be maintained recording all significant events by date with a brief description.

The Application File shall be established to contain the original application, business plan, financials, business plan evaluation, and any other documentation provided to evaluate the application. Every effort will be made to maintain confidentiality of applicant records/applications. There will be a public file which will can be reviewed by the public with all personal information (eg. Social Security numbers, loan and credit card numbers redacted). A private file that will include all documentation including, but not limited to, application, credit memorandum, third party evaluations and non-confidential reports and UCC-1 filings.

Record Retention Loan files and related documents and records must be retained for the life of the loan and for a seven-year period from the date of final disposition of the loan. The City will maintain four different kinds of file records: 1) an application file, 2) a loan file, 3) a



decline file and 4) a closed loan file. This will ensure that we have records of all decisions made by the LAB for public review. The date of final disposition of the loan is defined as the date of: (a) Full payment of the principal, interest, fees, penalties, and other costs associated with the loan; or (b) Final settlement or write-off of any unpaid amounts associated with the loan

Administrative records The OED staff or loan servicer must maintain adequate accounting records and source documentation to substantiate the amount and percent of RLF income expended for eligible RLF administrative costs and retain records of administrative costs incurred for activities and equipment relating to the operation of the RLF for five years from the date the costs were claimed.

The loan servicers must also make any retained records, even those retained for longer than the period described, available for inspection. The record retention periods, described above, are minimum periods and such prescription is not intended to limit any other record retention requirement of law or agreement.

## 2. Procedures for Complying with EDA Reporting Requirements

The RLF program will follow the EDA guidelines articulated in the Revolving Loan Funds Capital Utilization Standard Program. During the 'revolving phase', the City of Berkeley must manage their repayment and lending schedules to provide that at all times at least seventy-five (75%) percent of their RLF capital is loaned or committed.

When the percentage of loaned RLF capital falls below the application capital utilization percentage, the dollar amount of the RLF funds equivalent to the difference between the actual percentage of RLF capital loaned and the applicable capital utilization percentage is referred to as "excess funds."

Sequestration of excess funds If the City of Berkeley fails to satisfy the applicable utilization percentage requirements for two (2) consecutive reporting periods, EDA may require the City to deposit excess funds in an interest-bearing account. The portion of interest earned on the account holding excess funds attributable to the Federal Share of the RLF Grant shall be remitted to the U.S. Treasury. The City must obtain EDA's written authorization to withdraw any sequestered funds.

Persistent non-compliance The City, as a long standing RLF program administrator, will generally be allowed a reasonable period of time (as determined by EDA) to lend excess funds and achieve the applicable capital utilization percentage. However, if the City fails to achieve the applicable capital utilization percentage after a reasonable period of time, as determined by EDA, it may be subject to sanctions such as suspension or termination.

Loan Default Rates The EDA shall monitor the City's loan default rate to ensure proper protection of the Federal Share of the RLF property, and request information from the City as necessary to determine whether it is collecting loan repayments and complying with the financial obligations under the RLF Grant.

Such information may include:

- A written analysis of the City's portfolio, which shall consider the Recipient's business plan, loan and collateral policies, loan services and collection policies and procedures, the rate of growth of the RLF Capital Base, and detailed information on any loan in default; and
- A corrective action plan subject to EDA's approval, which shall include specific actions the RLF recipient must take to reduce the loan default rate; and
- A quarterly status report indicating the City's progress on achieving the milestones outlined in the corrective action plan.

Failure to provide the information requested and to take steps to protect the Federal Share may subject the City to enforcement action under §307.21 and the terms and conditions of this grant. A collection account has been established and maintained in coordination with the City Attorney and the City's Finance Department in accordance with City regulations governing collections.

### 3. Grantee Control Procedures

RLF staff shall, periodically review the loan files to determine if they are consistent, complete and correct. All accounts, books, records and loan files shall be reviewed and audited in accordance with City Auditor standards, and Federal Administrative and Audit Standards.

### 4. Plan Amendment Procedures

Any changes to this Administrative Plan must be approved by the LAB and City Council and shall be submitted to the EDA in writing for approval consistent with requirements of the EDA.

**List of Exhibits**

|            |                                                      |         |
|------------|------------------------------------------------------|---------|
| Exhibit A: | Organizational Chart                                 | Page 24 |
| Exhibit B: | Loan Application                                     | Page 26 |
| Exhibit C: | Credit Authorization                                 | Page 34 |
| Exhibit D: | Application Checklist                                | Page 36 |
| Exhibit E: | Sample Loan Administration Board (LAB)<br>Resolution | Page 38 |
| Exhibit F: | Sample Commitment Letter                             | Page 40 |
| Exhibit G: | Sample Closing Checklist                             | Page 45 |
| Exhibit H: | Sample Loan File Check List                          | Page 49 |
| Exhibit I: | Sample Servicing Report                              | Page 51 |
| Exhibit J: | Sample Default Notification Letter                   | Page 54 |
| Exhibit K: | Map of Target Area                                   | Page 56 |

Exhibit A

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**Organizational Chart**

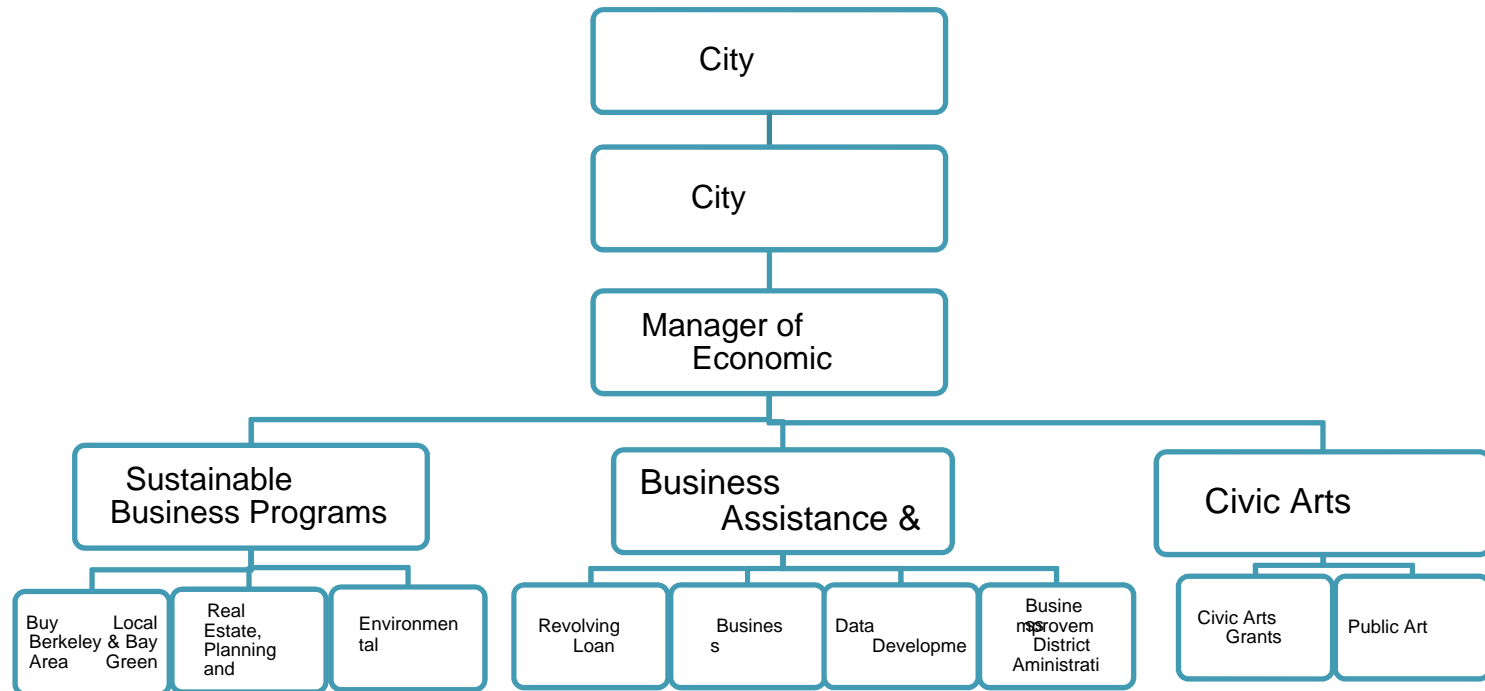




Exhibit B

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**City of Berkeley Revolving Loan Fund  
Loan Application**

CITY OF BERKELEY REVOLVING LOAN FUND (RLF)  
1. RLF LOAN APPLICATION

Amount of City RLF loan request: \$ \_\_\_\_\_

**I. APPLICANT INFORMATION**

Applicant's Name: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_

Name of Business: \_\_\_\_\_

Ownership (Check one):  
Proprietorship \_\_\_\_\_ Partnership \_\_\_\_\_ Corporation \_\_\_\_\_ Non-Profit \_\_\_\_\_

Business Address: \_\_\_\_\_

Phone: \_\_\_\_\_ SS# \_\_\_\_\_

Co-applicant: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_

- Business New to Berkeley  
OR
- Existing Berkeley Business - Date Established \_\_\_\_\_

Business License # \_\_\_\_\_ Federal Tax I.D. # \_\_\_\_\_

Landlord: \_\_\_\_\_ Phone: \_\_\_\_\_

Landlord Address: \_\_\_\_\_

Terms of Lease: \_\_\_\_\_

**II. PROJECT FINANCING:**

- A. Amount of City Loan Request: \$ \_\_\_\_\_
- B. Applicant Equity Contribution\*: \$ \_\_\_\_\_

Purpose of Loan:

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Source of Loan Repayment:

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\*Equity contribution: Value of money and other assets the Applicant invested in the business during the past 12 months or will invest in the business. Please submit evidence of all private funds (bank statements, letter of commitment, etc).

**III. USE OF FUNDS:**

|                              | Amount of City Loan Request (listed on line A above) | (Plus) | Applicant's Equity Contribution (listed on line "B" above)* | (Equals) | TOTAL PROJECT COST |
|------------------------------|------------------------------------------------------|--------|-------------------------------------------------------------|----------|--------------------|
| Inventory                    | \$                                                   | +      | \$                                                          | =        | \$                 |
| Equipment & Machinery        | \$                                                   | +      | \$                                                          | =        | \$                 |
| Leasehold Improvements       | \$                                                   | +      | \$                                                          | =        | \$                 |
| Loan Fees (2% of total loan) | \$                                                   | +      | \$                                                          | =        | \$                 |
| Other                        | \$                                                   | +      | \$                                                          | =        | \$                 |
|                              |                                                      |        |                                                             |          |                    |
| <b>TOTAL</b>                 | <b>\$</b>                                            |        | <b>\$</b>                                                   | <b>=</b> | <b>\$</b>          |

\*Plus any additional Funds to be used for this project- including additional loans/ private funds.

**IV. BUSINESS INFORMATION:**

Briefly describe your business, the distinct function of your product / service, your intended customers, your marketing strategy, and how the RLF loan will assist your business development. Please submit a prepared business plan with this application. If no business plan available, please provide explanation

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**V. COLLATERAL OFFERED:**

| Collateral            | Name(s) of Owner(s) | Present Market Value |
|-----------------------|---------------------|----------------------|
| Real Estate           |                     | \$                   |
| Equipment & Machinery |                     | \$                   |
| Inventory             |                     | \$                   |
| Other Assets          |                     | \$                   |
| <b>TOTAL</b>          |                     | <b>\$</b>            |

Other Collateral (Please Explain): \_\_\_\_\_

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**VI. BUSINESS DEBT SCHEDULE:** This list should contain all long term loans for contracts and notes payable for the business, including credit cards. Please list EVERYTHING the business owes. If you need more room, please attach a separate sheet.

| CREDITOR | Account Number |                 | Original Amount (\$) | Maturity Date        | Collateral Held |
|----------|----------------|-----------------|----------------------|----------------------|-----------------|
|          | Date of Loan   | Interest Rate % | Current Balance (\$) | Monthly Payment (\$) |                 |
| 1.       |                |                 | \$                   |                      |                 |
|          |                | %               | \$                   | \$                   |                 |
|          |                |                 |                      |                      |                 |
| 2.       |                |                 | \$                   |                      |                 |
|          |                | %               | \$                   | \$                   |                 |

|    |  |    |    |    |
|----|--|----|----|----|
|    |  |    |    |    |
| 3. |  | \$ |    |    |
|    |  | %  | \$ | \$ |
| 4. |  | \$ |    |    |
|    |  | %  | \$ | \$ |
| 5. |  | \$ |    |    |
|    |  | %  | \$ | \$ |
| 6. |  | \$ |    |    |
|    |  | %  | \$ | \$ |
| 7. |  | \$ |    |    |
|    |  | %  | \$ | \$ |
| 8. |  | \$ |    |    |
|    |  | %  | \$ | \$ |

**VII. PUBLIC BENEFIT:** As a result of the loan, will your business:

a. Create jobs?  YES  NO

Estimate how many jobs the business will create in the next two years: \_\_\_\_\_

b. Retain existing jobs?  YES  NO

c. Create worker ownership opportunities?  YES  NO

e.d. Expand a manufacturing enterprise?  YES  NO

d.e. Have a positive environmental impact?  YES  NO

e.f. Strengthen a key commercial corridor or  
Re-use a long vacant property?  YES  NO

f.g. Provide goods/ services presently not available?  YES  NO



g.h. Substantially increase tax revenues?

YES

NO

Please describe the public benefits and quantify, where possible.

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**VIII. EMPLOYMENT**

|                       | TOTAL |   | WHITE |   | BLACK |   | ASAN |   | HISPANIC |   | AM. IND |   | OTHER |   |
|-----------------------|-------|---|-------|---|-------|---|------|---|----------|---|---------|---|-------|---|
|                       | M     | F | M     | F | M     | F | M    | F | M        | F | M       | F | M     | F |
| Current Employees     |       |   |       |   |       |   |      |   |          |   |         |   |       |   |
| Management            |       |   |       |   |       |   |      |   |          |   |         |   |       |   |
| Professional          |       |   |       |   |       |   |      |   |          |   |         |   |       |   |
| Office/Clerical       |       |   |       |   |       |   |      |   |          |   |         |   |       |   |
| Skilled Workers       |       |   |       |   |       |   |      |   |          |   |         |   |       |   |
| Service / Maintenance |       |   |       |   |       |   |      |   |          |   |         |   |       |   |
| Other                 |       |   |       |   |       |   |      |   |          |   |         |   |       |   |

**New Job Creation** :

| Job Title and brief description | Full - Time | Part - Time | \$ / Hour | Proj. Hire Date |
|---------------------------------|-------------|-------------|-----------|-----------------|
|                                 |             |             |           |                 |
|                                 |             |             |           |                 |
|                                 |             |             |           |                 |
|                                 |             |             |           |                 |

How did you hear about the City's Revolving Loan program?

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Are you familiar with the City's First Source Employment Program?     YES     NO

After this application is reviewed by City staff and determined to meet all appropriate lending criteria, additional supplemental material and a credit check may be requested.

We appreciate your interest in the economic revitalization of Berkeley.

I hereby certify that the information provided, contained herein and attached hereto is accurate and correct to the best of my knowledge.

|              |      |              |      |
|--------------|------|--------------|------|
|              | Date |              | Date |
| (Print Name) |      | (Print Name) |      |

**SUPPLEMENTAL MATERIAL CHECKLIST (please complete)**

**Please submit the following information with your application:**

- A detailed list of exactly what the requested RLF loan would be used for.
- Most recent year-end financial statement, including income and expenses and balance sheet along with this pre-application form.
- Sources of funds need to be documented, including denial of bank for additional funds.
- Financial statement- prior 3 years and current within 90 days.
  - a. Balance sheets
  - b. Income/expense statement
  - c. Articles of incorporation/ by-law or partnership agreement (if applicable)
  - d. Resume(s) of principal(s) (normally those with 20% ownership or more; worker cooperatives should submit resumes of all members)
  - e. Certificate of good standing (corporations only)
- Pro forma financial statements/ projections (including notes and schedules).
  - a. One (1) year income/cash flow statement (month to month)
  - b. Additional 2 years cash flow projections
  - c. Explanation of the underlying assumptions supporting cash flow assumptions
- Individual Federal Income Tax Return – (if proprietorship or partnership) - prior 3 years.
- Business Federal Income Tax Return – prior 3 years.
- Plans, cost estimates/bids for construction or equipment.
- Appraisals or independent evaluations on assets offered as collateral.
- Aging of accounts receivable and payable within 90s days and list of vendors and addresses and account numbers for any accounts over 30 days.
- Schedule of Business Debts (including the following: original amount of debt, current balance outstanding, payment amount(s), payment amount, interest rate, collateral, status (current/delinquent).

- Private lender commitment or denial of funds letter(s).

- Verification of business space (i.e. deed of trust, lease/rental agreement, purchase agreement as applicable).
- Agreement of Landlord (for tenant improvement loans).
- Copy of business license.
- Copy of Hazard and Liability Insurance.
- Business Plan for expansion or start-up loans.

**Loan Fee:**

If approved, the following will be required:

- Application fee for RLF loan in the amount of \$250.00 made payable to the City of Berkeley.**

The loan fee will be credited towards the 1% loan fee and will be refunded, if not approved.

Please send the above information to the following address:

Revolving Loan Fund Program – Application  
City of Berkeley c/o Office of Economic Development  
2180 Milvia Street, Fifth Floor  
Berkeley, CA 94704



Exhibit C

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**Credit Authorization**

**CREDIT AUTHORIZATION FOR THE CITY OF BERKELEY  
REVOLVING LOAN FUND**

The following information is required to complete a credit investigation with respect to your loan fund application. This form is to be completed by every applicant, and each partner or shareholder holding a 20% or more interest in the business concern. In the case of a worker cooperative where no member holds a 20% or more interest, two or more members whose interests total at least 50% should each complete this form.

Legal Name: \_\_\_\_\_

Social Security #: \_\_\_\_\_

Birth Date: \_\_\_\_\_

Home Address: \_\_\_\_\_

\_\_\_\_\_

Occupation: \_\_\_\_\_

“With my signature below, I hereby authorize the City of Berkeley’s contracted loan underwriters to contact and obtain credit reports from credit reporting agencies (Equifax, Dun and Bradstreet, etc.) And creditors with regard to the status of any past, outstanding or current indebtedness for the life of the loan.”

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

Date: \_\_\_\_\_

Exhibit D

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**Applicant Checklist**

**CITY OF BERKELEY REVOLVING LOAN FUND APPLICATION  
SUPPLEMENTAL INFORMATION**

Applicant should submit the following items as applicable.

- Financial Statement – Prior 3 years and current within 90 days
  - a. Balance Sheets
  - b. Income/Expense Statement
  - c. Articles of Incorporation/By Laws or Partnership Agreement (If Applicable)
  - d. Resume(s) of Principal(s) (normally those with 20% ownership or more)
  - e. Certificate of Good Standing (corporations only)
- Pro Forma Financial Projections (Including Notes & Schedules)
  - a. 1 year Income/Cash Flow Statement (Month to Month)
  - b. Additional 2 years Cash Flow Projections
  - c. Explanation of the underlying assumption supporting the cash flow projections
- Individual Federal Income Tax Return – (if proprietorship or partnership) – Prior 3 years.
- Business Federal Income Tax Return – Prior 3 years.
- IRS Form 4506, Request for Copy of Tax Return
- Verification of business space (i.e. Deed of Trust, Lease/Rental Agreement, Purchase Agreement as applicable)
- Agreement of Landlord (for tenant improvement loans)
- Proof of Hazard and Liability Insurance
- Plans, Cost Estimates/Bids for Construction or Equipment
- Appraisals or independent evaluations on assets offered as collateral.
- Aging of Accounts Receivable and Payable within 90 days and list of vendors and addresses and account numbers for any accounts over 30 days.
- Schedule of Business Debts (Include the following: original amount of debt, current balance outstanding, payment amount(s), payment amount, interest rate, collateral, status (current/delinquent)
- Private Lender Commitment or Denial of funds letter(s).
- Copy of Business License
- Environmental Checklist (if required for project)

The City of Berkeley and/or the RLF program underwriters will be conducting a credit check of your business and personal payment record, if applicable.

Exhibit E

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**Sample Loan Administration Board (LAB)  
Resolution**

**LOAN ADMINISTRATION BOARD  
of the  
CITY OF BERKELEY**

The Loan Administration Board (LAB) administering the City of Berkeley's Revolving Loan Fund (RLF) met on \_\_\_\_\_, 20xx to discuss the RLF loan to \_\_\_\_\_ and passed the following motion:

Moved by \_\_\_\_\_ to approve loan with the requirements recommended in the underwriter's credit memo, and with the following additional requirements; 1) specific UCC-1 filing on \_\_\_\_\_; 2) blanket UCC-1 filing on all business assets; 3) direct disbursement of loan proceeds to vendors for equipment and to contractor for improvements; 4) 1st position on collateral; 5) signed tax returns; 6) audited financial statements for 200\_; 7) other conditions:.

The staff recommendation on loan terms is as follows:

Principal Amount: \$ \_\_\_\_\_  
Loan Term: Due in months, amortized over \_\_\_\_\_ months  
Interest Rate: \_\_\_\_\_ %  
Monthly Payment: \$ \_\_\_\_\_ per month

Seconded by \_\_\_\_\_.

The Board vote with respect to this Motion was \_Ayes, \_ Noes, \_ Abstentions.  
Board Members Absent: \_\_\_\_\_

\_\_\_\_\_  
Chairperson  
Loan Administration Board



Exhibit F

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**Sample Commitment Letter**



Loan Administration Board

Date:

Name of Borrower:

Re: Loan Approval/Intent to Lend

Dear Borrower:

This commitment letter will confirm that on behalf of the Berkeley Revolving Loan Fund, the Loan Administration Board of the RLF approved a commitment to make funds available to you substantially upon certain terms and conditions. This approval was made on\_\_\_\_\_.

1. Amount and Nature of Loan. Loan Amount (\$000,000.00) associated with the business located at:

\_\_\_\_\_

2. Purpose. The loan funds will be used solely for the acquisition of the commercial equipment,\_\_\_\_\_, and related soft costs.

3. Maturity and Payment of Loan. The amortization of loan will be\_\_\_\_ months , with a\_\_\_\_-month call, and will be payable as follows: Principal and Interest payments, with interest commencing from date of note, with interest accruing at\_\_\_\_\_% fixed. The estimated payment amount is \$\_\_\_\_\_per month, with first payment due the first day of the month following the original note date.

4. Interest. The stated interest rate on the loan will be\_\_\_\_percent (\_\_\_\_%). Following any default, the interest rate shall increase to the maximum rate allowed by State of California Law after any default. Interest will be calculated based upon a 365-day year.

In the event any payment is more than fifteen (15) days past due, you will be assessed a late charge of five percent (5%) of the amount of such payment for each thirty (30) day period for which the payment is overdue.

Evidence of Obligation. The loan will be evidenced by a Loan Agreement and Promissory Note executed by you, together with the documents necessary to create and perfect security interests described herein.

5. Fees and Expenses. You shall pay all out-of-pocket expenses incurred by the RLF in connection with this transaction, including legal fees and disbursements of counsel and including by way of illustration, but not limited to appraisal costs, title insurance premiums and other related title company costs, escrow fees, UCC search fees and all recording fees, even in the event the transaction is not consummated.

6. Security Arrangements. The loan will be secured by a second position deed of trust on the commercial real property located at \_\_\_\_\_; a first security filing on equipment of \_\_\_\_\_, guarantees of \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_; deed of trust on \_\_\_\_\_ personal residence at \_\_\_\_\_; and deed of trust on \_\_\_\_\_ personal residence at \_\_\_\_\_.

7. Conditions of Lending. The loan will be conditioned upon satisfaction of all required elements, for example, the following:

- a. Execution by you of all documents required by the RLF to evidence the loan or any of the security interests described herein.
- b. Approval by the RLF of the results of a title report and lien searches on equipment and fixtures.
- c. The absence of any adverse change in your business or financial condition.
- d. The City is satisfied that no hazardous waste or substances, toxic, waste, substances or pollutants are or have been used, generated, stored or removed on or from the real property to be covered by the deeds of trust described herein in violation of any federal, state or local law, rule or regulation. You will be required to indemnify the City against any such violations.
- e. Your obtaining irrevocable written commitments from other lenders and providing such additional funds as are reasonably necessary in the discretion of the City to permit you to complete the acquisition and purchase of the property located at: \_\_\_\_\_.
- f. Your provision of evidence that \_\_\_\_\_ is organized and qualified to do business in this state.
- g. A copy of your current business license from the City of Berkeley.
- h. Payment of a loan fee in an amount equal to \_\_\_\_\_ percent ( %) of the loan at closing.

8. Covenants. In connection with the loan, you will be required to comply with all of the following:

1. Within time periods specified in the Loan Agreement you will be required to provide annual, CPA compiled financial statements to the RLF.
  2. You will be required to provide evidence of adequate liability and property damage insurance in an amount and with a company satisfactory to the RLF as stipulated in the Loan Agreement.
9. Default: The Loan Agreement and other loan documents will contain provisions making any breach of any term or condition thereof a default.
10. Miscellaneous:  
Funds used by the RLF to make the loan are be provided by the Economic Development Administration, (EDA), and as a consequence will be subject to certain restrictions and requirements, all of which will be described in the Loan Agreement.

You will not have any right to assign the loan or any of your interest therein. Time is of the essence in the performance of all of your obligations hereunder. This letter and the loan shall be construed and interpreted in accordance with the laws of the state of California.

ORAL AGREEMENTS, PROMISES, OR COMMITMENTS TO LOAN MONEY, EXTEND CREDIT, MODIFY OR AMEND ANY TERMS OF THE LOAN, RELEASE ANY GUARANTOR, FORBEAR FROM ENFORCING REPAYMENT OF THE LOAN OR EXERCISING ANY REMEDY UNDER THE LOAN DOCUMENTS, OR MAKE ANY OTHER FINANCIAL ACCOMMODATION PERTAINING TO THE LOAN ARE NOT ENFORCEABLE UNDER CALIFORNIA LAW.

This commitment is conditioned upon the preparation, execution and delivery of legal documentation in form and substance satisfactory to the RRLF and to its counsel, which documentation in addition to incorporating substantially the terms set forth above will include such other terms as are customary for transactions of this type. This commitment is further conditioned upon the strict compliance by the Borrower with all requirements of this commitment letter before the expiration date hereof.

Please evidence your approval of the foregoing to signing and returning the lender the enclosed copy (accompanied by the commitment fee referred to above) on or before \_\_\_\_\_. If such executed copy (and fee) is not received by the RLF by such date, then this commitment shall automatically expire and be of no further force or effect.

Sincerely yours,

\_\_\_\_\_  
Economic Development Manager

Accepted this \_\_\_\_\_ day of \_\_\_\_\_, 200x.

BORROWER:

By: \_\_\_\_\_

Its: \_\_\_\_\_

Exhibit G

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## Sample Closing Checklist



**CLOSING CHECKLIST**

Applicant Name: \_\_\_\_\_

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

| ITEM REQUIRED                                    | Required |    | Received/Complete |    |
|--------------------------------------------------|----------|----|-------------------|----|
|                                                  | Yes      | No | Yes               | No |
| <b>A. DOCUMENTS RECEIVED</b>                     |          |    |                   |    |
| <b>ATTORNEY ENGAGEMENT LETTER</b>                |          |    |                   |    |
| 1. Commitment letter completed                   |          |    |                   |    |
| 1a. Commitment letter returned                   |          |    |                   |    |
| 2. Loan Agreement                                |          |    |                   |    |
| 3. Note                                          |          |    |                   |    |
| 3.a. Amended Note                                |          |    |                   |    |
| 4. Deed of Trust                                 |          |    |                   |    |
| 4a. Title Policy                                 |          |    |                   |    |
| 1. Assignment of Rents                           |          |    |                   |    |
| 2. Assignment of (Commercial) Lease              |          |    |                   |    |
| 5. Guaranty (s)                                  |          |    |                   |    |
| 5.a. Acknowledgment and Consent                  |          |    |                   |    |
| 6. Security Agreement                            |          |    |                   |    |
| 6a. List of equipment for UCC.                   |          |    |                   |    |
| 7. UCC-1 and/or UCC-2                            |          |    |                   |    |
| 7a. UCC 11R                                      |          |    |                   |    |
| 8. Estoppel Certificate (8a/parties to Estoppel) |          |    |                   |    |
| 9. Assignment of Cash Value/Life Insurance       |          |    |                   |    |
| 9a. Copy of Insurance Policy                     |          |    |                   |    |
| 9b. Personal residence                           |          |    |                   |    |

**CLOSING CHECKLIST**

Account Name: \_\_\_\_\_  
 Approved: \_\_\_\_\_

| ITEM REQUIRED                                                                                        | Required |    | Received/Complete |    |
|------------------------------------------------------------------------------------------------------|----------|----|-------------------|----|
|                                                                                                      | Yes      | No | Yes               | No |
| <b>B. FINAL CLOSING PROCESSS AND CROSS CHECK LIST</b>                                                |          |    |                   |    |
| 1. Escrow/Disbursement Instructions                                                                  |          |    |                   |    |
| 2. Copy of lender(s) approval/commitment/decline letter                                              |          |    |                   |    |
| 3. Tenant and owner lease agreements received                                                        |          |    |                   |    |
| 4. Title Commitment                                                                                  |          |    |                   |    |
| 4. (a) Title Policy #                                                                                |          |    |                   |    |
| Contact Name:                                                                                        |          |    |                   |    |
| 5. Organizational documents and borrowing resolutions                                                |          |    |                   |    |
| 6. Liability and fire protection insurance binders                                                   |          |    |                   |    |
| 7. Copy of purchase agreement/and amendments                                                         |          |    |                   |    |
| 8. Bills/invoices to be paid from escrow                                                             |          |    |                   |    |
| 9. Copies of architect, engineer, and construction contracts                                         |          |    |                   |    |
| 10. Receipt of performance bond, as required                                                         |          |    |                   |    |
| 11. Copies of all construction lien releases                                                         |          |    |                   |    |
| 12. Copies of all reports, certificates, or other documents furnished by construction lender         |          |    |                   |    |
| 13. Real estate appraisal and all addendum and/or amendments                                         |          |    |                   |    |
| 14. A certified survey with a legal description conforming to the title policy and the deed of trust |          |    |                   |    |
| 15. Evidence that required equity has been provided                                                  |          |    |                   |    |
| 16. Other (list below)                                                                               |          |    |                   |    |
| 16a. Order check for closing                                                                         |          |    |                   |    |
| 16b. Final review of documents                                                                       |          |    |                   |    |
| 16c. All insurance binders received                                                                  |          |    |                   |    |
| 16d. Prepare data entry sheet                                                                        |          |    |                   |    |

**CLOSING CHECKLIST**

Account Name: \_\_\_\_\_

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

| ITEM REQUIRED                                      |                 |    |                          |    |
|----------------------------------------------------|-----------------|----|--------------------------|----|
|                                                    | <b>Required</b> |    | <b>Received/Complete</b> |    |
|                                                    | Yes             | No | Yes                      | No |
| <b>C. DOCUMENTS TO BE REVIEWED AND/OR MODIFIED</b> |                 |    |                          |    |
| 1. Promissory Note                                 |                 |    |                          |    |
| 2. Security Agreement                              |                 |    |                          |    |
| 3. Loan Agreement                                  |                 |    |                          |    |
| 3.a. UCC Filings                                   |                 |    |                          |    |
| 4. Participation Agreement                         |                 |    |                          |    |
| 5. Continuing Guaranty                             |                 |    |                          |    |
| 6. Other documents                                 |                 |    |                          |    |
| 7. Warrant Agreement                               |                 |    |                          |    |
| 8. Copies of Subordinated Debt                     |                 |    |                          |    |
| 9. Copies of Other Notes/Warrants                  |                 |    |                          |    |
| 10. Inter-creditor Agreement                       |                 |    |                          |    |

Exhibit H

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## Loan File Checklist

**LOAN FILE CHECKLIST**  
**Applicant:** \_\_\_\_\_

APPLICANT: \_\_\_\_\_  
 MAILING ADDRESS: \_\_\_\_\_  
 CONTACT ADDRESS: \_\_\_\_\_  
 PHONE:( ) \_\_\_\_\_ FAX:( ) \_\_\_\_\_  
 PROJECT ADDRESS: \_\_\_\_\_

**CHECK ONLY THOSE REQUIRED FOR APPLICATION:**

|                                                                                   |                                                    |                                                                       |                                                                                    |
|-----------------------------------------------------------------------------------|----------------------------------------------------|-----------------------------------------------------------------------|------------------------------------------------------------------------------------|
| <input type="checkbox"/> Application                                              | <input type="checkbox"/> Business Plan             | <input type="checkbox"/> Balance Sheet & Income Statement (projected) | <input type="checkbox"/> Tax Returns                                               |
| <input type="checkbox"/> Interim Statements                                       | <input type="checkbox"/> Aging of A/R, A/P & Taxes | <input type="checkbox"/> Projected Cash Flow (12) months              | <input type="checkbox"/> Personal Financial Statement                              |
| <input type="checkbox"/> Personal Tax return                                      | <input type="checkbox"/> Business Tax return       |                                                                       | <input type="checkbox"/> Personal credit report                                    |
| <input type="checkbox"/> Business credit report                                   | <input type="checkbox"/> Purchase & sale agreement |                                                                       | <input type="checkbox"/> Construction schedule                                     |
| <input type="checkbox"/> Bid or cost estimates                                    | <input type="checkbox"/> Appraisal or valuation    |                                                                       | <input type="checkbox"/> List of other collateral                                  |
| <input type="checkbox"/> Legal or Parcel Numbers                                  | <input type="checkbox"/> Organizational documents  |                                                                       | <input type="checkbox"/> List of existing loans, commitments, or equity investment |
| <input type="checkbox"/> Copies of tenant leases                                  | <input type="checkbox"/> Copies of building leases |                                                                       | <input type="checkbox"/> Environmental Questionnaire                               |
| <input type="checkbox"/> NEPA/CEQA or other environmental reporting requirements. | <input type="checkbox"/> Completed loan write-up   |                                                                       | <input type="checkbox"/> Other                                                     |

COMMENTS: \_\_\_\_\_

Completed By: \_\_\_\_\_ Date: \_\_\_\_\_  
 Does reviewer recommend this application for consideration & approval?  
                                           \_\_\_\_ Yes                                            \_\_\_\_ No  
 Reviewed By: \_\_\_\_\_ Date: \_\_\_\_\_

Exhibit I

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## Sample Servicing Report



**LOAN SERVICING REPORT**  
**Insurance, Jobs Report and Site Visits**

START-UP LIST OF EXISTING AND PROJECTED JOBS: \_\_\_\_\_

JOBS REPORTS DUE: \_\_\_\_\_

JOB CREATION OBJECTIVE: (\_\_\_\_) MET: \_\_\_\_\_ (Date)

JOB RETENTION OBJECTIVE: (\_\_\_\_) MET: \_\_\_\_\_ (Date)

Job Creation/Retention Reports Received:

|       |                  |
|-------|------------------|
| Date: | Employee Status: |
| Date: | Employee Status: |
| Date: | Employee Status: |
| Date: | Employee Status: |
| Date: | Employee Status: |

Insurance Certificate with the RLF listed as Loss Payee Required on:

- ( ) FF&E ( ) Vehicles ( ) Real Estate ( ) Inventory
- ( ) Personal Residence ( ) Key Man Life Insurance
- Other ( ) General Liability

Company Name: \_\_\_\_\_

Collateral Covered: \_\_\_\_\_

Agent Name: \_\_\_\_\_ Agent Phone: \_\_\_\_\_

Expires: \_\_\_\_\_

Company Name: \_\_\_\_\_

Collateral Covered: \_\_\_\_\_

Agent Name: \_\_\_\_\_ Agent Phone: \_\_\_\_\_

Expires: \_\_\_\_\_

Comments on Expirations/Change of Coverage:

\_\_\_\_\_  
\_\_\_\_\_

| <b>LOAN MONITORING and SITE VISIT REPORT</b> |  |                        |     |                        |     |    |
|----------------------------------------------|--|------------------------|-----|------------------------|-----|----|
| BORROWER:                                    |  |                        |     |                        |     |    |
| CONTACT NAME:                                |  |                        |     |                        |     |    |
| PHONE NUMBER:                                |  | REPORT DATE            |     |                        |     |    |
| REVIEWER NAME:                               |  |                        |     |                        |     |    |
| NAME OF STAFF INTERVIEWED:                   |  |                        |     |                        |     |    |
| PROJECT SITE VISIT:                          |  | Yes                    | No  | FILE REVIEW ONLY?      | Yes | No |
|                                              |  |                        |     |                        |     |    |
| ORIGINAL LOAN PURPOSE (Use of Proceeds):     |  |                        |     |                        |     |    |
|                                              |  |                        |     | Days Delinquent        |     |    |
| STATUS OF LOAN:                              |  | Current                |     |                        |     |    |
|                                              |  | Delinquent             |     |                        |     |    |
| <b>G. LOAN AGREEMENT IN COMPLIANCE</b>       |  |                        | Yes | No                     |     |    |
| Comments                                     |  |                        |     |                        |     |    |
|                                              |  |                        |     |                        |     |    |
| JOB CREATION and/or RETENTION                |  |                        |     |                        |     |    |
| Full-time #                                  |  | Part-time #            |     | Minority/Ethnic Group  |     |    |
|                                              |  | Hours worked per week: |     | Asian Pacific Islander |     |    |
|                                              |  |                        |     |                        |     |    |
| FOLLOW-UP and/or REQUESTS TO BORROWER:       |  |                        |     |                        |     |    |
|                                              |  |                        |     |                        |     |    |
| DATE OF NEXT REVIEW:                         |  |                        |     |                        |     |    |

Exhibit J

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## Sample Default Notification Letter

LOAN DEFAULT NOTIFICATION LETTER

Date:

Borrower Name  
Address  
City, State, Zip

Loan #:  
RE Account:  
Amount Past Due:  
Late Charges:

Dear (Borrower):

You are hereby notified that due to your failure to make the monthly payments due for (time-span, year), for the total amount indicated above, pursuant to the terms of that certain Promissory Note dated \_\_\_\_\_ in the original principal amount of \$ \_\_\_\_\_ (the Note) given to you by the Berkeley Revolving Loan Fund (RLF), you are in default under the terms of the Note.

Pursuant to the terms of the Note, the City hereby demands that you pay all payments now due, together with accrued interest, late charges, and any costs or fees incurred by the Authority in connection with the default as provided in the Note.

The current principal balance of the Note is \$ \_\_\_\_\_ as of \_\_\_\_\_, with interest accruing on the principal balance from \_\_\_\_\_, the date of your default, at the rate of \_\_\_\_\_ ( \_\_\_\_\_ %) per annum. In addition, you are required to pay a late charge equal to five percent (5%) of the amount of the monthly payment due for each thirty day period after fifteen days from the due date of such payment. Late charges accrued are indicated above.

All payments must be made to the City of Berkeley RLF at.....

You are being given 30 days from the date of this letter to bring these payments current. Failure to do so will result in legal action against the corporation, and you personally.

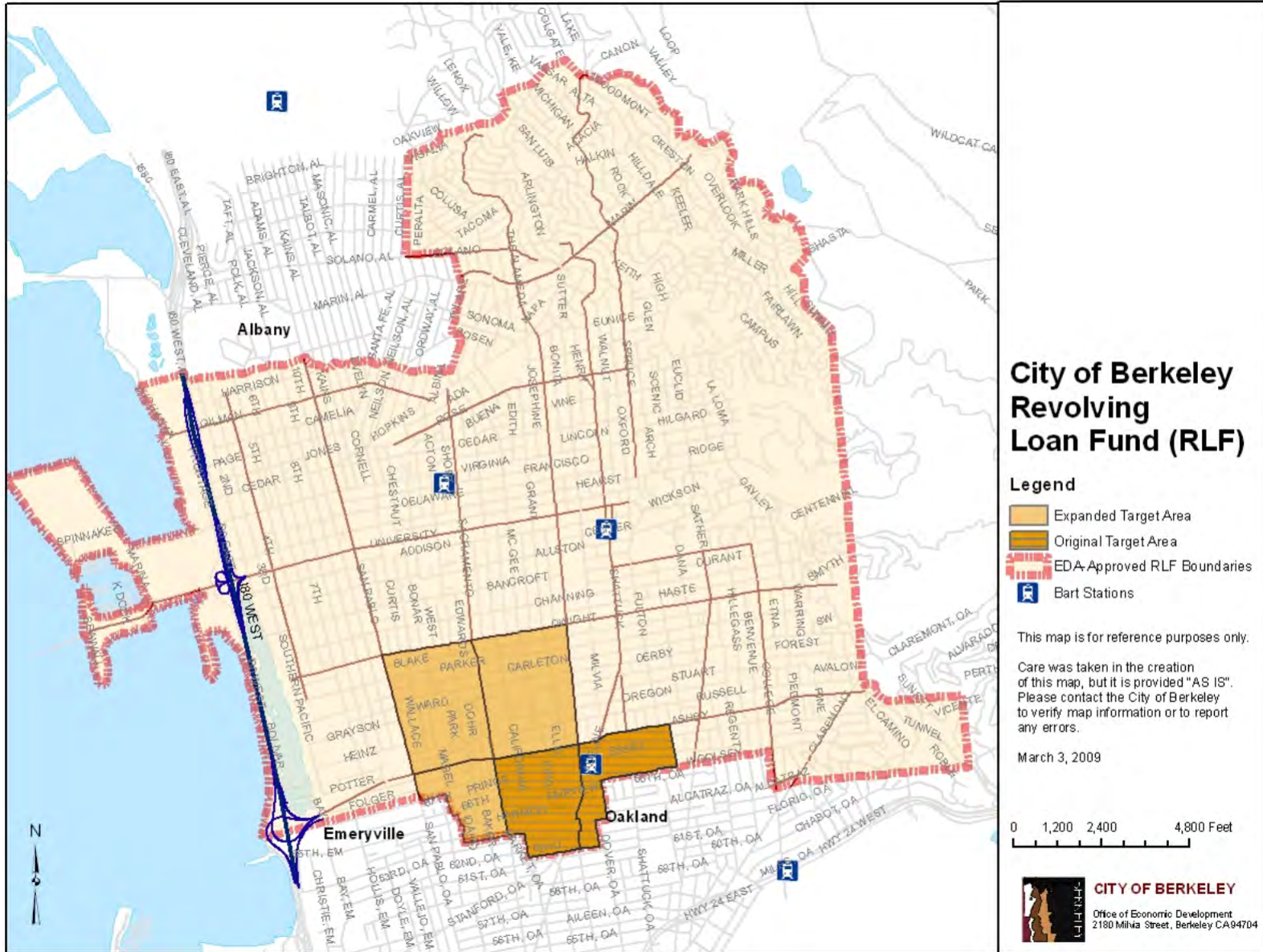
Sincerely yours,

Economic Development Manager

Exhibit K

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## Map of Target Area











Office of the City Manager

07

CONSENT CALENDAR  
September 24, 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. 31900273 Amendment: Bay Area Community Services (BACS) to Add Funds for Housing Problem-Solving

RECOMMENDATION

Adopt a resolution authorizing the City Manager to execute a contract amendment to add \$300,000 to the existing four year (FY20-23) contract with Bay Area Community Services (BACS) for Coordinated Entry System operations, for a revised total contract amount not to exceed \$6,880,149. These funds will be used as flexible funding for people experiencing homelessness and presenting at the North County Housing Resource Center.

FISCAL IMPACTS OF RECOMMENDATION

Approving this recommendation would allow the City to execute an amendment to an existing contract with Bay Area Community Services (Contract No. 31900273, CMS No. TC6QD) in the Housing and Community Services Division of the HHCS Department adding \$300,000 in Measure U1 funds for a total not-to-exceed (NTE) amount of \$6,880,149. Staff have identified \$100,000 in unspent Measure U1 funds that were allocated with the FY18-19 Biennial Budget Adoption on June 27, 2017 (Resolution No. 68,075-N.S.) and \$200,000 in funds allocated with the FY20-21 Biennial Budget Adoption on June 25, 2019 (Resolution No. 69,010-N.S.), both for creating a Flexible Housing Subsidy Pool. Funds will be placed in ERMA code 011-51-504-535-5001-000-444-612990.

CURRENT SITUATION AND ITS EFFECTS

In closing the financial books for Fiscal Year 2019, staff identified \$100,000 in unspent general funds from Measure U1.. These funds had been allocated as part of a broader “anti-displacement” package of \$650,000 in the FY18-19 Biennial Budget (\$300,000 for eviction defense, \$250,000 for housing retention, and \$100,000 for rapid rehousing). Similarly, an additional \$200,000 in Measure U1 general funds was allocated for Flexible Housing Subsidies in fiscal years 2020 and 2021 with the FY20-21 Biennial Budget, also for a Flexible Housing Subsidy Pool.

To utilize these funds efficiently and in a manner consistent with the original intention of the Council allocation, staff are proposing that the \$300,000 in total funds be added to the North County Housing Resource Center (HRC)'s budget, operated by BACS. If included as part of the North County's broader Coordinated Entry System, which centralizes all housing-crisis resources in a single point of entry, they can be allocated to persons for whom an assessment has determined the funds will best meet their needs in light of all other possible sources of assistance. The Flexible Housing Subsidy Pool can be used for everything from one-time expenses (such as arrears assistance) to multiple months of partial rent subsidy.

#### BACKGROUND

On June 27, 2017, Council passed Resolution No. 68,075-N.S., adopting a Biennial Budget for Fiscal Years 2018 and 2019. As part of the action taken that night, Council allocated \$650,000 to displacement efforts: \$300,000 for eviction defense; \$250,000 for retention; \$100,000 for rapid rehousing. In closing the books on FY19, staff recently discovered that the \$100,000 in rapid rehousing funding had not been encumbered.

On June 25, 2019, Council passed Resolution No. 69,010-N.S., adopting a Biennial Budget for Fiscal Years 2020-2021, similarly allocating \$900,000 each year in FY20 and FY21 to anti-displacement. This includes \$100,000 for a Flexible Housing Subsidy Pool in each fiscal year, for a total of \$200,000.

#### ENVIRONMENTAL SUSTAINABILITY

Approving this recommendation would have the effect of improving housing stability for some housed residents currently at risk of street homelessness, thereby reducing the any environmental impacts associated with unsheltered homelessness.

#### RATIONALE FOR RECOMMENDATION

Coordinated Entry is a system designed to assess people experiencing a housing crisis for their specific needs, and quickly refer and link them to a number of possible interventions that can materially assist them with resolving their crisis. A Flexible Housing Subsidy Pool, by its very name intended to be flexible, is best situated within this system, as its use can be considered in light of all other possible interventions for a person (maximizing efficiency) and can be as flexible as possible in the event other interventions are unavailable or infeasible (maximizing effectiveness).

#### ALTERNATIVE ACTIONS CONSIDERED

Staff did not utilize \$100,000 of the Measure U1 general funds that had been allocated during the FY18 or FY19 Budget years. Therefore, Council could re-allocate these unspent funds for other purposes. Council could similarly decide to allocate the total amount of the funds (\$300,000) to another agency, or direct staff to circulate an RFP for competitive bidding for their use.

#### CONTACT PERSON

Peter Radu, Homeless Services Coordinator, HHCS, (510) 981-5435.

Attachments:  
1: Resolution

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

CONTRACT NO. 31900273 AMENDMENT: BAY AREA COMMUNITY SERVICES  
(BACS) TO ADD FUNDS FOR HOUSING PROBLEM-SOLVING

WHEREAS, the Berkeley City Council is committed to addressing the root cause of homelessness by preventing at-risk residents from losing their housing wherever possible; and

WHEREAS, the City Council, on June 27, 2017, voted to allocate \$100,000 in Measure U1 funds for a Flexible Housing Subsidy Pool as part of a broader displacement allocation; and

WHEREAS, staff identified that this funding had not yet been encumbered as of the close of Fiscal Year 2019; and

WHEREAS, the City Council, on June 25, 2019, voted to allocate an additional \$200,000 in Measure U1 funds for a Flexible Housing Subsidy Pool as part of its displacement allocation; and

WHEREAS, the City of Berkeley, in partnership with Alameda County, operates a Coordinated Entry System at its Housing Resource Center, where all residents of Berkeley, Albany, and Emeryville experiencing a housing crisis can be assessed for their needs and linked to an intervention that is appropriate for their circumstances; and

WHEREAS, this \$300,000 in funding can be efficiently utilized within a broader Coordinated Entry context and accessed by people experiencing homelessness in the North County.

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. 31900273 (CMS # TC6QD) with Bay Area Community Services (BACS), for an amount not-to-exceed \$6,880,149. A signed copy of said documents, agreements, and any amendments will be kept on file with the Office of the City Clerk.

BE IT FURTHER RESOLVED that this \$300,000 in added funding shall be used for flexible financial assistance for people in the North County who are experiencing homelessness.





Office of the City Manager

08

CONSENT CALENDAR  
September 24, 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: Operating Funding for Community Housing Development Organizations

RECOMMENDATION

Adopt a Resolution:

1. Approving operating funding in the amount of \$28,115 each for FY 2020 for Community Housing Development Organizations (CHDOs) Resources for Community Development and Satellite Affordable Housing Associates; and
2. Authorizing the City Manager to execute all original or amended documents or agreements to effectuate this action.

FISCAL IMPACTS OF RECOMMENDATION

Half of the funds will be allocated from the City's HOME funds (Budget Code: 310-51-504-530-0000-000-444-636110), and the remainder will be allocated from General Funds (Budget Code: 501-51-504-530-0000-000-444-636110). The City currently has approximately \$1 million in HOME funds in the Housing Trust Fund. The General Fund allocation for CHDO operating support was included in the FY2020 approved budget.

CURRENT SITUATION AND ITS EFFECTS

At their July 11, 2019 meeting, the Housing Advisory Commission (HAC) voted to recommend CHDO operating funding for Resources for Community Development (RCD) and Satellite Affordable Housing Associates (SAHA) at \$28,115 each, with the HOME portion of the funds allocated to the CHDO most likely to have a HOME-eligible project within the next two years. (M/S/C: Johnson/Tregub. Ayes: Johnson, Lewis, Sargent, Sharenko, Tregub, and Wright. Noes: None. Abstain: Lord. Absent: Mendonca, Owens, Simon-Weisberg, and Wolfe).

The City issued a Notice of Funding Availability for qualified CHDOs to compete for FY2020 operating funds, and received applications from each of the City's three qualified CHDOs: Bay Area Community Land Trust (BACLTL), Resources for Community Development (RCD), and Satellite Affordable Housing Associates (SAHA). Separate from the CHDO process, the City's FY2020 FY2021 budget included annual allocations of \$100,000 to BACLTL to support the organization's capacity building efforts.

Funding available includes both HOME funds and City of Berkeley general funds. Under HUD regulations, the HOME funding is only available to a CHDO that is expected to have a HOME-funded project within the next two years. Staff support the HAC's recommendation to fund RCD and SAHA with the FY2020 CHDO operating funds.

Providing operating support to certified CHDOs is a Strategic Plan Priority Project, advancing the City's goal to create affordable housing and housing support service for the most vulnerable community members.

### BACKGROUND

Federal HOME program regulations define a CHDO as an organization that meets certain capacity criteria, meets specified board composition criteria, and has certain policies in place. To be "certified" as a CHDO, eligible organizations must provide related documentation to the City for review and approval. BACLT, RCD, and SAHA were recertified as CHDOs through the NOFA process.

Federal regulations require jurisdictions to commit 15% of their HOME funds to a certified-CHDO-sponsored project every year or forfeit the funds. A sponsor whose project is awarded HOME funds must remain a CHDO for the HUD compliance period, which lasts up to 20 years. With dwindling HOME funds and increased HOME requirements, the City has not been able to fund more than one HOME project per year, effectively limiting the use of HOME funds to CHDOs.

Jurisdictions have the option of providing 5% of its HOME funds to CHDOs as operating support, if the CHDO will be working on a HOME-funded project in the next 24 months. Years ago, the City had two qualified CHDOs (RCD and SAHA), and received enough funds to provide \$30,000 in HOME funds to each organization annually. As HOME funds were reduced at the federal level, the City began providing the HOME funds to one organization, and a matching amount of General Funds to the other.

### ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental impacts or opportunities associated with providing operating funds.

### RATIONALE FOR RECOMMENDATION

Staff support the HAC's recommendation to fund RCD and SAHA. Staff continue to work with BACLT to support their capacity building efforts and to provide the \$100,000 per year in operating support that Council approved for FY2020 and FY2021.

### ALTERNATIVE ACTIONS CONSIDERED

The HAC considered funding all three CHDOs, which would have resulted in lower reservations for RCD and SAHA. In light of BACLT's reservation of capacity building funds, separate from the CHDO process, the HAC decided to recommend funding for only RCD and SAHA.

CONTACT PERSON

Jenny Wyant, Community Development Project Coordinator, HHCS, 510-981-5228

Attachment:  
1: Resolution

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

APPROVAL OF FY2020 COMMUNITY HOUSING DEVELOPMENT ORGANIZATION  
OPERATING FUNDING FOR RESOURCES FOR COMMUNITY DEVELOPMENT AND  
SATELLITE AFFORDABLE HOUSING ASSOCIATES

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

WHEREAS, there is a great need for affordable and special needs housing in the City of Berkeley as stated in the General Plan Housing Element and the City of Berkeley's Consolidated plan; and

WHEREAS, the US Department of Housing and Urban Development allows each jurisdiction to reserve up to 5% its HOME Investment Partnership Program (HOME) entitlement for operating support for certified Community Housing Development Organizations (CHDO); and

WHEREAS, the City has historically matched the HOME CHDO funds (\$28,115 for FY2020) with an equal amount of General Funds; and

WHEREAS, the City issued a Notice of Funding Availability for \$56,230 in CHDO operating funds and received applications from certified CHDOs including Resources for Community Development and Satellite Affordable Housing Associates; and

WHEREAS, on July 11, 2019, the Housing Advisory Commission recommended funding Resources for Community Development and Satellite Affordable Housing Associates at \$28,115 each.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it approves the following reservations of CHDO operating funds for FY2020:

- \$28,115 in General Funds for Resources for Community Development
- \$28,115 in HOME funds for Satellite Affordable Housing Associates

BE IT FURTHER RESOLVED that the City Manager, or her designee, is hereby authorized to execute all original or amended documents or agreements in accordance with the intent of this Resolution; a signed copy of said documents, agreements, and any amendments will be kept on file in the Office of the City Clerk.



Office of the City Manager

09

ACTION CALENDAR

September 24, 2019

*(Continued from June 11, 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: Tenant Opportunity to Purchase Act (TOPA) Ordinance

SUMMARY

On November 28, 2017, the City Council adopted the Housing Action Plan, which included as the second High Priority referral to “develop an ordinance modeled after Washington, DC’s Tenant Opportunity to Purchase Act (TOPA) that offers existing tenants in multi-unit properties of three units or more the first right of refusal when property owners place rental property on the sale market, which can be transferred to a qualifying affordable housing provider.”

This memo summarizes staff’s research on TOPA, which incorporates Washington, DC’s ordinance and administration and several studies of the policy and its implementation. Staff conducted multiple interviews with DC staff, as well as tenant advocates, legal advocates, real estate advocates, and other stakeholders to inform the City’s research. As the first step in the referral response, this memo outlines staff research on TOPA and its administration and implementation requirements.

CURRENT SITUATION AND ITS EFFECTS

This report responds to the second High Priority referral from the Housing Action Plan that originally appeared on the agenda of the November 28, 2017 Council meeting and was sponsored by Mayor Jesse Arreguin and Councilmember Kate Harrison. The referral directed staff to develop an ordinance modeled after Washington, DC’s Tenant Opportunity to Purchase Act (TOPA) that offers existing tenants in multi-unit properties of three units or more the first right of refusal when property owners place rental property on the for-sale market, which can be transferred to a qualifying affordable housing provider. In Washington DC, the ordinance complements local funding for building acquisitions to preserve affordable housing.

Washington, DC’s TOPA ordinance provides tenants in multi-family buildings the right to purchase the property in which they reside if the owner opts to sell, and the right to match a third party sale (“right of first refusal”). Tenants can work together as a group (known as a “Tenant Association”) to purchase the apartment building, or transfer their right to another buyer. Tenants may assign their rights to either a market rate or an

affordable housing developer at their discretion. Tenants in buildings of five or more units must form a Tenant Association to enact their rights. The TOPA ordinance also establishes a process for property owners and tenants to follow prior to selling on the open market, including defined time periods for negotiation and financing.

### Administration

TOPA is managed by Washington, DC's Department of Housing and Community Development (DHCD) Rental Conversion and Sales Division, which also administers a condo conversion ordinance and a condo warranty program. Primary duties include landlord and tenant education and responding to public inquires, processing complaints, and administration (processing notices, reviewing files, drafting reports, etc). Staffing includes:

- One full-time equivalent (FTE) division director;
- Four FTE attorney specialists; and
- Three FTE program support specialists for administration (approximately 1.5 FTE dedicated to TOPA).

DHCD employs attorneys to manage TOPA cases given the complex nature and legal implications of many transactions and complaints. Despite the education and technical support provided by the DC's Office of the Tenant Advocate and outside agencies, DHCD staff noted the majority of their time is dedicated to public inquires and support.

Enforcement is complaint driven and TOPA transactions are not actively monitored by the District. DHCD staff noted processing complaints and paperwork for each reported sale offer is time consuming, and requires full-time administrative staff. DC can serve a cease and desist order if provided a notice of violation before closing of a third party sale, but holds little power should a sale go through. Following a sale, it is typically the onus of the tenants to pursue a lawsuit. DC staff noted many title companies rely on TOPA compliance reports provided by the DHCD to verify TOPA compliance prior to approving a sale, as a registered complaint could delay a sale for an extended period of time. They noted most title companies will not close with a registered TOPA complaint, but this is not a legal requirement and is the result of years of familiarity with the ordinance.

DHCD staff publish weekly reports with information on all reported TOPA-related offers, assignments, and sales. However, TOPA's complaint-driven design likely results in transactions occurring off record, and there is not reliable data for all TOPA-related transactions.

While the TOPA ordinance and administration applies to all multi-family properties, the District provides additional support for low-income tenants to exercise their TOPA rights. DHCD staff indicated two specific programs – technical assistance and



acquisition/rehabilitation loans – are critical for TOPA to serve as an affordable housing preservation tool.

#### Technical Assistance and Tenant Support

Research indicates tenants typically require significant education and support to exercise TOPA for an acquisition. Interested tenants of multi-family buildings require substantial technical, financial, organizational, and legal assistance. This includes:

- Education on rights and responsibilities;
- Formation of tenant associations;
- Securing a deposit;
- Securing loans (acquisition, rehabilitation, etc);
- Legal services;
- Identifying property management; and
- Bargaining with third parties (non-profits/for-profits).

Washington, DC complements the TOPA ordinance by funding purchase and technical assistance programs to support low-income tenants in multi-family properties in exercising their TOPA rights. The technical assistance is administered by non-profit tenant advocate organizations funded via a Request for Proposals. DHCD funded two non-profits to provide these services in the past fiscal year. There are also organizations independent of City funding that support tenants with TOPA rights, including law firms specializing in TOPA law.

In addition to the staff in the DHCD and District-funded community agencies described above, Washington, DC maintains the Office of the Tenant Advocate (OTA), a city department dedicated to providing legal and technical assistance to tenants, which includes navigating TOPA. The FY 17/18 budget for this department is over \$3.1M and includes 19 FTE employees.

#### Acquisition/Rehabilitation Loans

DHCD's Development Finance Division oversees the Department's financing of eligible TOPA acquisitions, independent of the Administrative staff in Rental and Sales Division. In FY 17/18, 22 of the 62 total projects closed were TOPA acquisitions. They estimate TOPA projects required four FTEs for underwriting project managers and administrative support staff, and project managers can typically close 4-5 projects per year.

DHCD's loan program provides financing support to projects that have:

- Five units or more;
- At least 50% of the residents qualifying as low-income; and
- Approval of 50% of the Tenant Association

Washington, DC dedicates \$10M per year in Housing Trust Fund (HTF) allocations directly to TOPA projects. In addition, their staff noted the majority of current projects

are being routed to the recently created public/private Housing Preservation Fund, which has \$40M for affordable housing preservation (including a \$10M per year District contribution).

Most properties purchased with the City's TOPA acquisition loans have substantial rehabilitation needs, which can serve as a barrier to acquisition. Most projects return to DHCD via a competitive RFP for rehabilitation funding but only one-third of applications are funded. All projects must include a rehabilitation strategy at acquisition if they do not receive additional funding. DHCD staff also noted supporting smaller projects can be a challenge due to a lack of economies of scale.

#### Staffing and Implementation Recommendations

The Council referral calls for a TOPA ordinance to apply to buildings of three or more units, and to be assumed by a qualified affordable housing nonprofit developer. This differs from DC's ordinance, as it 1) does not include duplexes and 2) limits ownership models to a transition to permanent affordable housing. In this scenario, only buildings with low-income tenants would qualify, and this would significantly limit the scope compared to DC. Ultimately, any implementation recommendations would be based on the scope of an ordinance.

Administration is the only need directly related to the adoption of an ordinance. However, DHCD and local stakeholders indicated the following three-pronged approach is necessary for TOPA to serve as an affordable housing preservation tool. Council's referral would likely require all three of these components for TOPA to have long term success in Berkeley.

- A) *Dedicated Staffing for Administration.* DC's Rental and Sales Division staff oversee approximately 163,874 rental housing units, compared to Berkeley's 26,367 rental units. Using this scale, 1.5 FTE's minimum would be needed to augment existing staffing to be consistent with their staffing.
- B) *Technical Assistance.* The technical assistance needs outlined above are beyond the capacity of current staff. DC currently funds a separate department, the OTA, in addition to two nonprofit technical assistance providers for tenant support. Council could consider releasing a Request for Information (RFI) to determine the capacity and needs of local tenant advocacy organizations to complete TOPA related work. The City could consider applications from qualified nonprofits to provide low-income tenants with additional technical support outside the scope of the ordinance through the City's Community Agency Funding RFP process, and evaluate proposals in the context of City funding priorities.

- C) *Loans and Financial Assistance*. In Washington DC, low-income tenants rely heavily on local funding to make acquisition and rehabilitation through the TOPA ordinance feasible. In order for a nonprofit affordable housing developer to acquire and rehabilitate an eligible property in Berkeley, they would likely require significant local financial support at a level similar to the City's new Small Sites program (up to \$375,000 per unit). Council could consider funding the Small Sites program for acquisitions and rehabilitations by low-income tenants under a TOPA ordinance.

### BACKGROUND

Washington, DC's TOPA ordinance provides a defined sales process for tenants to purchase the property in which they reside if the owner opts to sell, and for the first right of refusal to any third party sale if they initially decline. TOPA defines a sales process for two rental categories: 2-4 unit buildings and 5+ unit buildings. The DC Council opted to exempt single family homes in March 2018.

Under TOPA, property owners must follow a defined process when pursuing a sale:

1. Owner declares intent to sell by providing a letter to the tenants and City that includes a "bona fide offer of sale"
2. Tenant Response and Negotiation Period
  - a. Tenants are provided an official amount of time to respond and then negotiate, respectively, dependent on the size of their building
  - b. Buildings with five or more units must form a Tenant Association
  - c. Tenants have option to assign their rights to a third party
3. Landlord options: (a) sell to tenants (if tenants invoke right) or (b) move to market for third party sale
4. Tenants have 15 day period to match a third party sale (right of first refusal)

Staff reviewed research and conducted interviews with multiple stakeholders to inform research on ordinance design, implementation and administration. These include:

- Apartment and Office Building Association of Metropolitan Washington
- City of Los Angeles, Office of the Chief Legislative Analyst
- City of San Francisco, Office of Supervisor Sandra Lee Fewer
- DC Association of Realtors
- East Bay Community Law Center
- Housing Counseling Services (City-funded technical assistance provider)
- Latino Economic Development Corporation (City-funded technical assistance provider)
- Washington, DC Department of Housing and Community Development, Rental and Sales Division

Staff also attended the Oakland Community Land Trust's *Peoples Land and Housing Convening* to hear a presentation from DHCD Development Finance staff and Housing Counseling Services on the TOPA ordinance and implementation. Staff presented its initial research to the Housing Advisory Commission in July 2018.

#### Other Cities and Programs

Staff did not identify any other US cities with active TOPA-style ordinances with the exception of a Washington, DC suburb: Takoma Park, Maryland (population approximately 17,000). Their city's TOPA data is not readily available, and Takoma Park's has far fewer rental units than DC or Berkeley. The City of Los Angeles' Council reviewed TOPA in 2007, but the item did not move forward after subcommittee review.

At the time of this report's writing in April 2019, the Office of Supervisor Sandra Lee Fewer prepared an ordinance for the San Francisco Board of Supervisors modeled on TOPA. This proposal focuses exclusively on establishing rights for nonprofit affordable housing developers. Their ordinance would provide qualifying organizations the first-right-to-purchase, consisting of both a right of first offer and a right of first refusal, over all multi-family residential buildings (and related construction sites and vacant lots) in San Francisco, for the purpose of creating and preserving rent-restricted affordable rental housing. It would also establish procedures for implementation and enforcement, likely to be managed by the Mayor's Office of Housing and Community Development (MOHCD).

San Francisco's proposal is different from Washington, D.C's iteration of TOPA as it confers the purchase rights solely to nonprofit developers (instead of tenants) and therefore acquisitions would only be eligible for income-qualifying properties. Staff from the Office of Supervisor Lee-Fewer report this ordinance is intended to complement and support the city's Small Sites affordable housing acquisition program. As of the time of this writing, the San Francisco Board of Supervisors adopted the first reading on an ordinance.

Berkeley's condominium conversion ordinance does provide tenants the right of first refusal to purchase their homes at conversion. Santa Monica had a similar but further-reaching ordinance known as the Tenant Ownership Rights Charter Amendment which sunsetted in 1996. TOPA is different than these two ordinances because it applies to all rental housing units, rather than just those requesting land use approvals.

#### ENVIRONMENTAL SUSTAINABILITY

There are no environmental sustainability effects associated with the information of this report.

#### POSSIBLE FUTURE ACTION

TOPA's implementation relies on tenant engagement, loan financing and ongoing legal and administrative processes. Staff recommends developing an implementation

strategy prior to or in conjunction with the adoption of an ordinance to identify staffing and administration needs for the ongoing management of a TOPA ordinance.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Costs associated with additional staffing and administration needs would need to be determined predicated on the scope of an ordinance. Washington, DC also provides significant financial resources to support TOPA in the local community, including tenant advocacy funding and acquisition and rehabilitation loans for low-income tenants in multi-family buildings.

CONTACT PERSON

Mike Uberti, Community Development Project Coordinator, HHCS, (510) 981-5114

Attachments:

- 1: Original Referral Report from November 28, 2017



Office of the Mayor

ACTION CALENDAR  
November 14, 2017

To: Members of the City Council

From: Mayor Jesse Arreguín and Councilmember Kate Harrison

Subject: Implementation Plan for Affordable Housing Action Plan Referrals

**RECOMMENDATION**

Approve the following priority order for Affordable Housing Action Plan referrals, and adopt the interdepartmental implementation plan as revised:

**High Priority**

1. Design a Small Sites Program to assist non-profits in acquiring existing properties that fall under certain criteria with the intention of allocating \$1 million annually. As a first step, contact owners of seven apparently vacant properties constituting 68 rental units for their interest in selling them to non-profit affordable housing developers or land trusts that could rehabilitate them, and then rent the units at affordable rents. As a second step, investigate properties that are being vacated over time for possible purchase to retain affordable housing. Consider master leasing as a mechanism for managing distinct, smaller properties.
2. Develop an ordinance modeled after Washington D.C.'s Tenant Opportunity to Purchase Act (TOPA) that offers existing tenants the first right of refusal when property owners place rental property on the sale market, which can be transferred to a qualifying affordable housing provider.
3. Draft an ordinance for a new City Density Bonus plan to allow developers of multi-family housing to add up to 15% more density in exchange for fees only.
4. Create specific per acre density standards to strengthen City posture vis-à-vis the State Housing Accountability Act.
5. Examine and eliminate barriers to developing student housing and senior housing.
6. Refer to the City Manager, City Attorney and Planning Commission an ordinance to clarify existing preferences in allocating City affordable housing units to Berkeley residents living within 1/2 mile of any new development and tenants evicted under the Ellis Act, expand the second category of preference for eligible tenants displaced under the Ellis Act to include certain tenants displaced through

an Owner Move-In or (Measure Y) auction, and other forms of displacement as defined by Council.

7. Utilize list of vacant city properties developed by city staff and further examine opportunities for placing affordable housing on these sites.
8. Identify Parcels of City owned land appropriate for siting assisted-living modular micro unit buildings; take affirmative steps to speed the permitting and approvals process; obtain zoning approval and a building permit and approvals process for the creation of below market housing; identify a housing non- profit to be responsible for managing and operating the building; and establish criteria for selecting individuals and determining eligibility.
9. Investigate the feasibility of developing workforce housing, in conjunction with Berkeley Unified School District, for teachers and employees. The investigation should include research into what other California jurisdictions (such as San Francisco, Oakland, Santa Clara, and San Mateo County) are considering as part of their pursuit of School District workforce housing.
10. Streamline AH Permitting process for Projects with majority of AH; Remove Structural barriers to AH (Green AH Package Policy #2).
11. Examine and eliminate barriers to building and renting ADUs.

### **Medium Priority**

12. Impose fees when multifamily properties are destroyed due to fault of property owner (Demolition ordinance, RHSP, Relocation fees, fines).
13. Develop enforcement tools for Short-Term Rentals/Section 8.
14. Amend planning code to allow housing and other non-commercial uses on the ground floor.
15. Review method of monitoring BMR units and associated fees. Establish a City maintained online resource that would provide a brief overview of the history and purpose of Below Market Rate (BMR) units, a current list of all buildings that contain BMR units and the characteristics of the units, the % of median income qualification levels for the units, the HUD published income guidelines for % of median and family size, the property owner, rental agent, and/or management company contact information, and other relevant information that would be helpful to potential renters of BMR units. The City shall update the information as more units become available, and quarterly, to ensure that information is current.
16. To encourage landlords to accept Section 8 and Shelter + Care vouchers: create a list of qualified, efficient, and affordable contractors vetted by the City, and a discount or waiver of permit fees, to support bringing their unit(s) to code.



17. Collaborate with BHA Board to invest capital funds from sale of the public housing for more affordable housing (Longer term referral).
18. To encourage landlords to accept Section 8 and Shelter + Care vouchers: identify organizations who can support financial literacy and management for Section 8 tenants, including establishing bank accounts with direct deposit to Landlords.
19. To encourage landlords to accept Section 8 and Shelter + Care vouchers: allow parcel and/or property tax reductions based on the percentage of property of units that are currently Section 8 and/or decided during annual Section 8 inspection.
20. Increase commercial housing linkage fee by CCCI.
21. Establish Office of Anti-Displacement, and hire Anti-Displacement Advocate (non-city funded position).

### **Referrals Being Completed**

- Evaluate feasibility of developing affordable senior housing above Senior Centers.
- Hold fines on Oregon Park Senior Apartments (OSPA) in abeyance with the agreement until the OSPA conducts a financial audit and structural review and hires a property manager.
- Adopt Council policy that two-thirds of short term rental tax be allocated to the Housing Trust Fund (with remaining one-third to the arts), following administrative costs.
- Develop Measure U1 Priorities and Implementation Criteria. Include consideration of ability to leverage funds and possible bonding against revenues.

### **Referrals Completed**

- Green Affordable Housing Package policy #1: Prioritize housing over parking in new developments. Reduce parking in R-4.
- Expand legal eviction defense of Berkeley tenants beyond current 10-20% receiving this assistance.
- Provide housing counseling and legal services for Berkeley's low-income, elderly or disabled distressed homeowners.
- Increase the Rental Assistance Fund for Berkeley tenants.

- To encourage landlords to accept Section 8 and Shelter + Care vouchers: provide legal and/or mediation support, offered either through the City or a partner, in negotiating Landlord/Tenant disputes out-of-court.
- Eliminate discount in Affordable Housing Fee if paid at issuance of building permit; require full fee at building permit, and add periodic increase by reference to California Construction Cost Index (CCCI).
- Designate admin powers to Zoning Officer to expedite permit approval for affordable housing.
- Include Land Value Capture fee in future area development plans.
- Work with Rent Board to identify the causes and remedies for shortfalls in current collection of business license tax.
- Provide flexibility to Council to establish variable affordable housing percentage requirements in given areas of the City. Reflect these differences in area plans (e.g., for San Pablo, Adeline Corridors).
- Create a Deputy Director or Division Manager (Additional Management Analyst added as part of June budget process)

#### FISCAL IMPACTS OF RECOMMENDATION

There is no fiscal impact from adopting this plan. Future fiscal impacts will be dependent on the specific referral implemented.

#### CONTACT PERSON

|                             |              |
|-----------------------------|--------------|
| Mayor Jesse Arreguín        | 510-981-7100 |
| Councilmember Kate Harrison | 510-981-7140 |



Office of the City Manager

ACTION CALENDAR

November 28, 2017

(Continued from November 14, 2017)

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Paul Buddenhagen, Director, Health, Housing and Community Services  
Timothy Burroughs, Interim Director, Planning & Development  
Subject: Implementation Plan for Affordable Housing Action Plan Referrals

RECOMMENDATION

Adopt the attached interdepartmental implementation plan for Affordable Housing Action Plan referrals.

FISCAL IMPACTS OF RECOMMENDATION

There is no fiscal impact from adopting this plan. Future fiscal impacts will be dependent on the specific referral implemented.

CURRENT SITUATION AND ITS EFFECTS

On May 30, 2017, the City Council decided to establish a set of housing-related referrals in addition to the City's Reweighted Range Voting (RRV) list of referrals. The Council's list included items in the following categories: Funding, New Development/Land Acquisition, Policies, Permit Streamlining, Anti-Displacement, and Staffing.

The Council directed the City Manager to review the referral list and return with a prioritized Affordable Housing Action Plan. Staff from the Planning Department and the Health, Housing, and Community Services Department (HHCS) organized an interdepartmental working group to develop a coordinated Affordable Housing Action Plan Implementation Strategy (*Attachment 1*). The City Manager's Office, Finance, Office of Economic Development, and Information Technology as well as the Berkeley Housing Authority and Rent Board are also identified as lead and/or supporting departments.

As of this writing in October, staff have completed ten of the referrals Council previously ranked through the RRV system. Staff are currently working on the next ten referrals, as they continue to implement current programs. The remaining 16 referrals were ranked in priority order in Attachment 1 based on several factors, including:

- Estimated scale of the potential impact and benefits;

- Currently available funding;
- Currently available staff capacity; and
- Consistency with current programs.

Attachment 1 provides a status update for each Council referral currently underway and lists the departments assigned to their respective implementation.

### BACKGROUND

The referrals in the Affordable Housing Action Plan are new projects to be added to the programs the City currently provides. The Planning Department is currently developing a department work plan that will illustrate how implementation of the Affordable Housing Action Plan is being sequenced with other existing and upcoming efforts. HHCS's Housing Services unit includes 5.0 FTEs. A detailed outline of the Housing Services unit's current duties are provided in Attachment 2, and are summarized below:

- Housing Trust Fund support for projects and long-term monitoring;
- Below Market Rate housing requirements for new market rate rental and ownership housing, including long-term monitoring and Short Term Rental regulations implementation;
- Condominium Conversion program;
- Environmental review of all projects the City funds with HUD dollars;
- Loan administration for existing housing loans made in the past outside the Housing Trust Fund program;
- Staffing the Housing Advisory Commission; and
- Disposition of City-owned property, including the Berkeley Way site for affordable and supportive housing.

### ENVIRONMENTAL SUSTAINABILITY

There are no direct environmental sustainability effects associated with the content of this report; it is intended to serve as a guiding document for other referrals. Infill development associated with some of the referrals is generally considered to support environmental sustainability.

### RATIONALE FOR RECOMMENDATION

This Implementation Plan represents the efforts of an interdepartmental team to coordinate resources and staff time. Adopting this Implementation Plan will facilitate an efficient process for completing referrals across City departments.

### ALTERNATIVE ACTIONS CONSIDERED

No alternative actions were considered as staff is responding to a direct referral from Council to manage housing related referrals.

CONTACT PERSON

Michael Uberti, Community Development Project Coordinator, Health, Housing and Community Services, (510) 981-5114

Amy Davidson, Senior Community Development Project Coordinator, Health, Housing and Community Services, (510) 981-5406

Steve Buckley, Land Use Planning Manager, Planning Department, (510) 981-7411

Attachments:

1: Housing Action Plan Implementation Plan

2: HHCS HCS Housing Services' Current Projects and Services

| Completed Referrals |                                                                                                                                                                                                                     |                 |                    |                                                                                                                        |
|---------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|--------------------|------------------------------------------------------------------------------------------------------------------------|
|                     | Item                                                                                                                                                                                                                | Department Lead | Department Support | Status Update                                                                                                          |
|                     | Utilize list of vacant city properties developed by city staff and further examine opportunities for placing affordable housing on these sites.                                                                     | HHCS            |                    | 2/14/2017 Council information report                                                                                   |
|                     | Green Affordable Housing Package policy #1: Prioritize housing over parking in new developments. Reduce parking in R-4.                                                                                             | Planning        |                    | State law passed in October 2015 implementing Referral request.                                                        |
|                     | Expand legal eviction defense of Berkeley tenants beyond current 10-20% receiving this assistance.                                                                                                                  | Council         | HHCS; RSB          | Council allocated \$300,000 for eviction defense and housing counseling on June 27 as part of biennial budget process. |
|                     | Provide housing counseling and legal services for Berkeley's low-income, elderly or disabled distressed homeowners.                                                                                                 | Council         | HHCS; RSB          |                                                                                                                        |
|                     | Increase the Rental Assistance Fund for Berkeley tenants.                                                                                                                                                           | Council         | HHCS               | Council allocated \$250,000 for rental assistance on June 27 as part of biennial budget process.                       |
|                     | To encourage landlords to accept Section 8 and Shelter + Care vouchers: provide legal and/or mediation support, offered either through the City or a partner, in negotiating Landlord/Tenant disputes out-of-court; | HHCS            |                    | City has a contract with SEEDS to provide these services.                                                              |

~~Page 16 of 25~~  
**Attachment 1 - Housing Action Plan Implementation Plan**

|                              | Item                                                                                                                                                                                                           | Department Lead | Department Support         | Status Update                                                                                               |
|------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|----------------------------|-------------------------------------------------------------------------------------------------------------|
|                              | Eliminate discount in Affordable Housing Fee if paid at issuance of building permit; require full fee at building permit, and add periodic increase by reference to California Construction Cost Index (CCCI). | Council         | HHCS;<br>Planning          | Resolution adopted 06/13/2017; Ordinance (second reading) amending BMC Section 22.20.065 adopted 06/27/2017 |
|                              | Develop enforcement tools for Short-Term Rentals/Section 8.                                                                                                                                                    | Planning        | IT; Finance;<br>Rent Board | Short-Term Rental application process opened on 9/1/17. Enforcement date TBD.                               |
|                              | Designate admin powers to Zoning Officer to expedite permit approval for affordable housing.                                                                                                                   | Planning        |                            | Ordinance No. 7,573-N.S. was adopted on 10/3 expediting approval for HTF projects.                          |
|                              | Streamline AH Permitting process for Projects with majority of AH; Remove Structural barriers to AH (Green AH Package Policy #2).                                                                              | Planning        |                            | Ordinance No. 7,573-N.S. was adopted on 10/3 expediting approval for HTF projects.                          |
| <b>Referrals In Progress</b> |                                                                                                                                                                                                                |                 |                            |                                                                                                             |
| A                            | Examine and eliminate barriers to building and renting ADUs.                                                                                                                                                   | Planning        | HHCS                       | Anticipated Public Hearing at Planning Commission in November 2017                                          |
| B                            | Include Land Value Capture fee in future area development plans.                                                                                                                                               | Planning        | OED                        | On-going effort as part of Adeline Corridor Plan and other future plans.                                    |



**Page 10 of 28**  
**Attachment 1 - Housing Action Plan Implementation Plan**

|   | Item                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Department Lead | Department Support | Status Update                                                                                                               |
|---|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|--------------------|-----------------------------------------------------------------------------------------------------------------------------|
| C | Evaluate feasibility of developing affordable senior housing above Senior Centers.                                                                                                                                                                                                                                                                                                                                                                                                               | PRW             | Planning, HHCS     | Measure T-1 implementation includes analysis of housing potential                                                           |
| D | Refer to the City Manager and Planning Commission an ordinance to clarify existing preferences in allocating City affordable housing units to Berkeley residents living within 1/2 mile of any new development and tenants evicted under the Ellis Act, expand the second category of preference for eligible tenants displaced under the Ellis Act to include certain tenants displaced through an Owner Move-In or (Measure Y) auction, and other forms of displacement as defined by Council. | CAO             | HHCS; Planning     | Evaluation of options has begun. Harper Crossing project incorporated a preference for people who live or work in Berkeley. |
| E | Draft an ordinance for a new City Density Bonus plan to allow developers of multi-family housing to add up to 15% more density in exchange for fees only.                                                                                                                                                                                                                                                                                                                                        | Planning        | HHCS               | Developing Local Density Bonus Ordinance to be piloted in the C-T District                                                  |
| F | Amend planning code to allow housing and other non-commercial uses on the ground floor.                                                                                                                                                                                                                                                                                                                                                                                                          | Planning        |                    | Issue has been discussed by Planning Commission. Local Density Bonus pilot may include flexible ground floor uses.          |

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**Attachment 1 - Housing Action Plan Implementation Plan**

|                           | <b>Item</b>                                                                                                                                                                     | <b>Department Lead</b>              | <b>Department Support</b> | <b>Status Update</b>                                                                             |
|---------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|---------------------------|--------------------------------------------------------------------------------------------------|
| G                         | Impose fees when multifamily properties are destroyed due to fault of property owner (Demolition ordinance, RHSP, Relocation fees, fines).                                      | Planning                            | HHCS                      | Working on amendments to Demolition Ordinance (No. 7,458–N.S.)                                   |
| H                         | Establish Office of Anti-Displacement, and hire an Anti-Displacement Advocate (non City-funded position).                                                                       | CBO                                 |                           | This activity is expected to take place at a nonprofit organization.                             |
| I                         | Increase commercial housing linkage fee by CCCI.                                                                                                                                | Planning                            |                           | Feasibility Study for all fees is underway.                                                      |
| J                         | Hold fines on Oregon Park Senior Apartments (OSPA) in abeyance with the agreement until the OSPA conducts a financial audit and structural review and hires a property manager. | Planning / Housing Code Enforcement | HHCS                      | Housing Code Enforcement fines are not being collected while OSPA works to complete their tasks. |
| <b>Upcoming Referrals</b> |                                                                                                                                                                                 |                                     |                           |                                                                                                  |
| 1                         | Adopt Council policy that two-thirds of short term rental tax be allocated to the Housing Trust Fund (with remaining one-third to the arts), following administrative costs.    | City Manager                        | Finance; HHCS             |                                                                                                  |
| 2                         | Work with Rent Board to identify the causes and remedies for shortfalls in current collection of business license tax.                                                          | Finance                             | Rent Board; IT; HHCS      | Finance plans to work on enhancing collections in partnership with Rent Board                    |

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**Attachment 1 - Housing Action Plan Implementation Plan**

|   | <b>Item</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <b>Department Lead</b> | <b>Department Support</b> | <b>Status Update</b>                                                                                                                                                                                                                                                                                                                                                                                            |
|---|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|---------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3 | Identify Parcels of City owned land appropriate for siting assisted-living modular micro unit buildings; take affirmative steps to speed the permitting and approvals process; obtain zoning approval and a building permit and approvals process for the creation of below market housing; identify a housing non-profit to be responsible for managing and operating the building; and establish criteria for selecting individuals and determining eligibility.                                                                                                                                                                                                             | HHCS                   | Planning                  | HHCS is working on the Council referral related to the disposition of 1281 University (current home of Kenney Cottage) and microunit projects will be eligible. HHCS completed an analysis of City owned parcels appropriate for multifamily housing development in February 2017.                                                                                                                              |
| 4 | Establish a City maintained online resource that would provide a brief overview of the history and purpose of Below Market Rate (BMR) units, a current list of all buildings that contain BMR units and the characteristics of the units, the % of median income qualification levels for the units, the HUD published income guidelines for % of median and family size, the property owner, rental agent, and/or management company contact information, and other relevant information that would be helpful to potential renters of BMR units. The City shall update the information as more units become available, and quarterly, to ensure that information is current. | HHCS                   | IT                        | The City currently has a list of projects with address and property manager contacts available online. The income and rent for each BMR unit vary according to the affordability level and size, and change annually. With 0.33 FTE available for this program, staff are first working to update the online reporting tool, catch up on on-site inspections, and update online FAQ for tenants and developers. |

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**Attachment 1 - Housing Action Plan Implementation Plan**

|   | <b>Item</b>                                                                                                                                                                                                                                                                                                                                                                          | <b>Department Lead</b> | <b>Department Support</b> | <b>Status Update</b>                                                                                                        |
|---|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|---------------------------|-----------------------------------------------------------------------------------------------------------------------------|
| 5 | Create specific per acre density standards to strengthen City posture vis-à-vis the State Housing Accountability Act.                                                                                                                                                                                                                                                                | Planning               |                           | Anticipated completion 2019/2020 as part of comprehensive analysis of development potential and impacts                     |
| 6 | Investigate the feasibility of developing workforce housing, in conjunction with Berkeley Unified School District, for teachers and employees. The investigation should include research into what other California jurisdictions (such as San Francisco, Oakland, Santa Clara, and San Mateo County) are considering as part of their pursuit of School District workforce housing. | PRW                    | Planning, HHCS            | PRW is in communication with BUSD regarding publicly owned real estate in Berkeley.                                         |
| 7 | Develop Measure U1 Priorities and Implementation Criteria. Include consideration of ability to leverage funds and possible bonding against revenues.                                                                                                                                                                                                                                 | Finance; CMO           | HHCS                      | Housing Advisory Commission has appointed a U1 subcommittee to look at the issue. U1 revenue collection will begin in 2018. |
| 8 | Collaborate with BHA Board to invest capital funds from sale of the public housing for more affordable housing.                                                                                                                                                                                                                                                                      | HHCS                   | BHA                       | To be analyzed based on BHA proposal when available.                                                                        |

|    | Item                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Department Lead | Department Support   | Status Update                                                                                                                                                                                                                                                                                                                        |
|----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 9  | Design a Small Sites Program to assist non-profits in acquiring existing properties that fall under certain criteria with the intention of allocating \$1 million annually. As a first step, contact owners of seven apparently vacant properties constituting 68 rental units for their interest in selling them to non-profit affordable housing developers or land trusts that could rehabilitate them, and then rent the units at affordable rents. As a second step, investigate properties that are being vacated over time for possible purchase to retain affordable housing. Consider master leasing as a mechanism for managing distinct, smaller properties. | HHCS            | Planning;<br>Finance | Since Council prioritized full funding of the Berkeley Way project in May 2017, a source for an additional \$1M for acquisition and rehab has not yet been identified. Both organizations which have done similar projects in Berkeley, NCLT and BACLT, are relatively small and are currently working on other HTF-funded projects. |
| 10 | Develop an ordinance modeled after Washington D.C.'s Tenant Opportunity to Purchase Act (TOPA) that offers existing tenants the first right of refusal when property owners place rental property on the sale market, which can be transferred to a qualifying affordable housing provider.                                                                                                                                                                                                                                                                                                                                                                             | HHCS            |                      | A TOPA-like program would work in partnership with a Small Sites program and could be implemented at the same time.                                                                                                                                                                                                                  |
| 11 | To encourage landlords to accept Section 8 and Shelter + Care vouchers: identify organizations who can support financial literacy and management for Section 8 tenants, including establishing bank accounts with direct deposit to Landlords.                                                                                                                                                                                                                                                                                                                                                                                                                          | HHCS            | BHA                  |                                                                                                                                                                                                                                                                                                                                      |

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**Attachment 1 - Housing Action Plan Implementation Plan**

|    | Item                                                                                                                                                                                                                                                 | Department Lead | Department Support | Status Update                                                                                  |
|----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|--------------------|------------------------------------------------------------------------------------------------|
| 12 | To encourage landlords to accept Section 8 and Shelter + Care vouchers: create a list of qualified, efficient, and affordable contractors vetted by the City, and a discount or waiver of permit fees, to support bringing their unit(s) to code;    | Planning        | HHCS               |                                                                                                |
| 13 | Provide flexibility to Council to establish variable affordable housing percentage requirements in given areas of the City. Reflect these differences in area plans (e.g., for San Pablo, Adeline Corridors).                                        | Planning        | HHCS               | This flexibility was added to BMC 22.20.065 with Ordinance 7,569-NS adopted on August 18, 2017 |
| 14 | To encourage landlords to accept Section 8 and Shelter + Care vouchers: allow parcel and/or property tax reductions based on the percentage of property of units that are currently Section 8 and/or decided during annual Section 8 inspection; and | Finance         | BHA                |                                                                                                |
| 15 | Examine and eliminate barriers to developing student housing and senior housing.                                                                                                                                                                     | HHCS            | Planning           |                                                                                                |

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**Attachment 1 - Housing Action Plan Implementation Plan**

|    | Item                                         | Department Lead | Department Support | Status Update                                                                                                                                                                                                |
|----|----------------------------------------------|-----------------|--------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 16 | Create a Deputy Director or Division Manager | HHCS            |                    | HHCS Deputy Director works with all 6 HHCS divisions. The Housing Services unit has 5.0 FTEs while HHCS divisions range in size from 14 to 69 FTEs. Funding for additional staffing has not been identified. |



## Health, Housing & Community Services Department (HHCS) Current Housing Projects and Services

Housing projects and services are staffed in HHCS' Housing and Community Services Division's Housing Services unit (5.0 FTEs).

### Housing Trust Fund

- Managing active loans
  - Northern California Land Trust scattered site rehabilitation
  - Bay Area Community Land Trust predevelopment
  - Satellite Affordable Housing Associates All Souls predevelopment
  - Satellite Affordable Housing Associates Grayson Street Apartments construction
  - Resources for Community Development William Byron Rumford Sr. Plaza rehabilitation close out
  - Harper Crossing construction loan amendment, completion and close out
  - Satellite Affordable Housing Associates Hillegass Apartments loan amendment
  - Resources for Community Development MLK House loan amendment
- Monitoring completed units
  - Annual Compliance Reports and on-site monitoring
  - Continued work to customize online reporting tool
  - Federal HOME and CDBG compliance monitoring

### Below Market Rate Housing Program

- New regulatory agreement in process with Stonefire
- Respond to requests from developers regarding program requirements
- Revisions to materials available for developers and tenants
- Preparing revisions to fee proposal based on 5/16/2017 Council meeting
- Follow up with State of California to record Acton Courtyard revised regulatory agreement
- Short Term Rental regulations implementation
- Monitoring completed units
  - Annual Compliance Reports and on-site monitoring
  - Continued work to customize online reporting tool
  - Homeownership units portfolio review and monitoring program

Attachment 2 - Current HHCS Housing Projects and Services

Condominium Conversion Program

- Review current applications
- Invoice and collect fee repayments at property sales
- Process subordination requests for subdivided properties

Environmental Review

- Complete NEPA review for approximately 140 City-funded projects per year
- Coordinate with State Historic Preservation Officer under City's agreement

Loan Administration (Outside of HTF)

- Reviewing \$1.7M in older outstanding loans for compliance and status updates

Housing Advisory Commission

- Monthly meeting agenda development, packet preparation, posting and staffing
- Scheduling meeting rooms and posting agendas for 8 ad hoc subcommittees
- Reports follow up

Disposition of City-Owned Property

- 1920 West Street (1281 University Ave.)
- 5<sup>th</sup> Street Redevelopment Agency Properties
- Berkeley Way site
  - Amendment to predevelopment loan
  - Review of funding request
  - Collaboration with Planning, Public Works, and Fire





Office of the City Manager

10

CONSENT CALENDAR  
September 24, 2019

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: LaTanya Bellow, Director, Human Resources  
 Subject: Settlement Authority of City Manager for Workers' Compensation Claims

RECOMMENDATION

Adopt a Resolution to establish and grant authority to the City Manager or his/her designee to settle workers' compensation claims up to \$75,000 per employee claim, and establish and grant authority to the Human Resources Director to settle workers' compensation claims up to \$50,000 per employee claim.

FISCAL IMPACTS OF RECOMMENDATION

There are no fiscal impacts association with this resolution.

CURRENT SITUATION AND ITS EFFECTS

Currently the City Manager has authority to purchase goods and services up to \$50,000. However, City Council has not granted authority to the City Manager or the Human Resources Director to settle workers' compensation claims nor set parameters for when City Council approval is required. The purpose of the attached resolution is to establish clear settlement authority for the City Manager or his/her designee and the Human Resources Director to allow for adequate oversight and efficient management of workers compensation claims.

BACKGROUND

There are two different methods for which a workers' compensation claim may be settled. Claims are settled by either Stipulations with Request for Award (Stips) or Compromise and Release (C&R). Stipulated settlements involve agreement on the amount of temporary or permanent disability payments the injured employee receives including payment for medical care. C&R settlements involve agreement on the amount to resolve the claim in a lump sum payment including estimated cost for future medical care. C&R settlements release the City from paying future medical expenses.

The City has established contractual guidelines with our Third Party Administrator (TPA). Our TPA has authority to expend up to \$10,000 for settlement authority and any amount that exceeds \$10,000 requires City authorization. The TPA currently submits to the Human Resources Department (HR) a Settlement Authority Request (SAR) for all claims including claims which settlement amounts are below the \$10,000 threshold.

The SAR received from our TPA includes a summary of the claim history, applicable medical reports, Workers' Compensation Appeal Board findings and awards, and all other documentation relevant to the claim such as liens or demand letters from attorneys. The Human Resources Department will review the request and either deny or grant approval by way of Department Head signature. Upon receipt of a signed SAR, the TPA will proceed with settling the workers' compensation claim with the injured employee.

The Human Resources Department current settlement authorization procedures state HR may authorize settlement for all claims up to \$100,000. This level of authority is not appropriate and not aligned with City Manager and other Department Head level of authority. City Council will receive a formal Workers' Compensation report annually to strengthen the process.

Many surrounding cities have established authority levels for their workers' compensation programs. The following table summarizes the authorization levels of surrounding jurisdictions:

| Agency                           | Threshold                                                                                                        |
|----------------------------------|------------------------------------------------------------------------------------------------------------------|
| City of Richmond                 | Up to \$19,999 for Risk Manager. Over \$20,000 requires City Manager approval.                                   |
| City of Oakland                  | Risk Manager has up to \$99,999. Director approval required over \$100,000.                                      |
| City of San Leandro              | HR Manager and Analyst up to \$5,000. City Manager approved up to \$49,999. City Council approval over \$50,000. |
| City of Hayward                  | Human Resources staff approval up to \$99,999. City Council approval required over \$100,000.                    |
| City and County of San Francisco | Claims Adjuster approval 25% for stipulated awards and compromise & release                                      |

|  |                                                                                                                                                                                                                                                                                      |
|--|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  | <p>up to \$20,000 per claimant.</p> <p>Claims Supervisor 50% for stipulated awards and up to \$50,000 for compromise and release.</p> <p>Claims Manager 100% for stipulated awards and compromise and release up to \$150,000.</p> <p>Director – Unlimited settlement authority.</p> |
|--|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

ENVIRONMENTAL SUSTAINABILITY

None.

RATIONALE FOR RECOMMENDATION

Based on authorization limits in other jurisdictions, HR recommends that City Council adopt the attached resolution providing the City Manager or his/her designee with authority to settle claims up to \$75,000 per employee claim, and establish and grant authority to the Human Resources Director to settle workers' compensation claims up to \$50,000 per employee claim. Claims that exceed \$75,000 will require City Council approval. This recommendation will allow the City Manager and Human Resources Director to have increased oversight and improved tracking of the City's workers' compensation program. This recommendation will also establish clear guidelines and procedures for staff managing the workers' compensation program to follow. Establishing a settlement authority ensures consistency and that equity is applied to the settlement process. The goal is to settle claims judiciously so that City workers' compensation funds are protected and monitored

CONTACT PERSON

LaTanya Bellow, Director, Human Resources, 981-6807

Attachments:

1: Resolution

Exhibit A: [Title or Description of Exhibit]

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

Settlement Authority of City Manager for Workers' Compensation

WHEREAS, the City of Berkeley is Self-Insured for Workers' Compensation since 1979; and

WHEREAS, the Workers' Compensation insurance industry is regulated by the State of California, Department of Industrial Relations; and

WHEREAS, the State of California, Labor Code Sections 5000 to 5106 and 5702 establishes regulations for settlement of workers' compensation claims by stipulation or compromise and release; and

WHEREAS, the City of Berkeley must authorize settlement authority of claims through the workers' compensation claim process; and

WHEREAS, the City of Berkeley currently does not have established settlement authority for the City Manager nor the Human Resources Director.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or his/her designee is authorized to settle workers' compensation claims in an amount not to exceed \$75,000 per claim, and the Human Resources Director is authorized to settle workers' compensation employee claims in the an amount not to exceed \$50,000 per employee claim.





Office of the City Manager

ACTION CALENDAR

October 3, 2017

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Sarah Reynoso, Director of Human Resources

Subject: Bi-Annual Report on Workers' Compensation

RECOMMENDATION

Review and discuss the presentation on Workers' Compensation for claims activity covering the first half of Fiscal Year 2017 (July 1, 2016 to December 31, 2016).

SUMMARY

The April 25, 2017 Information Report details the City's Workers' Compensation Program and related costs. The Information Report, restated herein, focuses on the Workers' Compensation claims activity for the first half of Fiscal Year 2017 (July 1, 2016 to December 31, 2016).

FISCAL IMPACTS OF RECOMMENDATION

None

CURRENT SITUATION AND ITS EFFECTS

The first half of FY 2017 reflects a significant decrease of 18 new workers' compensation injury claims from the second half of FY 2016 - from 107 to 89 new claims. This is significant since the total number of claims reported for all employees with a date of injury in FY 2016 increased by one (1) claim from FY 2015 (from 200 to 201). The decrease in claims in the first half of FY 2017 should translate into cost containment for the City's Workers' Compensation Program (hereinafter "Program"). This is because the average life of an open Workers' Compensation Claim is three to five years (six to seven years for serious, complex, or litigated claims), and maintaining a low claim rate generally results in controlled future costs.

Human Resources Department staff continue to monitor, evaluate, and implement practices to improve the effectiveness and efficiency of the Program. The sustained focus on safety, injury prevention, early medical intervention, ergonomics, claims management, as well as supervisor and employee responsibilities will enable the City to continue to control the claim volume and related costs.

**Workers' Compensation Program**

1. **Safety and Training**: The City's Occupational Health and Safety staff, in cooperation with staff from the Department of Public Works, developed a comprehensive safety training calendar to ensure all employees participate in safety training that is relevant to daily operations. Since 2014, the City has added or revised/updated training courses in the following areas: Forklift; Confined Space; Trenching/Shoring and Excavation; Heat/Illness Prevention Training; Pre- and Post-Vehicle Inspection; Industrial Truck Safety; Supervisor Safety Responsibility; Blood Borne Pathogen; Portable Ladder Safety and Fall Protection. New courses are added as needed, when determined by the the Citywide Safety Committee, departmental managers, or as recommended by the Occupational Health and Safety Officer.
  
2. **Cal OSHA**: On January 11, 2016, a City of Berkeley Public Works Zero Waste Division employee was fatally injured while performing his regular duties (collection route service). The City immediately notified the California Occupational Safety and Health Administration (Cal OSHA) of the fatality. Cal OSHA investigated the fatality and issued the City eight (8) citations based upon its inspection and investigation of the incident. Citations related to haulage vehicles and the use of parking brakes on inclines, and the inspection of vehicles for conditions that could cause failures in operating systems were the most significant citations. The maximum exposure for the citations totaled \$98,425. The City's Occupational Health and Safety Officer along with Zero Waste managers and supervisors worked closely with Cal OSHA, refining and implementing safety protocols. As part of a post-appeal settlement order, Cal OSHA reduced the City's fines, with total fines reduced by 62%.
  
3. **Claims and Lost Time (Indemnity Days)**: A day's absence from work related to a Workers' Compensation related injury is categorized as an "Indemnity Day". Indemnity days can severely impact the operation of the work unit as well as impact the total cost of the Program.

The City experienced a decrease in lost time (indemnity days) for the first half of the FY 2017 as compared to the same period in FY 2016 for all claims. There were 4,811 indemnity days in the first half of FY 2016 compared to 4,639 indemnity days in FY 2017, which is an overall reduction of 172 days. The indemnity days noted below are partial and full calendar days off due to the injury. The significant reduction in indemnity days is primarily related to the efforts by Parks, Recreation and Waterfront; Health Housing & Community Services; and City Manager whose focus on workplace safety resulted in the greatest amount of reduction in lost time. Staff continue to focus on safety, ergonomics, administrative return to work efforts and supervisor/employee communication to minimize lost time due to injuries.



| Department                           | Indemnity Days<br>7/1/15-12/31/15 | Indemnity Days<br>7/1/16-12/31/16 | Increase<br>(Decrease) |
|--------------------------------------|-----------------------------------|-----------------------------------|------------------------|
| City Manager                         | 392                               | 165                               | (227)                  |
| Finance                              | 0                                 | 16                                | 16                     |
| Fire                                 | 1,480                             | 1,737                             | 257                    |
| HHCS                                 | 268                               | 2                                 | (266)                  |
| Library                              | 15                                | 51                                | 36                     |
| Human Resources                      | 0                                 | 0                                 | 0                      |
| Information Systems                  | 0                                 | 0                                 | 0                      |
| Parks & Waterfront                   | 401                               | 32                                | (369)                  |
| Planning                             | 0                                 | 0                                 | 0                      |
| Police                               | 1,571                             | 1,661                             | 90                     |
| Public Works                         | 665                               | 975                               | 310                    |
| Rent Board                           | 19                                | 0                                 | (19)                   |
| <b>Total<br/>Increase/(Decrease)</b> | <b>4,811</b>                      | <b>4,639</b>                      | <b>(172)</b>           |

4. Prior Year Claim Costs: The cost for claims filed in prior years (since 1979) continue to contribute substantially to the overall cost of the City's Program. As noted in the chart below, the City paid \$5,082,852 in FY 2016 and \$2,655,087 for the first half of FY 2017. Given the increased health care costs and increases to State Mandated Temporary Disability Rates, the City continues to work hard to control claim costs. This information is provided in further detail later in this report.

| Fiscal Year of Reported Injury     | Amount Paid on Claims in FY 2013 | Amount Paid on Claims in FY 2014 | Amount Paid on Claims in FY 2015 | Amount Paid on Claims in FY 2016 | Amount Paid on Claims in 1 <sup>st</sup> half of FY 2017 |
|------------------------------------|----------------------------------|----------------------------------|----------------------------------|----------------------------------|----------------------------------------------------------|
| <i># of Claims Paid</i>            | 690                              | 640                              | 594                              | 575                              | 446                                                      |
| <b>Total Amount Paid on Claims</b> | <b>\$6,055,515</b>               | <b>\$4,966,315</b>               | <b>\$4,929,238</b>               | <b>\$5,082,852</b>               | <b>\$2,655,087</b>                                       |

5. Claim Volume:

**Total Claims**: The City experienced an overall decrease in total claim volume, with a notable decrease in claims with a date of injury in FY 2017 as compared to the same time period in FY 2016 (from 94 in FY 2016 to 89 in FY 2017). This decrease occurred despite a slight increase of four (4) claims filed by Non-Sworn employees, as noted below:

| <b>All Claims – July 1 to December 31</b> |                |                |                            |
|-------------------------------------------|----------------|----------------|----------------------------|
|                                           | <b>FY 2016</b> | <b>FY 2017</b> | <b>Increase/(Decrease)</b> |
| Fire Safety Employees                     | 22             | 19             | (3)                        |
| Police Safety Employees                   | 25             | 19             | (6)                        |
| Non-Sworn Employees                       | 47             | 51             | 4                          |
| <b>Total</b>                              | <b>94</b>      | <b>89</b>      | <b>(5)</b>                 |

**Indemnity Claims:** Indemnity claims have exposure beyond medical treatment, with one or more of the following components present: lost time, permanent disability, litigation, and surgery. These claims tend to be the most severe and pose a greater liability to the City than Medical Only claims. Therefore, a reduction in Indemnity claims is a positive step in controlling the City's overall Workers' Compensation liability. There was a reduction in Citywide (Fire, Police and Non-Sworn employees) Indemnity claims in the first half of FY 2017 as compared to the same time period in FY 2016, with a total reduction of nine (9) claims (from 48 in FY 2016 to 39 in FY 2017).

| <b>Indemnity Claims – July 1 to December 31</b> |                |                |                            |
|-------------------------------------------------|----------------|----------------|----------------------------|
|                                                 | <b>FY 2016</b> | <b>FY 2017</b> | <b>Increase/(Decrease)</b> |
| Fire Safety Employees                           | 13             | 10             | (3)                        |
| Police Safety Employees                         | 14             | 11             | (3)                        |
| Non-Sworn Employees                             | 21             | 18             | (3)                        |
| <b>Total</b>                                    | <b>48</b>      | <b>39</b>      | <b>(9)</b>                 |

**Medical Only:** For Medical Only claims (injuries that require minimal medical treatment and do not incur any lost time, permanent disability, or litigation), the City experienced an decrease in Police Safety claims offset by an increase in claims filed by Non-Sworn employees, resulting in a net increase of four (4) claims as noted below:

| <b>Medical Only Claims - July 1 to December 31</b> |                |                |                            |
|----------------------------------------------------|----------------|----------------|----------------------------|
|                                                    | <b>FY 2016</b> | <b>FY 2017</b> | <b>Increase/(Decrease)</b> |
| Fire Safety Employees                              | 9              | 9              | 0                          |
| Police Safety Employees                            | 11             | 8              | (3)                        |
| Non-Sworn Employees                                | 26             | 33             | 7                          |
| <b>Total</b>                                       | <b>46</b>      | <b>50</b>      | <b>4</b>                   |

Although it is difficult to predict whether Indemnity or Medical Only claims will remain at these levels during the remainder of FY 2017, early medical intervention for reported injuries, continuous efforts on increasing safety awareness, and improved efficiencies in claims management should directly impact the number of injuries in the workplace.



6. **Case Resolution:** Case resolution is an important aspect of any Workers' Compensation Program. A Workers' Compensation claim can be resolved (settled) and agreed to by the parties (injured employee and the City) either through "Stipulation" or a "Compromise and Release". However, if the parties are unable to resolve and settle a claim with either a Stipulation or Compromise and Release, the matter could be ultimately determined by a Workers' Compensation Appeals Board Judge who would issue a "Findings and Award".
- a. Stipulation: A Stipulated Settlement is an agreement where the parties agree to the findings of a specific medical report(s). A Stipulated Settlement may result in future disability payments and medical treatment. The main components of a Stipulated Settlement are the percentage of disability the injured employee suffered and whether or not the injured employee needs further medical care. The percentage of disability derives from the doctor's medical opinion of the employee's level of disability as a result of the workplace injury. Under Workers' Compensation statutes, there is a set formula for determining the percentage of disability, which is based on the limitations set forth in the medical report, combined with the injured employee's age and occupation. The disability benefits under Stipulated Settlement are paid by the City over time. They are not paid in a lump sum unless the disability payment has already ended.
  - b. Compromise & Release: In contrast, in a Compromise & Release (C&R) Settlement can permanently resolve all or part of the issues for a single claim or multiple claims. C & R settlements are the most cost effective for employers when the agreement terminates the employer's obligation to pay any further expenses incurred after the agreement has been signed, including but not limited to the employee's procurement of further medical treatment for the injury or injuries. However, as with Stipulations, this type of settlement must be approved by a Workers' Compensation Appeals Board Judge if the injured worker is not represented by an Attorney.
  - c. Findings & Award: A Findings & Award (F&A) is the award following a decision made by a Workers' Compensation Appeals Board Judge, either after a trial or after an appeal of a prior decision by a Judge. This type of award is necessary when the parties are unable to reach a settlement on their own by Stipulation or C & R.

During the first half of FY 2017, 12 cases were settled, 10 by Stipulation and two (2) by C & R, with settlement amounts ranging from \$4,350 to \$175,000. Of the 12 cases settled, six (6) claims did not require Applicant Attorney Representation and six (6) did not require Defense Attorney Representation. None of the resolved cases required a Judge's Finding and Award.

7. **Claim Closures:** Innovative Claim Solutions, Inc., (ICS), the City's Workers' Compensation Third Party Administrator, continues to focus on closing new, as well as old claims. During the first half of FY 2017, ICS closed a total of 121 claims, (64 Indemnity and 57 Medical Only claims). The goal of ICS is to reduce the open claim inventory in order to control estimated future costs.

| Claims Closed      |           |              |       |
|--------------------|-----------|--------------|-------|
| Fiscal Year        | Indemnity | Medical Only | Total |
| 2013               | 196       | 108          | 298   |
| 2014               | 178       | 103          | 281   |
| 2015               | 162       | 120          | 282   |
| 2016               | 143       | 88           | 231   |
| 2017 (to 12/31/16) | 64        | 57           | 121   |

8. **Open Claims:** The chart below reflects the City's Open Claim Inventory at the end of each fiscal year. As of December 31, 2016, the City's total open claim inventory continues to remain under 400. Of the total open claims in FY 2017, 366 are Indemnity Claims and 27 are Medical Only Claims. ICS reduced the City's Third Party Administrative Fees for the City's Program for FY 2017 by five percent (5%) because of the reduction in the number of Open Indemnity claims in FY 2015 and FY 2016 (from 390 in FY 2013).

| Open Claim Inventory |           |              |       |
|----------------------|-----------|--------------|-------|
| Fiscal Year          | Indemnity | Medical Only | Total |
| 2013                 | 390       | 38           | 428   |
| 2014                 | 355       | 37           | 392   |
| 2015                 | 336       | 19           | 355   |
| 2016                 | 364       | 28           | 392   |
| 2017 (to 12/31/16)   | 366       | 27           | 393   |

9. **Check Volume:** Check volume is directly related to the total number of claims, both for claims closed in the current period (127 in FY 2017 as noted above) and open claims (393 in FY 2017) for as long as the claim remains open. For example, the City's current oldest open claim has an injury date of January 14, 1976. Since this claim was filed, the City has paid a total of \$692,499 as of December 31, 2016, with additional anticipated payments totaling \$154,408, for a total anticipated cost of \$846,907 for the anticipated life of the claim. The following chart details the number of claims, number of checks and amount paid on all claims by fiscal year from FY 2003 through the first half of FY 2017.

| Check Volume |                  |                  |                |
|--------------|------------------|------------------|----------------|
| Fiscal Year  | # of Claims Paid | # of Checks Paid | Total Payments |
| 2003         | 810              | 8,908            | \$6,695,782    |
| 2004         | 859              | 8,337            | \$6,240,209    |



| Check Volume       |                  |                  |                |
|--------------------|------------------|------------------|----------------|
| Fiscal Year        | # of Claims Paid | # of Checks Paid | Total Payments |
| 2005               | 779              | 7,547            | \$6,338,107    |
| 2006               | 733              | 5,763            | \$5,343,914    |
| 2007               | 699              | 5,338            | \$5,726,321    |
| 2008               | 737              | 5,502            | \$6,212,657    |
| 2009               | 698              | 5,562            | \$6,824,448    |
| 2010               | 853              | 5,831            | \$5,398,792    |
| 2011               | 680              | 5,904            | \$5,579,194    |
| 2012               | 692              | 5,958            | \$5,692,912    |
| 2013               | 690              | 5,620            | \$6,055,515    |
| 2014               | 640              | 5,017            | \$4,966,315    |
| 2015               | 594              | 4,923            | \$4,929,238    |
| 2016               | 575              | 4,612            | \$5,082,852    |
| 2017 (to 12/31/17) | 446              | 4,653            | \$2,655,087    |

- 10. Bill Review Services:** An essential component of any successful workers' compensation cost containment program is bill review services. Bill review ensures that the fees for services submitted by medical providers comply with the State of California Fee Schedule for Workers' Compensation injuries. Diamond Bill Review, Inc. provides these services for the City of Berkeley.

During the first half of FY 2016, a total of 3,038 bills amounting to \$2,634,111 in billed charges were submitted for review and adjusted to the fee schedule and PPO discounts that resulted in a 61% net savings, or a total of \$1,618,508. During the same period in FY 2017, a total of 3,853 bills amounting to \$2,767,441 in charges were submitted for review and adjusted to the fee schedule and PPO discounts that resulted in a 58% net savings, or a total of \$1,592,612.

- 11. Nurse Case Management Program:** The City continues to utilize Nurse Case Management (NCM) services to encourage appropriate medical intervention, early return to work, increased physician communication, professional nurses and cost containment strategies. Utilizing NCM services reduces unnecessary medical treatment costs and delays, and provides medical advice to injured workers throughout the course of their claim. Because the nurses are licensed clinical professionals, they can provide medical advice to injured employees, facilitate medical treatment and offer realistic expectations for recovery. As of December 31, 2016, the City has no active NCM cases. However, Nurse Case Managers were assigned to four (4) cases during FY 2016 and FY 2017 that resulted in successful intervention.

- 12. Employer's Annual Fee Assessment:** Each Self-Insured Employer is assessed an annual fee by the State of California based upon the number of



open Indemnity claims, number of employees and wages paid at the end of each fiscal year. Annual fees paid by employers help cover the costs of the State's Workers' Compensation Program for each fiscal year after the employer's fees are paid to the State. The City's fee for FY 2016 was \$153,759 based upon 336 open Indemnity claims at the end of FY 2015, and \$156,340 for FY 2017 based upon 364 open Indemnity claims at the end of FY 2016, combined with the number of employees and wages at the end of each Fiscal Year.

13. **Excess Insurance Recoveries:** As of December 31, 2016, \$121,840.28 was successfully recovered by ICS from the City's Excess Carrier for 10 claims covered by Excess Insurance. Of note, the Excess Carrier previously utilized by the City has made it increasingly difficult, repeatedly thwarting efforts to reimburse the City for costs of claims that exceeded the retention level set forth by the Excess Insurance contract. It has taken ICS hundreds of hours of work, systematically researching and reconstructing very old claims with voluminous medical records in an effort to assist the City to force the Excess Insurance Carrier to reimburse the City for costs above retention levels. ICS should be commended for the work they have done on this matter by recovering more than \$1,132,102 in FY 2016 and the first half of FY 2017 with further anticipated recoveries in the remainder of FY 2017. It is important to note that recovery of Excess Insurance money is not part of a Third Party Administrator's contract requirements.
14. **Pharmacy Benefit Management Program (PBMP):** In an effort to reduce pharmacy costs for the City's Program, ICS recommended and the City implemented a PBMP in FY 2016 to offer generic drugs to Injured Workers as an alternative to name brand drugs. We do not yet have sufficient data to determine whether this program is successful; however, staff will provide Council with an assessment in the subsequent Report on Workers' Compensation.

### **Summary of the City's Workers' Compensation Program as of 12/31/16**

- The total number of Indemnity Claims with a date of injury in the 1<sup>st</sup> half of FY 2017 compared to the 2<sup>nd</sup> half of FY 2016 decreased from 56 in the 2<sup>nd</sup> half of FY 2016 to 39 in the 1<sup>st</sup> half of FY 2017. All employees (both Fire and Police Sworn show a reduction of six (6) Indemnity Claims; and Non-Sworn show a reduction of five (5) claims). Attachment 1 (Appendix I); Attachment 7 (Chart 1).
- The total number of Medical Only claims with a date of injury in the 1<sup>st</sup> half of FY 2017 compared to the 2<sup>nd</sup> half of FY 2016 decreased by one (1) claim, from 51 in the 2<sup>nd</sup> half of FY 2016 to 50 in the 1<sup>st</sup> half of FY 2017. We anticipate a continued downward trend in the number of claims from 102 in FY 2015 to 97 in FY 2016 and 50 as of December 31, 2016. Attachment 2 (Appendix II); Attachment 7 (Chart 2).

- Overall, the grand total number of Indemnity and Medical Only claims with a date of injury in the 1<sup>st</sup> half of FY 2017 compared to the 2<sup>nd</sup> half of FY 2016 decreased by 18 claims, from 107 in the 2<sup>nd</sup> half of FY 2016 to 89 in the 1<sup>st</sup> half of FY 2017. Attachment 3 (Appendix III); Attachment 7 (Chart 3).
- On a department-wide basis, the incidence of Workers' Compensation Claims decreased from FY 2015 to FY 2016 in four (4) departments (Auditor a reduction of 1; City Manager a reduction of 7; Library a reduction of 2; and Police a reduction of 16). Five departments incurred increases, including Finance; Fire; Health, Housing and Community Services; Parks, Recreation and Waterfront; and Public Works. See Attachment 4 (Appendix IV). The Occupational Health and Safety Officer and Safety Specialist continue to conduct targeted safety trainings in all major departments in an effort to prevent and/or reduce the severity of future injuries.
- Cost per claim information for all units is subject to great fluctuations based on the nature of the underlying injury and maturity of the claim. As claims mature, they can migrate from Medical Only to Indemnity, depending upon the type and severity of the injury and related medical costs. Although the Indemnity cost per claim for all units decreased substantially in the 1<sup>st</sup> half of FY 2017 as compared to the same period in FY 2016 (\$24,358 in the 1<sup>st</sup> half of FY 2016 compared to \$12,643 in the 1<sup>st</sup> half of FY 2017), these numbers do not reflect the true potential cost of the claims. Ultimately, as referenced above, the true cost of any claim will depend upon the severity of the injury. See Attachment 5 (Appendix V); Attachment 7 (Chart 4).
- As noted above, costs for claims filed in prior years continue to contribute substantially to the overall cost of the City's Program. Although we see an increase in costs for the first half of FY 2017, (\$2,655,087 compared to \$2,396,755 for the same period in FY 2016), when viewed on a fiscal year basis, the City has experienced a reduction, from a high of \$6,055,515 in FY 2013 to \$5,082,852 in FY 2016). See Attachment 6 (Appendix VI).
- On a bi-annual basis, ICS provides the City with comparative statistical analysis of the City's Program. This information is summarized in Attachment 8.

### BACKGROUND

Since 2004, the Human Resources Department reports to Council on the City's Program and costs. This has allowed Human Resources Department staff to examine and evaluate work procedures and practices with the goal of improving the effectiveness and efficiency of the Program. For this period, the various approaches taken in injury prevention, claims management, and employee responsibility, contributed to a drop in both City lost time and incidence of injury. However, the continued increased health care and related services costs contribute significantly to overall workers' compensation costs.

ENVIRONMENTAL SUSTAINABILITY

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

RATIONALE FOR RECOMMENDATION

This report responds to Council request for discussion.

ALTERNATIVE ACTION CONSIDERED

None

CONTACT PERSON

Margarita Zamora, Employee Relations Manager, Human Resources, 981-6821  
Marge Ann Vrooman, Workers' Compensation Analyst, Human Resources, 981-6816

Attachments:

- 1: Appendix I - Indemnity Claims Activity
- 2: Appendix II – Medical Only Claims Activity
- 3: Appendix III – Grand Total of Indemnity and Medical Only Claim Activity
- 4: Appendix IV – Year to Year Claim Activity by Department
- 5: Appendix V – Cost per Claim
- 6: Appendix VI – Current Year's Expenses from Prior Year Claims
- 7: Chart 1 – Indemnity Claims  
Chart 2 – Medical Only Claims  
Chart 3 – Grand Total Indemnity and Medical Only Claims  
Chart 4 – Indemnity – Cost/Claim
- 8: Innovative Claim Solutions (ICS) Comparative Data



**Appendix I**  
**Indemnity Claims Activity**  
As of December 31, 2016

**Indemnity Claims** are Workers' Compensation claims with exposure beyond medical treatment. Indemnity claims exposure includes cost associated with lost time, litigation or permanent disability. The tables below identify the number of Indemnity claims with a date of injury over the past five (5) fiscal years. The data is first summarized for all City Indemnity claims, followed by Safety and Non-Safety Employees.

There are approximately 127 Sworn Fire Employees with approximately 13 Non-Sworn Clerical and Administrative Staff in the Fire Department. There are 181 Sworn Police Employees, with 99 Police Department positions with classifications such as Parking Enforcement Officer, Community Service Officer and Public Safety Dispatcher, as well as other Non-Sworn Clerical and Administrative Staff. There are a total of 1,495 Full-Time Equivalent (FTE) budgeted, but not necessarily filled positions, of which 421 positions are for Sworn Employees and 1,073 are Non-Sworn FTE positions.

| Indemnity Claims / Total for All Employees |                         |                         |          |
|--------------------------------------------|-------------------------|-------------------------|----------|
| Fiscal Year                                | 1 <sup>st</sup> Half FY | 2 <sup>nd</sup> Half FY | Total FY |
| 2013                                       | 60                      | 48                      | 108      |
| 2014                                       | 48                      | 47                      | 95       |
| 2015                                       | 57                      | 41                      | 98       |
| 2016                                       | 48                      | 56                      | 104      |
| 2017                                       | 39                      |                         | 39       |

| Indemnity Claims Filed by Sworn <i>Fire</i> Employees (Units A & B) |                         |                         |          |
|---------------------------------------------------------------------|-------------------------|-------------------------|----------|
| Fiscal Year                                                         | 1 <sup>st</sup> Half FY | 2 <sup>nd</sup> Half FY | Total FY |
| 2013                                                                | 12                      | 8                       | 20       |
| 2014                                                                | 5                       | 6                       | 11       |
| 2015                                                                | 17                      | 14                      | 31       |
| 2016                                                                | 13                      | 16                      | 29       |
| 2017                                                                | 10                      |                         | 10       |

| Indemnity Claims Filed by Sworn <i>Police</i> Employees (Units E & F) |                         |                         |          |
|-----------------------------------------------------------------------|-------------------------|-------------------------|----------|
| Fiscal Year                                                           | 1 <sup>st</sup> Half FY | 2 <sup>nd</sup> Half FY | Total FY |
| 2013                                                                  | 11                      | 11                      | 22       |
| 2014                                                                  | 11                      | 17                      | 28       |
| 2015                                                                  | 21                      | 10                      | 31       |
| 2016                                                                  | 14                      | 17                      | 31       |
| 2017                                                                  | 11                      |                         | 11       |

| Indemnity Claims Filed by <i>Non-Sworn</i> Employees |                         |                         |          |
|------------------------------------------------------|-------------------------|-------------------------|----------|
| Fiscal Year                                          | 1 <sup>st</sup> Half FY | 2 <sup>nd</sup> Half FY | Total FY |
| 2013                                                 | 37                      | 29                      | 66       |
| 2014                                                 | 32                      | 24                      | 56       |
| 2015                                                 | 19                      | 17                      | 36       |
| 2016                                                 | 21                      | 23                      | 44       |
| 2017                                                 | 18                      |                         | 18       |

**Appendix II**  
**Medical Only Claims Activity**  
 As of December 31, 2016

**Medical Only Claims** are claims that require medical treatment, but do not incur any lost time, litigation or permanent disability, and therefore the severity of injury is lower. The table below shows the number of Medical Only claims with a date of injury over the past five (5) fiscal years, broken out by Sworn Fire, Sworn Police, Non-Sworn employees and all employees combined, with a Grand Total for Medical Only claims.

| Medical Only Claims / Total for All Employees |                         |                         |          |
|-----------------------------------------------|-------------------------|-------------------------|----------|
| Fiscal Year                                   | 1 <sup>st</sup> Half FY | 2 <sup>nd</sup> Half FY | Total FY |
| 2013                                          | 40                      | 60                      | 100      |
| 2014                                          | 47                      | 43                      | 90       |
| 2015                                          | 65                      | 37                      | 102      |
| 2016                                          | 46                      | 51                      | 97       |
| 2017                                          | 50                      |                         | 50       |

| Medical Only Claims Filed by Sworn <i>Fire</i> Employees (Units A & B) |                         |                         |          |
|------------------------------------------------------------------------|-------------------------|-------------------------|----------|
| Fiscal Year                                                            | 1 <sup>st</sup> Half FY | 2 <sup>nd</sup> Half FY | Total FY |
| 2013                                                                   | 7                       | 7                       | 14       |
| 2014                                                                   | 3                       | 2                       | 5        |
| 2015                                                                   | 11                      | 2                       | 13       |
| 2016                                                                   | 9                       | 8                       | 17       |
| 2017                                                                   | 9                       |                         | 9        |

| Medical Only Claims Filed by Sworn <i>Police</i> Employees (Units E & F) |                         |                         |          |
|--------------------------------------------------------------------------|-------------------------|-------------------------|----------|
| Fiscal Year                                                              | 1 <sup>st</sup> Half FY | 2 <sup>nd</sup> Half FY | Total FY |
| 2013                                                                     | 18                      | 18                      | 36       |
| 2014                                                                     | 10                      | 12                      | 22       |
| 2015                                                                     | 26                      | 10                      | 36       |
| 2016                                                                     | 11                      | 13                      | 24       |
| 2017                                                                     | 8                       |                         | 8        |

| Medical Only Claims Filed by Non-Sworn Employees |                         |                         |          |
|--------------------------------------------------|-------------------------|-------------------------|----------|
| Fiscal Year                                      | 1 <sup>st</sup> Half FY | 2 <sup>nd</sup> Half FY | Total FY |
| 2013                                             | 15                      | 35                      | 50       |
| 2014                                             | 34                      | 29                      | 63       |
| 2015                                             | 28                      | 25                      | 53       |
| 2016                                             | 26                      | 30                      | 56       |
| 2017                                             | 33                      |                         | 33       |

**Appendix III**  
**Grand Total Indemnity and Medical Only Claims Activity**  
As of December 31, 2016

| <b>Fiscal Year</b> | <b>1<sup>st</sup> Half FY</b> | <b>2<sup>nd</sup> Half FY</b> | <b>Total FY</b> |
|--------------------|-------------------------------|-------------------------------|-----------------|
| <b>2013</b>        | 100                           | 108                           | 208             |
| <b>2014</b>        | 95                            | 90                            | 185             |
| <b>2015</b>        | 122                           | 78                            | 200             |
| <b>2016</b>        | 94                            | 107                           | 201             |
| <b>2017</b>        | 89                            |                               | 89              |



**Appendix IV**  
**Claim Activity by Department**

The table below shows the number of Indemnity claims and Medical Only claims with a date of injury in FY 2014, FY 2015 and FY 2016, organized by department.

| Department                           | Fiscal Year 2014 |           |            | Fiscal Year 2015 |            |            | Fiscal Year 2016 |           |            |
|--------------------------------------|------------------|-----------|------------|------------------|------------|------------|------------------|-----------|------------|
|                                      | Indemnity        | Medical   | Total      | Indemnity        | Medical    | Total      | Indemnity        | Medical   | Total      |
| City Attorney                        | 0                | 0         | 0          | 0                | 0          | 0          | 0                | 0         | 0          |
| City Auditor                         | 0                | 0         | 0          | 1                | 0          | 1          | 0                | 0         | 0          |
| City Clerk                           | 0                | 0         | 0          | 0                | 0          | 0          | 0                | 0         | 0          |
| City Manager                         | 4                | 1         | 5          | 4                | 4          | 8          | 0                | 1         | 1          |
| Economic Development                 | 0                | 0         | 0          | 0                | 0          | 0          | 0                | 0         | 0          |
| Finance                              | 1                | 2         | 3          | 0                | 0          | 0          | 2                | 0         | 2          |
| Fire*                                | 11               | 5         | 16         | 31               | 14         | 45         | 30               | 17        | 47         |
| Health, Housing & Community Services | 9                | 5         | 14         | 4                | 6          | 10         | 8                | 7         | 15         |
| Human Resources                      | 2                | 0         | 2          | 0                | 0          | 0          | 0                | 0         | 0          |
| Information Technology               | 0                | 3         | 3          | 1                | 0          | 1          | 0                | 1         | 1          |
| Library                              | 2                | 2         | 4          | 3                | 1          | 4          | 1                | 1         | 2          |
| Mayor and Council                    | 0                | 0         | 0          | 0                | 0          | 0          | 0                | 0         | 0          |
| Parks, Rec. & Waterfront             | 4                | 26        | 30         | 4                | 6          | 10         | 7                | 12        | 19         |
| Planning                             | 1                | 0         | 1          | 1                | 0          | 1          | 1                | 0         | 1          |
| Police*                              | 36               | 26        | 62         | 35               | 45         | 80         | 34               | 30        | 64         |
| Police Review Comm.                  | 1                | 0         | 1          | 0                | 0          | 0          | 0                | 0         | 0          |
| Public Works                         | 24               | 20        | 44         | 14               | 26         | 40         | 21               | 28        | 49         |
| Rent Board                           | 0                | 0         | 0          | 0                | 0          | 0          | 0                | 0         | 0          |
| <b>Grand Total</b>                   | <b>95</b>        | <b>90</b> | <b>185</b> | <b>98</b>        | <b>102</b> | <b>200</b> | <b>104</b>       | <b>97</b> | <b>201</b> |

\*Includes Sworn and Non-Sworn employees.

**Appendix V**  
**Costs per Claim**  
As of December 31, 2016

The table below shows the costs associated with Indemnity claims with a date of injury in FY 2013 through FY 2017. The information is broken down by Sworn Fire employees, Sworn Police employees, Non-Sworn Employees and all employees for each fiscal year. The Indemnity claim cost may change over time if additional payments are made for additional services provided in future years, and Medical Only claims may convert to Indemnity claims over time, which is another reason the cost of claims may change.

| <b>Fire (Units A &amp; B) Indemnity Claims/Cost</b> |                |                    |                    |              |
|-----------------------------------------------------|----------------|--------------------|--------------------|--------------|
| <b>Fiscal Year</b>                                  |                | <b>1st Half FY</b> | <b>2nd Half FY</b> | <b>Total</b> |
| <b>2013</b>                                         | Total Claims   | 12                 | 8                  | 20           |
|                                                     | Paid Total     | \$195,459          | \$76,797           | 272,255      |
|                                                     | Reserves       | \$0                | \$0                | 0            |
|                                                     | Incurred Total | \$195,459          | \$76,797           | 272,255      |
|                                                     | Cost per Claim | \$16,288           | \$9,600            | \$13,613     |
| <b>2014</b>                                         | Total Claims   | 5                  | 6                  | 11           |
|                                                     | Paid Total     | \$141,555          | \$45,701           | 187,256      |
|                                                     | Reserves       | \$45,393           | \$26,639           | 72,032       |
|                                                     | Incurred Total | \$186,948          | \$72,340           | 259,289      |
|                                                     | Cost per Claim | \$37,390           | \$12,057           | \$23,572     |
| <b>2015</b>                                         | Total Claims   | 17                 | 14                 | 31           |
|                                                     | Paid Total     | \$631,642          | \$273,212          | 904,854      |
|                                                     | Reserves       | \$289,082          | \$238,087          | 527,169      |
|                                                     | Incurred Total | \$920,724          | \$511,299          | 1,432,023    |
|                                                     | Cost per Claim | \$54,160           | \$36,521           | \$46,194     |
| <b>2016</b>                                         | Total Claims   | 13                 | 16                 | 29           |
|                                                     | Paid Total     | \$145,305          | \$246,928          | 392,233      |
|                                                     | Reserves       | \$82,873           | \$158,274          | 241,148      |
|                                                     | Incurred Total | \$228,178          | \$405,202          | 633,380      |
|                                                     | Cost per Claim | \$17,552           | \$25,325           | \$21,841     |
| <b>2017</b>                                         | Total Claims   | 10                 |                    | 10           |
|                                                     | Paid Total     | \$121,009          |                    | 121,009      |
|                                                     | Reserves       | \$143,124          |                    | 143,124      |
|                                                     | Incurred Total | \$264,133          |                    | 264,133      |
|                                                     | Cost per Claim | \$26,413           |                    | \$26,413     |

| <b>Police (Units E &amp; F) Indemnity Claims/Cost</b> |                |                 |                    |              |
|-------------------------------------------------------|----------------|-----------------|--------------------|--------------|
| <b>Fiscal Year</b>                                    |                | <b>1st Half</b> |                    | <b>Total</b> |
|                                                       |                | <b>FY</b>       | <b>2nd Half FY</b> |              |
| <b>2013</b>                                           | Total Claims   | 11              | 11                 | 22           |
|                                                       | Paid Total     | \$371,282       | \$392,255          | 763,537      |
|                                                       | Reserves       | \$103,527       | \$174,549          | 278,077      |
|                                                       | Incurred Total | \$474,809       | \$566,805          | 1,041,613    |
|                                                       | Cost per Claim | \$43,164        | \$51,528           | \$47,346     |
| <b>2014</b>                                           | Total Claims   | 11              | 17                 | 28           |
|                                                       | Paid Total     | \$90,535        | \$351,043          | 441,578      |
|                                                       | Reserves       | \$13,240        | \$66,151           | 79,391       |
|                                                       | Incurred Total | \$103,775       | \$417,194          | 520,969      |
|                                                       | Cost per Claim | \$9,434         | \$24,541           | \$18,606     |
| <b>2015</b>                                           | Total Claims   | 21              | 10                 | 31           |
|                                                       | Paid Total     | \$320,192       | \$106,573          | 426,765      |
|                                                       | Reserves       | \$226,018       | \$161,501          | 387,520      |
|                                                       | Incurred Total | \$546,210       | \$268,075          | 814,285      |
|                                                       | Cost per Claim | \$26,010        | \$26,807           | \$26,267     |
| <b>2016</b>                                           | Total Claims   | 14              | 17                 | 31           |
|                                                       | Paid Total     | \$225,283       | \$237,015          | 462,298      |
|                                                       | Reserves       | \$199,338       | \$299,367          | 498,705      |
|                                                       | Incurred Total | \$424,621       | \$536,382          | 961,003      |
|                                                       | Cost per Claim | \$30,330        | \$31,552           | \$31,000     |
| <b>2017</b>                                           | Total Claims   | 11              |                    | 11           |
|                                                       | Paid Total     | \$55,369        |                    | 55,369       |
|                                                       | Reserves       | \$65,071        |                    | 65,071       |
|                                                       | Incurred Total | \$120,440       |                    | 120,440      |
|                                                       | Cost per Claim | \$10,949        |                    | \$10,949     |



| <b>Non-Safety (Non-Sworn) Employees Indemnity Claims/Cost</b> |                |                        |                        |              |
|---------------------------------------------------------------|----------------|------------------------|------------------------|--------------|
| <b>Fiscal Year</b>                                            |                | <b>1st Half<br/>FY</b> | <b>2nd Half<br/>FY</b> | <b>Total</b> |
| <b>2013</b>                                                   | Total Claims   | 37                     | 29                     | 66           |
|                                                               | Paid Total     | \$1,033,810            | \$744,348              | 1,778,157    |
|                                                               | Reserves       | \$326,962              | \$273,612              | 600,574      |
|                                                               | Incurred Total | \$1,360,772            | \$1,017,959            | 2,378,731    |
|                                                               | Cost per Claim | \$36,778               | \$35,102               | \$36,041     |
| <b>2014</b>                                                   | Total Claims   | 32                     | 24                     | 56           |
|                                                               | Paid Total     | \$785,643              | \$637,522              | 1,423,165    |
|                                                               | Reserves       | \$172,345              | \$319,017              | 491,362      |
|                                                               | Incurred Total | \$957,989              | \$956,539              | 1,914,527    |
|                                                               | Cost per Claim | \$29,937               | \$39,856               | \$34,188     |
| <b>2015</b>                                                   | Total Claims   | 19                     | 17                     | 36           |
|                                                               | Paid Total     | \$627,933              | \$267,447              | 895,379      |
|                                                               | Reserves       | \$356,830              | \$218,093              | 574,923      |
|                                                               | Incurred Total | \$984,762              | \$485,540              | 1,470,302    |
|                                                               | Cost per Claim | \$51,830               | \$28,561               | \$40,842     |
| <b>2016</b>                                                   | Total Claims   | 21                     | 23                     | 44           |
|                                                               | Paid Total     | \$161,187              | \$257,116              | 418,303      |
|                                                               | Reserves       | \$257,602              | \$791,431              | 1,049,033    |
|                                                               | Incurred Total | \$418,789              | \$1,048,547            | 1,467,336    |
|                                                               | Cost per Claim | \$19,942               | \$45,589               | \$33,349     |
| <b>2017</b>                                                   | Total Claims   | 18                     |                        | 18           |
|                                                               | Paid Total     | \$32,059               |                        | 32,059       |
|                                                               | Reserves       | \$143,158              |                        | 143,158      |
|                                                               | Incurred Total | \$175,217              |                        | 175,217      |
|                                                               | Cost per Claim | \$9,734                |                        | \$9,734      |

| <b>Grand Total Indemnity Claims/Cost Incurred for All Employees</b> |                   |                        |                        |              |
|---------------------------------------------------------------------|-------------------|------------------------|------------------------|--------------|
| <b>Fiscal Year</b>                                                  |                   | <b>1st Half<br/>FY</b> | <b>2nd Half<br/>FY</b> | <b>Total</b> |
| <b>2013</b>                                                         | Total Claims      | 60                     | 48                     | 108          |
|                                                                     | Paid Total        | \$1,600,550            | \$1,213,399            | 2,813,950    |
|                                                                     | Reserves          | \$430,489              | \$448,161              | 878,651      |
|                                                                     | Incurred Total    | \$2,031,040            | \$1,661,561            | 3,692,600    |
|                                                                     | Cost per<br>Claim | \$33,851               | \$34,616               | \$34,191     |
| <b>2014</b>                                                         | Total Claims      | 48                     | 47                     | 95           |
|                                                                     | Paid Total        | \$1,017,733            | \$1,034,266            | 2,051,999    |
|                                                                     | Reserves          | \$230,979              | \$411,807              | 642,785      |
|                                                                     | Incurred Total    | \$1,248,712            | \$1,446,073            | 2,694,785    |
|                                                                     | Cost per<br>Claim | \$26,015               | \$30,768               | \$28,366     |
| <b>2015</b>                                                         | Total Claims      | 57                     | 41                     | 98           |
|                                                                     | Paid Total        | \$1,579,766            | \$647,232              | 2,226,998    |
|                                                                     | Reserves          | \$871,930              | \$617,681              | 1,489,612    |
|                                                                     | Incurred Total    | \$2,451,696            | \$1,264,913            | 3,716,610    |
|                                                                     | Cost per<br>Claim | \$43,012               | \$30,852               | \$37,925     |
| <b>2016</b>                                                         | Total Claims      | 48                     | 56                     | 104          |
|                                                                     | Paid Total        | \$531,775              | \$741,059              | 1,272,834    |
|                                                                     | Reserves          | \$539,814              | \$1,249,072            | 1,788,886    |
|                                                                     | Incurred Total    | \$1,071,588            | \$1,990,131            | 3,061,719    |
|                                                                     | Cost per<br>Claim | \$22,325               | \$35,538               | \$29,440     |
| <b>2017</b>                                                         | Total Claims      | 39                     |                        | 39           |
|                                                                     | Paid Total        | \$208,437              |                        | 208,437      |
|                                                                     | Reserves          | \$351,353              |                        | 351,353      |
|                                                                     | Incurred Total    | \$559,790              |                        | 559,790      |
|                                                                     | Cost per<br>Claim | \$14,354               |                        | \$14,354     |

| <b>Fire (Unit A &amp; B) Medical Only Claims/Cost</b> |                |                    |                    |              |
|-------------------------------------------------------|----------------|--------------------|--------------------|--------------|
| <b>Fiscal Year</b>                                    |                | <b>1st Half FY</b> | <b>2nd Half FY</b> | <b>Total</b> |
| <b>2013</b>                                           | Total Claims   | 7                  | 7                  | 14           |
|                                                       | Paid Total     | \$2,408            | \$3,090            | \$5,498      |
|                                                       | Reserves       | \$0                | \$0                | \$0          |
|                                                       | Incurred Total | \$2,408            | \$3,090            | \$5,498      |
|                                                       | Cost per Claim | \$344              | \$441              | \$393        |
| <b>2014</b>                                           | Total Claims   | 3                  | 2                  | 5            |
|                                                       | Paid Total     | \$2,302            | \$2,784            | \$5,086      |
|                                                       | Reserves       | \$0                | \$0                | \$0          |
|                                                       | Incurred Total | \$2,302            | \$2,784            | \$5,086      |
|                                                       | Cost per Claim | \$767              | \$1,392            | \$1,017      |
| <b>2015</b>                                           | Total Claims   | 11                 | 2                  | 13           |
|                                                       | Paid Total     | \$3,191            | \$916              | \$4,107      |
|                                                       | Reserves       | \$0                | \$0                | \$0          |
|                                                       | Incurred Total | \$3,191            | \$916              | \$4,107      |
|                                                       | Cost per Claim | \$290              | \$458              | \$316        |
| <b>2016</b>                                           | Total Claims   | 9                  | 8                  | 17           |
|                                                       | Paid Total     | \$5,342            | \$3,963            | \$9,305      |
|                                                       | Reserves       | \$688              | \$0                | \$688        |
|                                                       | Incurred Total | \$6,030            | \$3,963            | \$9,993      |
|                                                       | Cost per Claim | \$670              | \$495              | \$588        |
| <b>2017</b>                                           | Total Claims   | 9                  |                    | 9            |
|                                                       | Paid Total     | \$1,183            |                    | \$1,183      |
|                                                       | Reserves       | \$2,093            |                    | \$2,093      |
|                                                       | Incurred Total | \$3,276            |                    | \$3,276      |
|                                                       | Cost per Claim | \$364              |                    | \$364        |



| <b>Police (Units E &amp; F) Medical Only Claims/Cost</b> |                |                        |                        |              |
|----------------------------------------------------------|----------------|------------------------|------------------------|--------------|
| <b>Fiscal Year</b>                                       |                | <b>1st Half<br/>FY</b> | <b>2nd Half<br/>FY</b> | <b>Total</b> |
| <b>2013</b>                                              | Total Claims   | 18                     | 18                     | 36           |
|                                                          | Paid Total     | \$5,941                | \$9,151                | \$15,092     |
|                                                          | Reserves       | \$0                    | \$0                    | \$0          |
|                                                          | Incurred Total | \$5,941                | \$9,151                | \$15,092     |
|                                                          | Cost per Claim | \$330                  | \$508                  | \$419        |
| <b>2014</b>                                              | Total Claims   | 10                     | 12                     | 22           |
|                                                          | Paid Total     | \$4,412                | \$11,967               | \$16,379     |
|                                                          | Reserves       | \$0                    | \$0                    | \$0          |
|                                                          | Incurred Total | \$4,412                | \$11,967               | \$16,379     |
|                                                          | Cost per Claim | \$441                  | \$997                  | \$745        |
| <b>2015</b>                                              | Total Claims   | 26                     | 10                     | 36           |
|                                                          | Paid Total     | \$26,989               | \$11,316               | \$38,305     |
|                                                          | Reserves       | \$0                    | \$0                    | \$0          |
|                                                          | Incurred Total | \$26,989               | \$11,316               | \$38,305     |
|                                                          | Cost per Claim | \$1,038                | \$1,132                | \$1,064      |
| <b>2016</b>                                              | Total Claims   | 11                     | 13                     | 24           |
|                                                          | Paid Total     | \$10,901               | \$13,272               | \$24,173     |
|                                                          | Reserves       | \$0                    | \$0                    | \$0          |
|                                                          | Incurred Total | \$10,901               | \$13,272               | \$24,173     |
|                                                          | Cost per Claim | \$991                  | \$1,021                | \$1,007      |
| <b>2017</b>                                              | Total Claims   | 8                      |                        | 8            |
|                                                          | Paid Total     | \$9,509                |                        | \$9,509      |
|                                                          | Reserves       | \$1,269                |                        | \$1,269      |
|                                                          | Incurred Total | \$10,778               |                        | \$10,778     |
|                                                          | Cost per Claim | \$1,347                |                        | \$1,347      |

| <b>Non-Safety Medical Only Claims/Cost</b> |                |                        |                        |              |
|--------------------------------------------|----------------|------------------------|------------------------|--------------|
| <b>Fiscal Year</b>                         |                | <b>1st Half<br/>FY</b> | <b>2nd Half<br/>FY</b> | <b>Total</b> |
| <b>2013</b>                                | Total Claims   | 15                     | 35                     | 50           |
|                                            | Paid Total     | \$13,106               | \$28,526               | \$41,632     |
|                                            | Reserves       | \$0                    | \$11,979               | \$11,979     |
|                                            | Incurred Total | \$13,106               | \$40,505               | \$53,611     |
|                                            | Cost per Claim | \$874                  | \$1,157                | \$1,072      |
| <b>2014</b>                                | Total Claims   | 34                     | 29                     | 63           |
|                                            | Paid Total     | \$35,577               | \$49,135               | \$84,711     |
|                                            | Reserves       | \$0                    | \$0                    | \$0          |
|                                            | Incurred Total | \$35,577               | \$49,135               | \$84,711     |
|                                            | Cost per Claim | \$1,046                | \$1,694                | \$1,345      |
| <b>2015</b>                                | Total Claims   | 28                     | 25                     | 53           |
|                                            | Paid Total     | \$46,043               | \$19,934               | \$65,977     |
|                                            | Reserves       | \$0                    | \$0                    | \$0          |
|                                            | Incurred Total | \$46,043               | \$19,934               | \$65,977     |
|                                            | Cost per Claim | \$1,644                | \$797                  | \$1,245      |
| <b>2016</b>                                | Total Claims   | 26                     | 30                     | 56           |
|                                            | Paid Total     | \$26,451               | \$35,839               | \$62,289     |
|                                            | Reserves       | \$1,161                | \$476                  | \$1,638      |
|                                            | Incurred Total | \$27,612               | \$36,315               | \$63,927     |
|                                            | Cost per Claim | \$1,062                | \$1,210                | \$1,142      |
| <b>2017</b>                                | Total Claims   | 33                     |                        | 33           |
|                                            | Paid Total     | \$26,805               |                        | \$26,805     |
|                                            | Reserves       | \$10,977               |                        | \$10,977     |
|                                            | Incurred Total | \$37,782               |                        | \$37,782     |
|                                            | Cost per Claim | \$1,145                |                        | \$1,145      |

| <b>Grand Total Medical Only Claims/Costs Incurred for All Employees</b> |                |                        |                        |              |
|-------------------------------------------------------------------------|----------------|------------------------|------------------------|--------------|
| <b>Fiscal Year</b>                                                      |                | <b>1st Half<br/>FY</b> | <b>2nd Half<br/>FY</b> | <b>Total</b> |
| <b>2013</b>                                                             | Total Claims   | 40                     | 60                     | 100          |
|                                                                         | Paid Total     | \$21,455               | \$40,767               | \$62,222     |
|                                                                         | Reserves       | \$0                    | \$11,979               | \$11,979     |
|                                                                         | Incurred Total | \$21,455               | \$52,746               | \$74,201     |
|                                                                         | Cost per Claim | \$536                  | \$879                  | \$742        |
| <b>2014</b>                                                             | Total Claims   | 47                     | 43                     | 90           |
|                                                                         | Paid Total     | \$42,291               | \$63,885               | \$106,177    |
|                                                                         | Reserves       | \$0                    | \$0                    | \$0          |
|                                                                         | Incurred Total | \$42,291               | \$63,885               | \$106,177    |
|                                                                         | Cost per Claim | \$900                  | \$1,486                | \$1,180      |
| <b>2015</b>                                                             | Total Claims   | 65                     | 37                     | 102          |
|                                                                         | Paid Total     | \$76,222               | \$32,166               | \$108,389    |
|                                                                         | Reserves       | \$0                    | \$0                    | \$0          |
|                                                                         | Incurred Total | \$76,222               | \$32,166               | \$108,389    |
|                                                                         | Cost per Claim | \$1,173                | \$869                  | \$1,063      |
| <b>2016</b>                                                             | Total Claims   | 46                     | 51                     | 97           |
|                                                                         | Paid Total     | \$42,693               | \$53,074               | \$95,767     |
|                                                                         | Reserves       | \$1,849                | \$476                  | \$2,326      |
|                                                                         | Incurred Total | \$44,543               | \$53,550               | \$98,092     |
|                                                                         | Cost per Claim | \$968                  | \$1,050                | \$1,011      |
| <b>2017</b>                                                             | Total Claims   | 50                     |                        | 50           |
|                                                                         | Paid Total     | \$37,498               |                        | \$37,498     |
|                                                                         | Reserves       | \$14,339               |                        | \$14,339     |
|                                                                         | Incurred Total | \$51,837               |                        | \$51,837     |
|                                                                         | Cost per Claim | \$1,037                |                        | \$1,037      |

| <b>Fire (Unit B) Grand Total Indemnity and Medical Only Claims/Cost</b> |                |                    |                    |              |
|-------------------------------------------------------------------------|----------------|--------------------|--------------------|--------------|
| <b>Fiscal Year</b>                                                      |                | <b>1st Half FY</b> | <b>2nd Half FY</b> | <b>Total</b> |
| <b>2013</b>                                                             | Total Claims   | 19                 | 15                 | 34           |
|                                                                         | Paid Total     | \$197,867          | \$79,887           | \$277,754    |
|                                                                         | Reserves       | \$0                | \$0                | \$0          |
|                                                                         | Incurred Total | \$197,867          | \$79,887           | \$277,754    |
|                                                                         | Cost per Claim | \$20,328           | \$9,637            | \$8,169      |
| <b>2014</b>                                                             | Total Claims   | 8                  | 8                  | 16           |
|                                                                         | Paid Total     | \$143,857          | \$48,485           | \$192,342    |
|                                                                         | Reserves       | \$45,393           | \$26,639           | \$72,032     |
|                                                                         | Incurred Total | \$189,251          | \$75,124           | \$264,375    |
|                                                                         | Cost per Claim | \$28,677           | \$18,781           | \$16,523     |
| <b>2015</b>                                                             | Total Claims   | 28                 | 16                 | 44           |
|                                                                         | Paid Total     | \$634,833          | \$274,128          | \$908,961    |
|                                                                         | Reserves       | \$289,082          | \$238,087          | \$527,169    |
|                                                                         | Incurred Total | \$923,915          | \$512,215          | \$1,436,130  |
|                                                                         | Cost per Claim | \$65,448           | \$53,439           | \$32,639     |
| <b>2016</b>                                                             | Total Claims   | 22                 | 24                 | 46           |
|                                                                         | Paid Total     | \$150,646          | \$250,891          | \$401,537    |
|                                                                         | Reserves       | \$83,561           | \$158,274          | \$241,836    |
|                                                                         | Incurred Total | \$234,208          | \$409,165          | \$643,373    |
|                                                                         | Cost per Claim | \$21,142           | \$33,700           | \$13,986     |
| <b>2017</b>                                                             | Total Claims   | 19                 |                    | 19           |
|                                                                         | Paid Total     | \$122,192          |                    | \$122,192    |
|                                                                         | Reserves       | \$145,217          |                    | \$145,217    |
|                                                                         | Incurred Total | \$267,409          |                    | \$267,409    |
|                                                                         | Cost per Claim | \$23,809           |                    | \$14,074     |



| <b>Police (Units E &amp; F) Grand Total Indemnity and Medical Only Claims/Cost</b> |                |                    |                    |              |
|------------------------------------------------------------------------------------|----------------|--------------------|--------------------|--------------|
| <b>Fiscal Year</b>                                                                 |                | <b>1st Half FY</b> | <b>2nd Half FY</b> | <b>Total</b> |
| <b>2013</b>                                                                        | Total Claims   | 29                 | 29                 | 58           |
|                                                                                    | Paid Total     | \$377,223          | \$401,406          | \$778,629    |
|                                                                                    | Reserves       | \$103,527          | \$174,549          | \$278,077    |
|                                                                                    | Incurred Total | \$480,750          | \$575,955          | \$1,056,705  |
|                                                                                    | Cost per Claim | \$40,371           | \$45,131           | \$18,219     |
| <b>2014</b>                                                                        | Total Claims   | 21                 | 29                 | 50           |
|                                                                                    | Paid Total     | \$94,947           | \$363,010          | \$457,958    |
|                                                                                    | Reserves       | \$13,240           | \$66,151           | \$79,391     |
|                                                                                    | Incurred Total | \$108,187          | \$429,161          | \$537,348    |
|                                                                                    | Cost per Claim | \$10,243           | \$30,020           | \$10,747     |
| <b>2015</b>                                                                        | Total Claims   | 47                 | 20                 | 67           |
|                                                                                    | Paid Total     | \$347,180          | \$117,889          | \$465,069    |
|                                                                                    | Reserves       | \$226,018          | \$161,501          | \$387,520    |
|                                                                                    | Incurred Total | \$573,199          | \$279,391          | \$852,589    |
|                                                                                    | Cost per Claim | \$25,770           | \$29,461           | \$12,725     |
| <b>2016</b>                                                                        | Total Claims   | 25                 | 30                 | 55           |
|                                                                                    | Paid Total     | \$236,184          | \$250,287          | \$486,471    |
|                                                                                    | Reserves       | \$199,338          | \$299,367          | \$498,705    |
|                                                                                    | Incurred Total | \$435,522          | \$549,654          | \$985,176    |
|                                                                                    | Cost per Claim | \$36,452           | \$43,788           | \$17,912     |
| <b>2017</b>                                                                        | Total Claims   | 19                 |                    | 19           |
|                                                                                    | Paid Total     | \$64,878           |                    | \$64,878     |
|                                                                                    | Reserves       | \$66,340           |                    | \$66,340     |
|                                                                                    | Incurred Total | \$131,218          |                    | \$131,218    |
|                                                                                    | Cost per Claim | \$14,156           |                    | \$6,906      |

| <b>Non-Safety Units Grand Total Indemnity and Medical Only Claims/Cost</b> |                |                    |                    |              |
|----------------------------------------------------------------------------|----------------|--------------------|--------------------|--------------|
| <b>Fiscal Year</b>                                                         |                | <b>1st Half FY</b> | <b>2nd Half FY</b> | <b>Total</b> |
| <b>2013</b>                                                                | Total Claims   | 52                 | 64                 | 116          |
|                                                                            | Paid Total     | \$1,046,916        | \$772,874          | \$1,819,789  |
|                                                                            | Reserves       | \$326,962          | \$285,591          | \$612,553    |
|                                                                            | Incurred Total | \$1,373,878        | \$1,058,465        | \$2,432,343  |
|                                                                            | Cost per Claim | \$53,428           | \$33,130           | \$20,968     |
| <b>2014</b>                                                                | Total Claims   | 66                 | 53                 | 119          |
|                                                                            | Paid Total     | \$821,220          | \$686,656          | \$1,507,876  |
|                                                                            | Reserves       | \$172,345          | \$319,017          | \$491,362    |
|                                                                            | Incurred Total | \$993,565          | \$1,005,673        | \$1,999,238  |
|                                                                            | Cost per Claim | \$28,406           | \$38,163           | \$16,800     |
| <b>2015</b>                                                                | Total Claims   | 47                 | 42                 | 89           |
|                                                                            | Paid Total     | \$673,975          | \$287,381          | \$961,356    |
|                                                                            | Reserves       | \$356,830          | \$218,093          | \$574,923    |
|                                                                            | Incurred Total | \$1,030,805        | \$505,474          | \$1,536,279  |
|                                                                            | Cost per Claim | \$45,266           | \$24,553           | \$17,262     |
| <b>2016</b>                                                                | Total Claims   | 47                 | 53                 | 100          |
|                                                                            | Paid Total     | \$187,638          | \$292,955          | \$480,592    |
|                                                                            | Reserves       | \$258,764          | \$791,907          | \$1,050,670  |
|                                                                            | Incurred Total | \$446,401          | \$1,084,862        | \$1,531,263  |
|                                                                            | Cost per Claim | \$19,935           | \$39,448           | \$15,313     |
| <b>2017</b>                                                                | Total Claims   | 51                 |                    | 51           |
|                                                                            | Paid Total     | \$58,864           |                    | \$58,864     |
|                                                                            | Reserves       | \$154,135          |                    | \$154,135    |
|                                                                            | Incurred Total | \$213,000          |                    | \$213,000    |
|                                                                            | Cost per Claim | \$7,676            |                    | \$4,176      |



| <b>Grand Total Indemnity and Medical Only Claims/Cost Incurred for All Employees</b> |                |                    |                    |              |
|--------------------------------------------------------------------------------------|----------------|--------------------|--------------------|--------------|
| <b>Fiscal Year</b>                                                                   |                | <b>1st Half FY</b> | <b>2nd Half FY</b> | <b>Total</b> |
| <b>2013</b>                                                                          | Total Claims   | 100                | 108                | 208          |
|                                                                                      | Paid Total     | \$1,622,005        | \$1,254,167        | \$2,876,172  |
|                                                                                      | Reserves       | \$430,489          | \$460,140          | \$890,630    |
|                                                                                      | Incurred Total | \$2,052,495        | \$1,714,307        | \$3,766,802  |
|                                                                                      | Cost per Claim | \$41,318           | \$31,654           | \$18,110     |
| <b>2014</b>                                                                          | Total Claims   | 95                 | 90                 | 185          |
|                                                                                      | Paid Total     | \$1,060,025        | \$1,098,151        | \$2,158,176  |
|                                                                                      | Reserves       | \$230,979          | \$411,807          | \$642,785    |
|                                                                                      | Incurred Total | \$1,291,003        | \$1,509,958        | \$2,800,961  |
|                                                                                      | Cost per Claim | \$25,191           | \$33,824           | \$15,140     |
| <b>2015</b>                                                                          | Total Claims   | 122                | 78                 | 200          |
|                                                                                      | Paid Total     | \$1,655,989        | \$679,398          | \$2,335,387  |
|                                                                                      | Reserves       | \$871,930          | \$617,681          | \$1,489,612  |
|                                                                                      | Incurred Total | \$2,527,919        | \$1,297,079        | \$3,824,998  |
|                                                                                      | Cost per Claim | \$41,337           | \$32,805           | \$19,125     |
| <b>2016</b>                                                                          | Total Claims   | 94                 | 107                | 201          |
|                                                                                      | Paid Total     | \$574,468          | \$794,133          | \$1,368,601  |
|                                                                                      | Reserves       | \$541,663          | \$1,249,548        | \$1,791,211  |
|                                                                                      | Incurred Total | \$1,116,131        | \$2,043,681        | \$3,159,812  |
|                                                                                      | Cost per Claim | \$24,358           | \$39,692           | \$15,720     |
| <b>2017</b>                                                                          | Total Claims   | 89                 |                    | 89           |
|                                                                                      | Paid Total     | \$245,935          |                    | \$245,935    |
|                                                                                      | Reserves       | \$365,692          |                    | \$365,692    |
|                                                                                      | Incurred Total | \$611,627          |                    | \$611,627    |
|                                                                                      | Cost per Claim | \$12,643           |                    | \$6,872      |

**Appendix VI**  
As of December 31, 2016

As previously reported to the Council, the number of claims filed, particularly Indemnity claims, continue to incur a high level of expense for injuries that occurred in prior years. These expenses include, but are not limited to payments for medical treatment, such as physical therapy, medication and rehabilitation, as well as Temporary Disability for lost time. Also, permanent Disability awards and litigation expenses to adjudicate a claim, are included in the Indemnity costs of a claim. The table below shows Workers' Compensation Payments made by Innovative Claim Solutions over the past five (5) fiscal years by date of entry. This table does not include expenses for the City's 365 Day Salary Continuation Benefit paid by the City's Auditors for time off work and to attend medical appointments, which are in addition to Temporary Disability Payments mandated by the State of California.

| <b>Fiscal Year of Reported Injury</b> | <b>Amount Paid on Claims in Fiscal 2013</b> | <b>Amount Paid on Claims in Fiscal 2014</b> | <b>Amount Paid on Claims in Fiscal 2015</b> | <b>Amount Paid on Claims in Fiscal 2016</b> | <b>Amount Paid on Claims in Fiscal 2017 (to 12/31/16)</b> |
|---------------------------------------|---------------------------------------------|---------------------------------------------|---------------------------------------------|---------------------------------------------|-----------------------------------------------------------|
| <b># of Claims Paid</b>               | 690                                         | 640                                         | 594                                         | 575                                         | 446                                                       |
| 1950 to 1979                          | \$18,058                                    | \$15,653                                    | \$18,663                                    | \$19,387                                    | \$8,510                                                   |
| 1980 to 1989                          | \$9,978                                     | \$17,358                                    | \$113,783                                   | \$23,876                                    | \$16,291                                                  |
| 1990 to 1999                          | \$523,082                                   | \$619,803                                   | \$591,906                                   | \$460,378                                   | \$232,328                                                 |
| 2000                                  | \$114,349                                   | \$38,952                                    | \$21,494                                    | \$16,970                                    | \$21,416                                                  |
| 2001                                  | \$260,377                                   | \$128,175                                   | \$58,645                                    | \$62,625                                    | \$25,383                                                  |
| 2002                                  | \$166,810                                   | \$78,180                                    | \$47,765                                    | \$142,630                                   | \$75,409                                                  |
| 2003                                  | \$139,891                                   | \$62,998                                    | \$59,142                                    | \$226,106                                   | -\$21,049                                                 |
| 2004                                  | \$208,883                                   | \$91,176                                    | \$112,018                                   | \$128,615                                   | \$55,127                                                  |
| 2005                                  | \$467,663                                   | \$68,651                                    | \$18,208                                    | \$23,221                                    | \$29,202                                                  |
| 2006                                  | \$200,798                                   | \$78,551                                    | \$52,823                                    | \$55,832                                    | \$23,403                                                  |
| 2007                                  | \$54,145                                    | \$51,151                                    | \$25,965                                    | \$47,633                                    | \$12,468                                                  |
| 2008                                  | \$357,607                                   | \$154,809                                   | \$198,785                                   | \$62,476                                    | \$63,634                                                  |
| 2009                                  | \$345,710                                   | \$197,517                                   | \$400,563                                   | \$139,145                                   | \$253,194                                                 |
| 2010                                  | \$353,244                                   | \$243,994                                   | \$156,618                                   | \$178,277                                   | \$49,183                                                  |
| 2011                                  | \$649,981                                   | \$409,110                                   | \$440,985                                   | \$366,914                                   | \$110,649                                                 |
| 2012                                  | \$1,453,512                                 | \$952,740                                   | \$453,653                                   | \$346,474                                   | \$168,453                                                 |
| 2013                                  | \$742,427                                   | \$1,009,918                                 | \$497,914                                   | \$466,357                                   | \$145,291                                                 |
| 2014                                  | \$0                                         | \$747,579                                   | \$864,393                                   | \$446,773                                   | \$101,391                                                 |
| 2015                                  | \$0                                         | \$0                                         | \$795,907                                   | \$1,121,373                                 | \$418,057                                                 |
| 2016                                  | \$0                                         | \$0                                         | \$0                                         | \$747,789                                   | \$620,811                                                 |
| 2017                                  | \$0                                         | \$0                                         | \$0                                         | \$0                                         | \$245,935                                                 |
| <b>Total Amount Paid on Claims</b>    | <b>\$6,055,515</b>                          | <b>\$4,966,315</b>                          | <b>\$4,929,238</b>                          | <b>\$5,082,852</b>                          | <b>\$2,655,087</b>                                        |

Chart 1  
Indemnity Claims as of 12-31-16

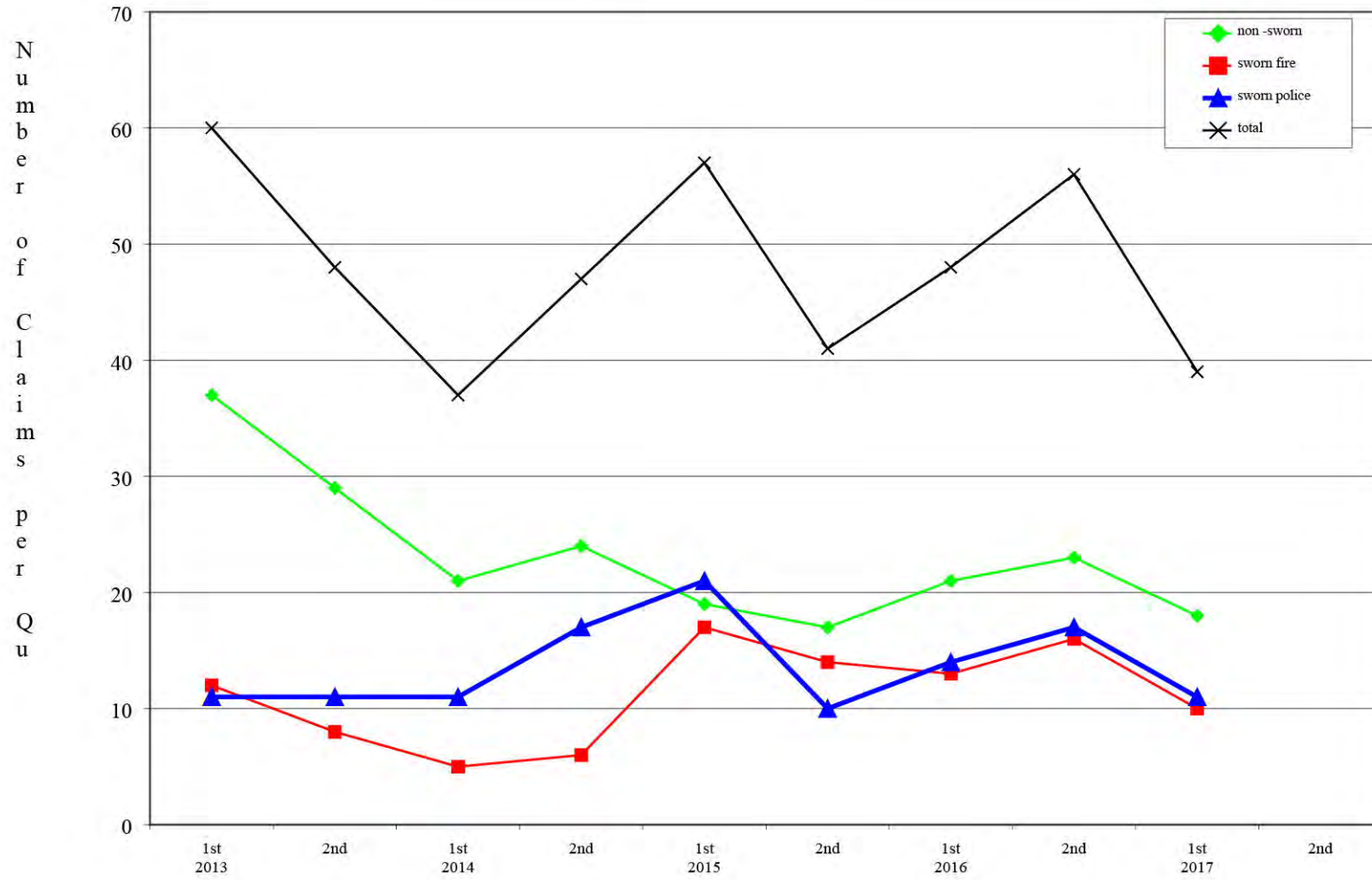


Chart 2  
Medical Only Claims as of 12-31-16

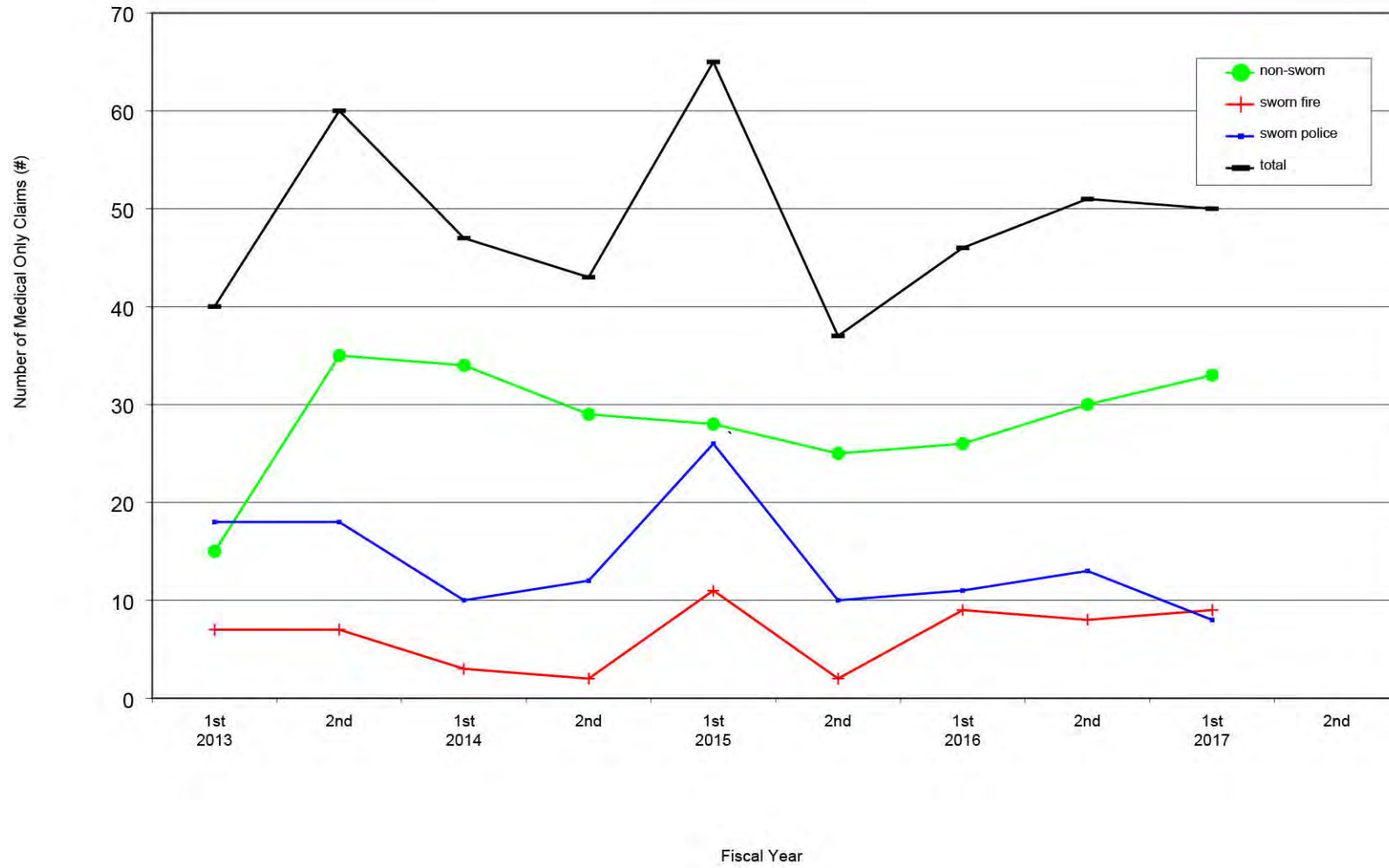


Chart 3  
Grand Total Indemnity and Medical Only Claims as of 12-31-16

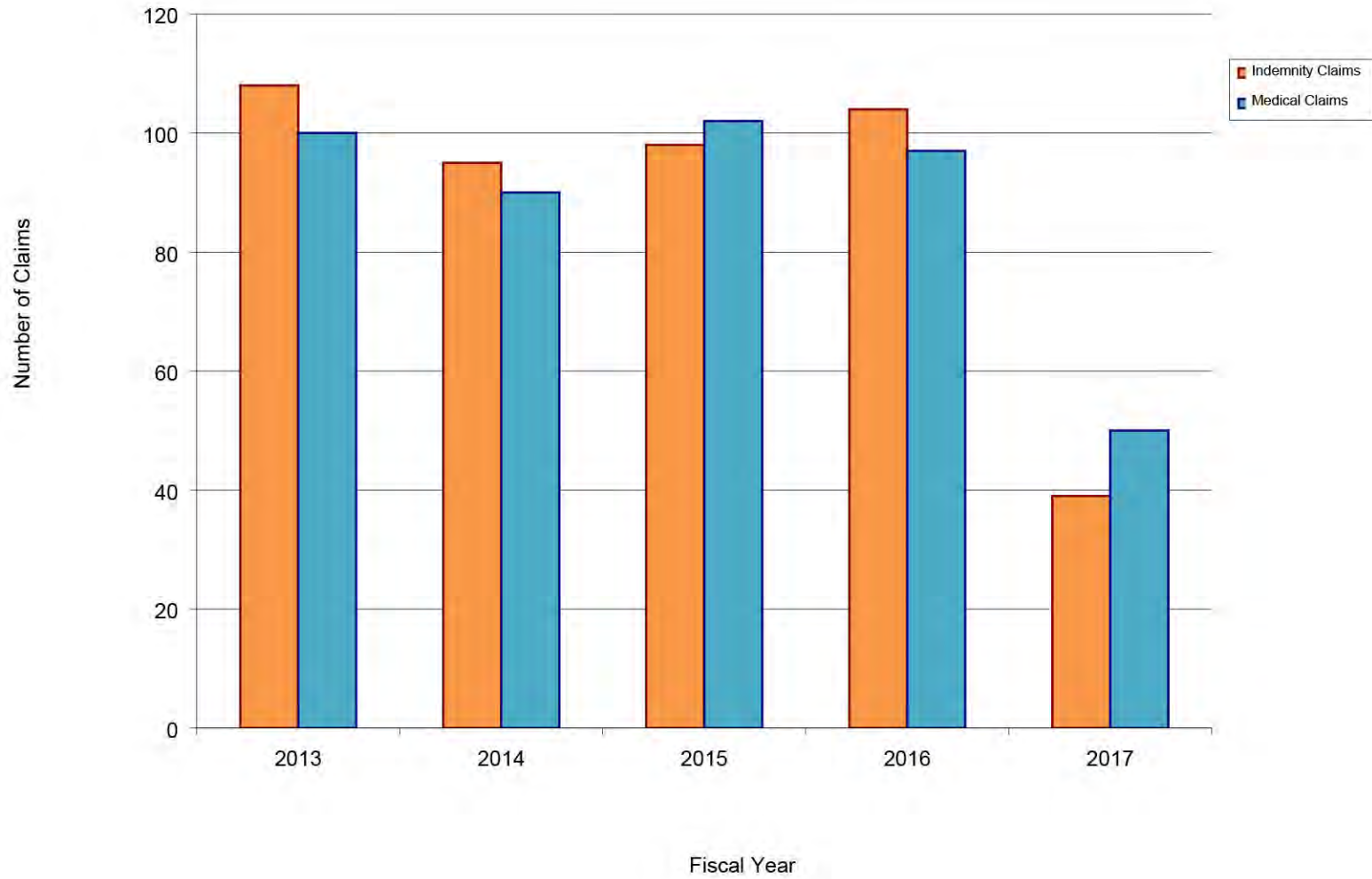
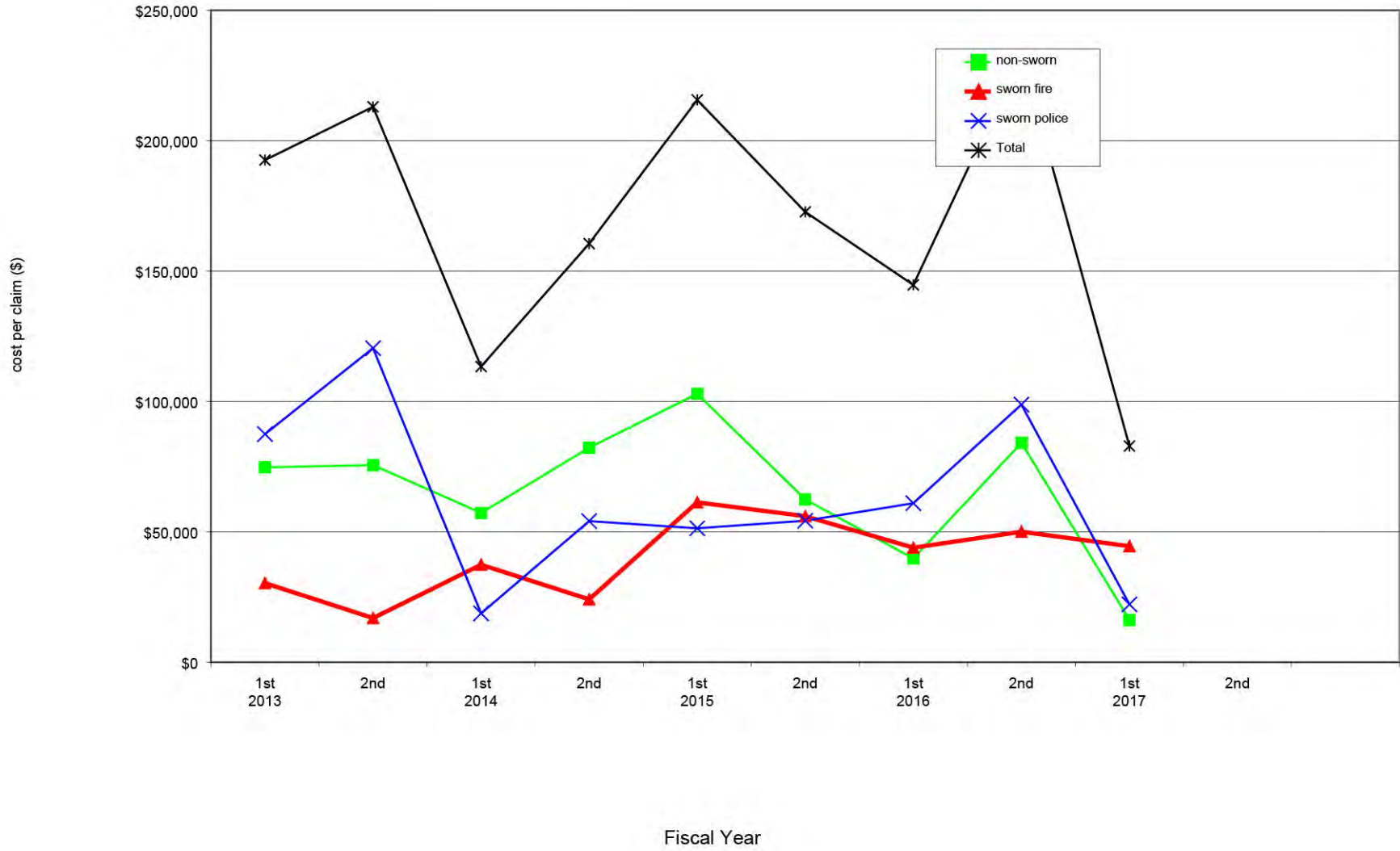




Chart 4  
Indemnity - Cost/Claim as of 12-31-16





**Innovative Claim Solutions (ICS) Comparative Data****Comparative Payment Analysis – All Claims**

The following chart depicts a comparison of total benefits paid for all claims by pay type for July 1<sup>st</sup> through December 31<sup>st</sup> of FY 2016 compared to FY 2017. There was an increase in all categories for medical expenses except hospital payments, which is consistent with the rising costs of health care. Although there was a 331% increase in C & R Indemnity Payments, C & R Settlements for the City of Berkeley, these payments completely dispose of the claim and end the City's obligation to pay future medical, legal, indemnity and other associated claim payments.

| <b>Amount paid in Six Months</b> | <b>7/1/15 - 12/31/15</b> | <b>7/1/16 - 12/31/16</b> | <b>Absolute Change</b> | <b>Percent Change</b> |
|----------------------------------|--------------------------|--------------------------|------------------------|-----------------------|
| Temporary Disability / 4850 Paid | \$630,401                | \$732,475                | \$102,074              | 16%                   |
| Permanent Disability             | \$478,808                | \$435,150                | -\$43,657              | -9%                   |
| C & R Indemnity                  | \$23,009                 | \$67,870                 | \$44,861               | 195%                  |
| C & R Medical                    | \$25,041                 | \$108,000                | \$82,959               | 331%                  |
| Hospital Paid                    | \$281,665                | \$230,341                | -\$51,324              | -18%                  |
| Doctor Paid                      | \$205,846                | \$270,745                | \$64,899               | 32%                   |
| Pharmacy Paid                    | \$168,441                | \$531,805                | \$72,702               | 16%                   |
| All other Medical Paid           | \$290,663                | \$5,000                  | \$5,000                | 100%                  |
| Defense Attorney Paid            | \$128,732                | \$88,865                 | -\$39,867              | -31%                  |
| Other Legal Paid                 | \$164,150                | \$184,835                | \$20,686               | 13%                   |
| <b>Total Paid:</b>               | <b>\$2,396,755</b>       | <b>\$2,655,087</b>       | <b>\$258,332</b>       | <b>11%</b>            |

**Temporary Disability/Labor Code (LC) 4850 Benefits Paid – FY 2017**

Fire and Police Sworn employees receive benefits under the California Labor Code (LC) Section 4850 (also known as 4850 Time or Benefits). LC 4850 provides up to one (1) year of full salary payments, without tax deduction, for police officers, firefighters and other safety personnel when temporarily totally disabled due to an industrial injury.

The chart below depicts all LC 4850 Benefits paid to Sworn Fire and Sworn Police employees, Temporary Disability Benefits paid to Non-Sworn employees and Sworn employees who exhausted their one (1) year of 4850 benefits but were still off work for their injury in the first half of FY 2016 compared to the first half of FY2017. (Does not include City Salary Continuation payments).

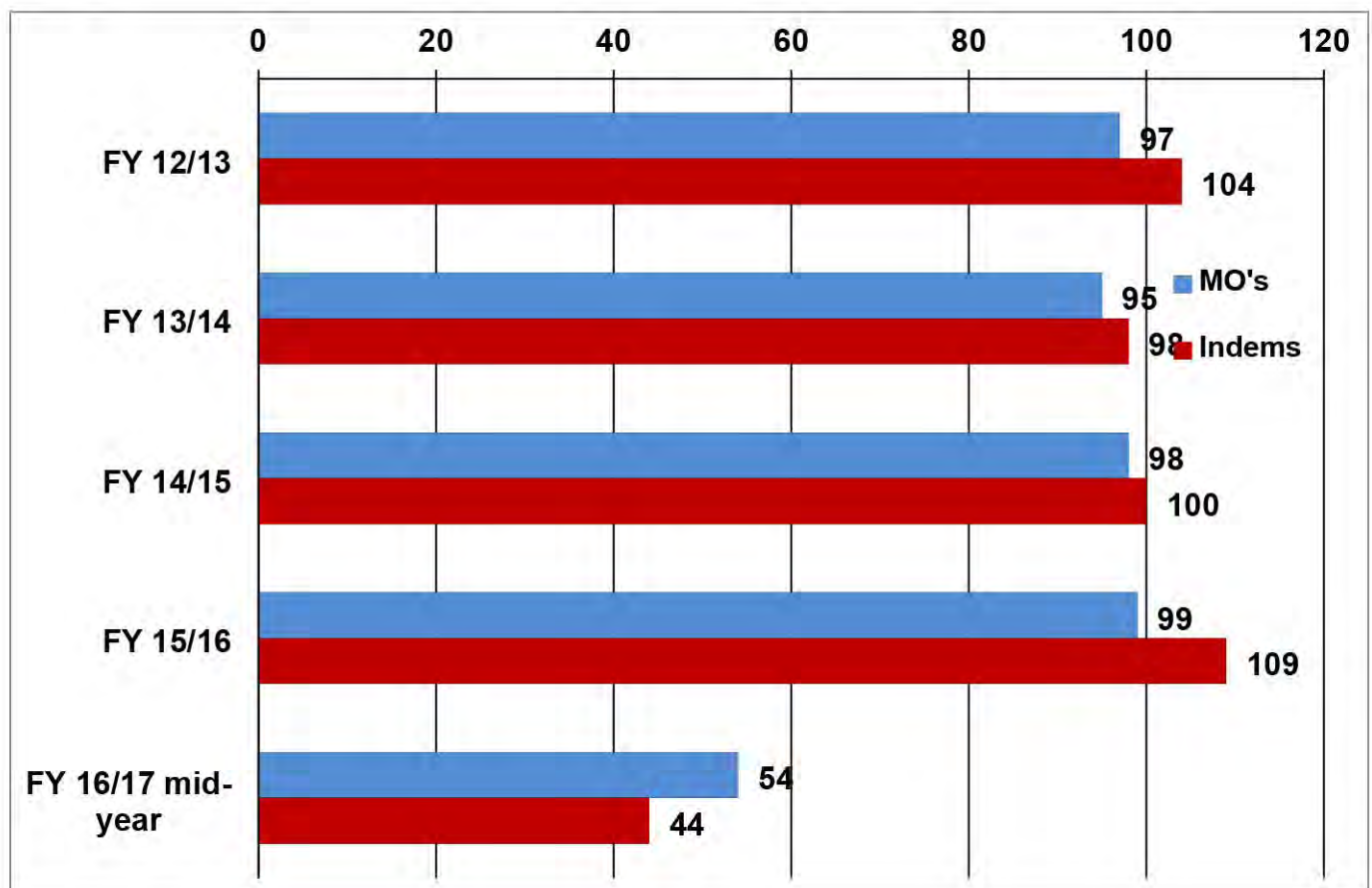
| <b>Department</b>     | <b>Paid 7/1/15 –<br/>12/31/15</b> | <b>Paid 7/1/16 –<br/>12/31/16</b> | <b>Difference</b> |
|-----------------------|-----------------------------------|-----------------------------------|-------------------|
| CITY MANAGER          | \$40,530                          | \$16,494                          | <b>-\$24,037</b>  |
| FINANCE               | \$0                               | \$1,844                           | \$1,844           |
| FIRE                  | \$231,144                         | \$278,101                         | \$46,956          |
| HHCS                  | \$8,995                           | \$0                               | <b>-\$8,995</b>   |
| HOUSING               | \$0                               | \$322                             | \$322             |
| LIBRARY               | \$588                             | \$5,328                           | \$4,741           |
| PARKS & WATERFRONT    | \$22,923                          | \$2,792                           | <b>-\$20,130</b>  |
| POLICE                | \$237,918                         | \$265,123                         | \$27,205          |
| PUBLIC WORKS          | \$86,309                          | \$162,469                         | \$76,161          |
| RENT BOARD            | \$1,993                           | \$0                               | <b>-\$1,993</b>   |
| <b>Net Total Paid</b> | <b>\$630,401</b>                  | <b>\$732,475</b>                  | <b>\$102,074</b>  |

**Claims by Date Entered**

The data below reflects the number of Indemnity and Medical Only claims by fiscal year for FY 2013 through mid-year FY 2017 based upon the date they were entered into the ICS System, as opposed to the date of injury. The number of claims for each fiscal year may change by date entered because an employee has up to one year from the date they “know” about the injury to file a claim.

| Fiscal Year Entered | Medical Only | Indemnity | Total |
|---------------------|--------------|-----------|-------|
| FY 12/13            | 97           | 104       | 201   |
| FY 13/14            | 95           | 98        | 193   |
| FY 14/15            | 98           | 100       | 198   |
| FY 15/16            | 99           | 109       | 208   |
| FY 16/17 mid-year   | 54           | 44        | 98    |

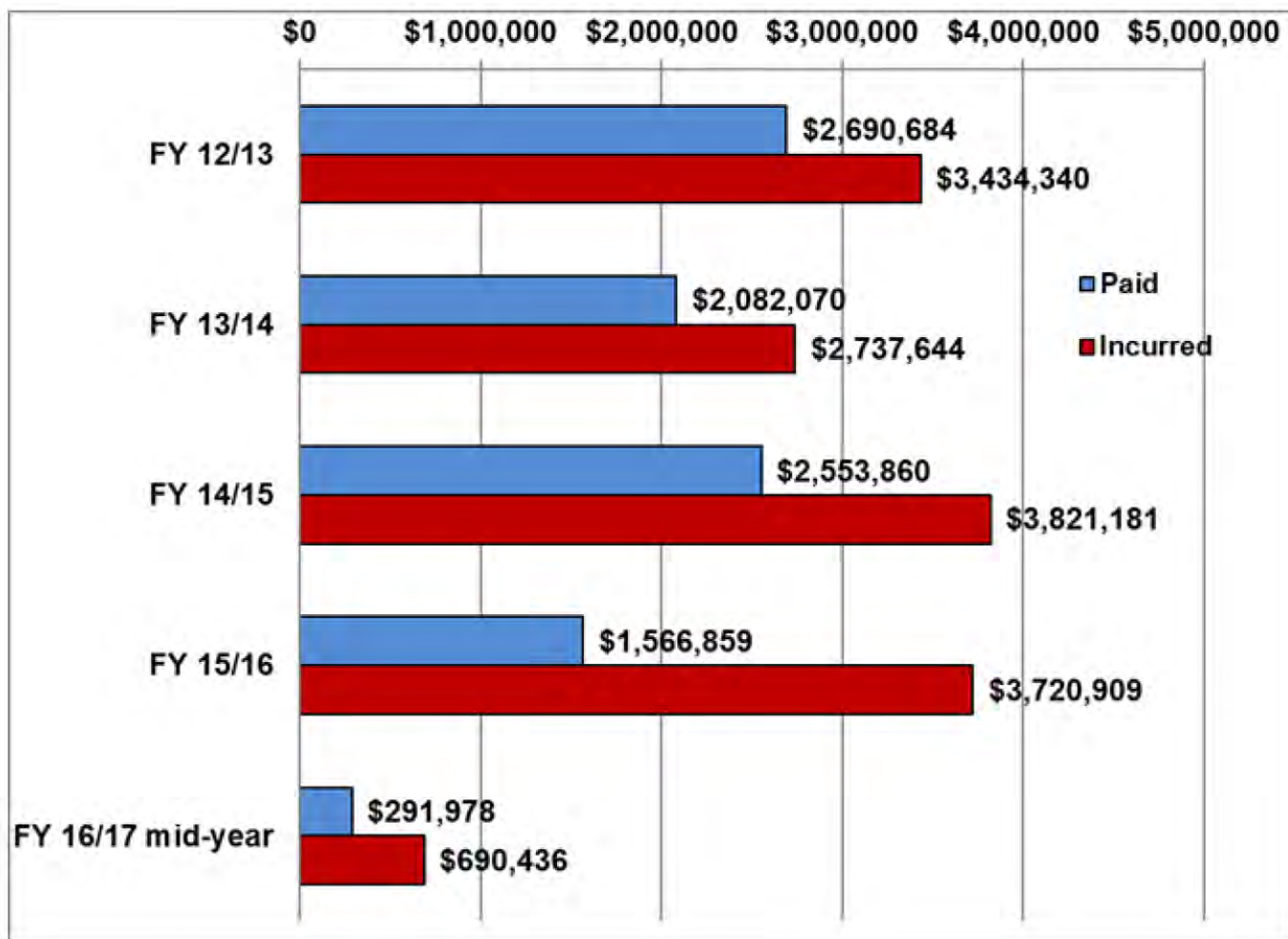
The following graphs depict claims entered from July 1<sup>st</sup> through December 31<sup>st</sup> of each fiscal year, from FY 2013 to FY 2017. The number of claims entered will differ from the number of claims by date of injury for each fiscal year because as noted above, an employee may report an injury up to one year from the date they have knowledge of the injury.





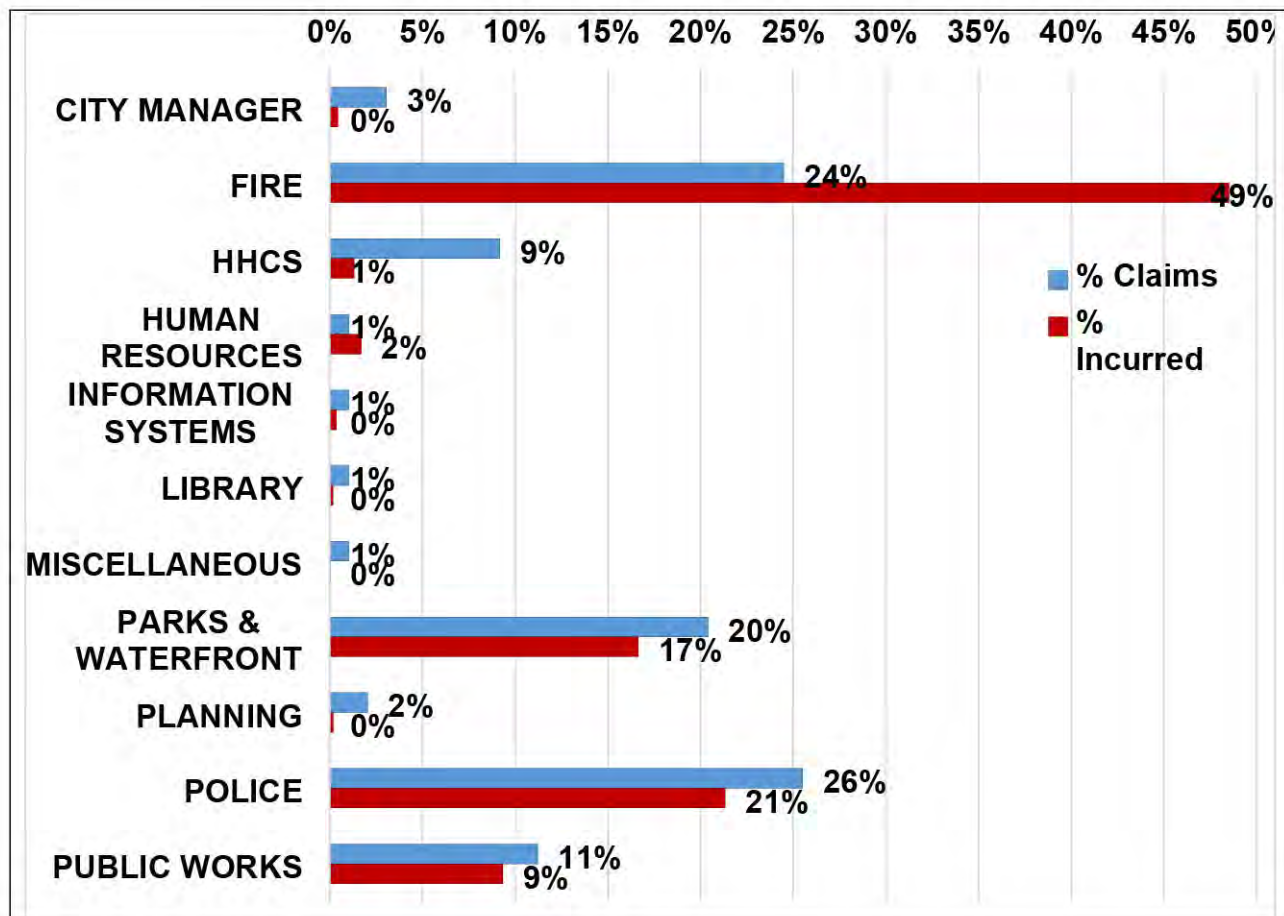
**Total Paid and Incurred\* - FY 2017 (through December 31, 2016)**

| Fiscal year entered | Paid        | Estimated Future Liability | Incurred    |
|---------------------|-------------|----------------------------|-------------|
| FY 12/13            | \$2,690,684 | \$743,656                  | \$3,434,340 |
| FY 13/14            | \$2,082,070 | \$655,574                  | \$2,737,644 |
| FY 14/15            | \$2,553,860 | \$1,267,321                | \$3,821,181 |
| FY 15/16            | \$1,566,859 | \$2,154,050                | \$3,720,909 |
| FY 16/17 mid-year   | \$291,978   | \$398,458                  | \$690,436   |



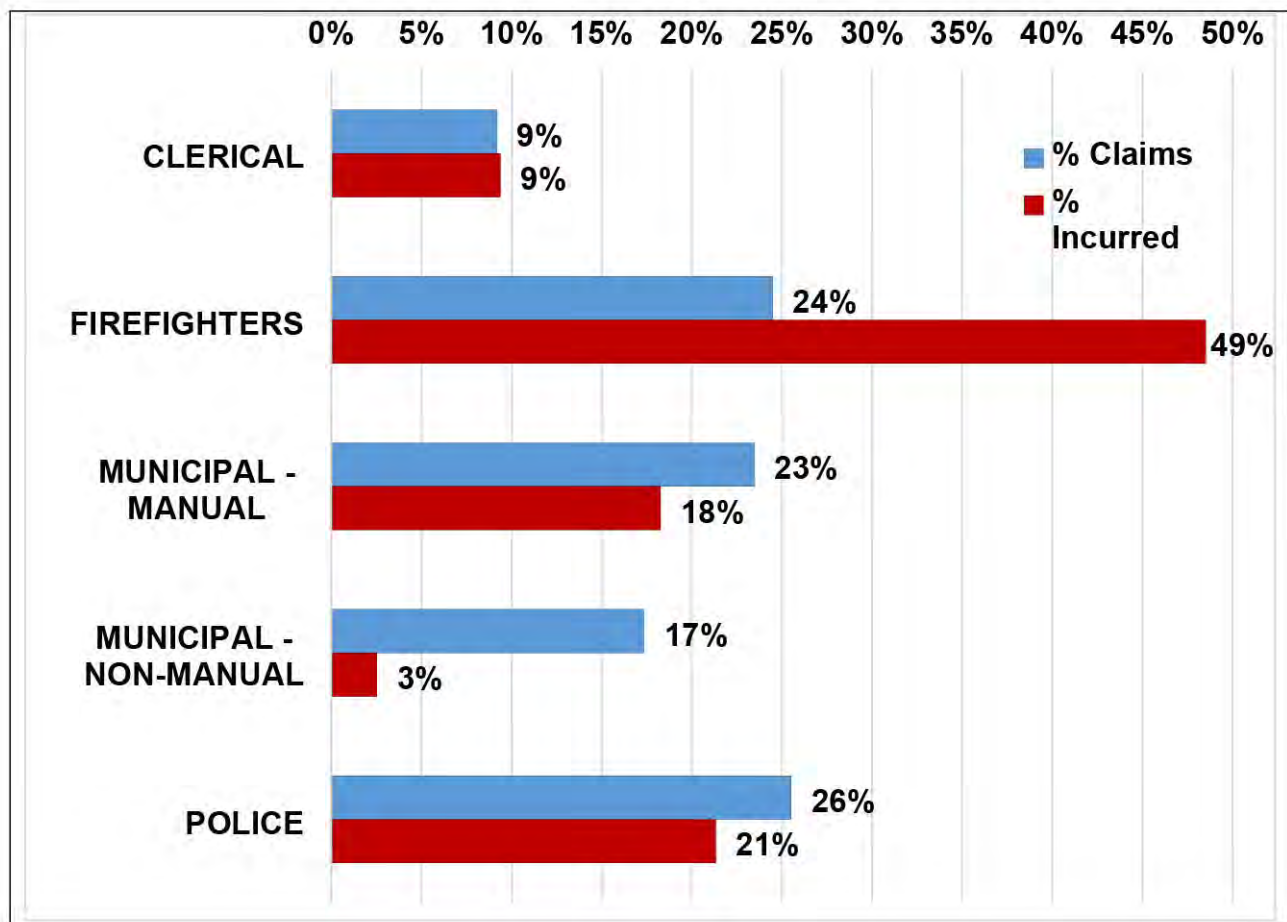
**Claim Frequency by Department – FY 2017 (through December 31, 2016)**

| Department          | Claims    | % Claims    | Incurred            | % Incurred  |
|---------------------|-----------|-------------|---------------------|-------------|
| CITY MANAGER        | 3         | 3%          | \$2,997.56          | 0%          |
| FIRE                | 24        | 24%         | \$334,875.16        | 49%         |
| HHCS                | 9         | 9%          | \$9,013.18          | 1%          |
| HUMAN RESOURCES     | 1         | 1%          | \$11,706.86         | 2%          |
| INFORMATION SYSTEMS | 1         | 1%          | \$2,557.27          | 0%          |
| LIBRARY             | 1         | 1%          | \$1,200.00          | 0%          |
| MISCELLANEOUS       | 1         | 1%          | \$185.39            | 0%          |
| PARKS & WATERFRONT  | 20        | 20%         | \$114,948.40        | 17%         |
| PLANNING            | 2         | 2%          | \$1,259.20          | 0%          |
| POLICE              | 25        | 26%         | \$147,227.32        | 21%         |
| PUBLIC WORKS        | 11        | 11%         | \$64,465.93         | 9%          |
| <b>Totals</b>       | <b>98</b> | <b>100%</b> | <b>\$690,436.27</b> | <b>100%</b> |



**Claim Frequency by Occupation – FY 2017 (through December 31, 2016)**

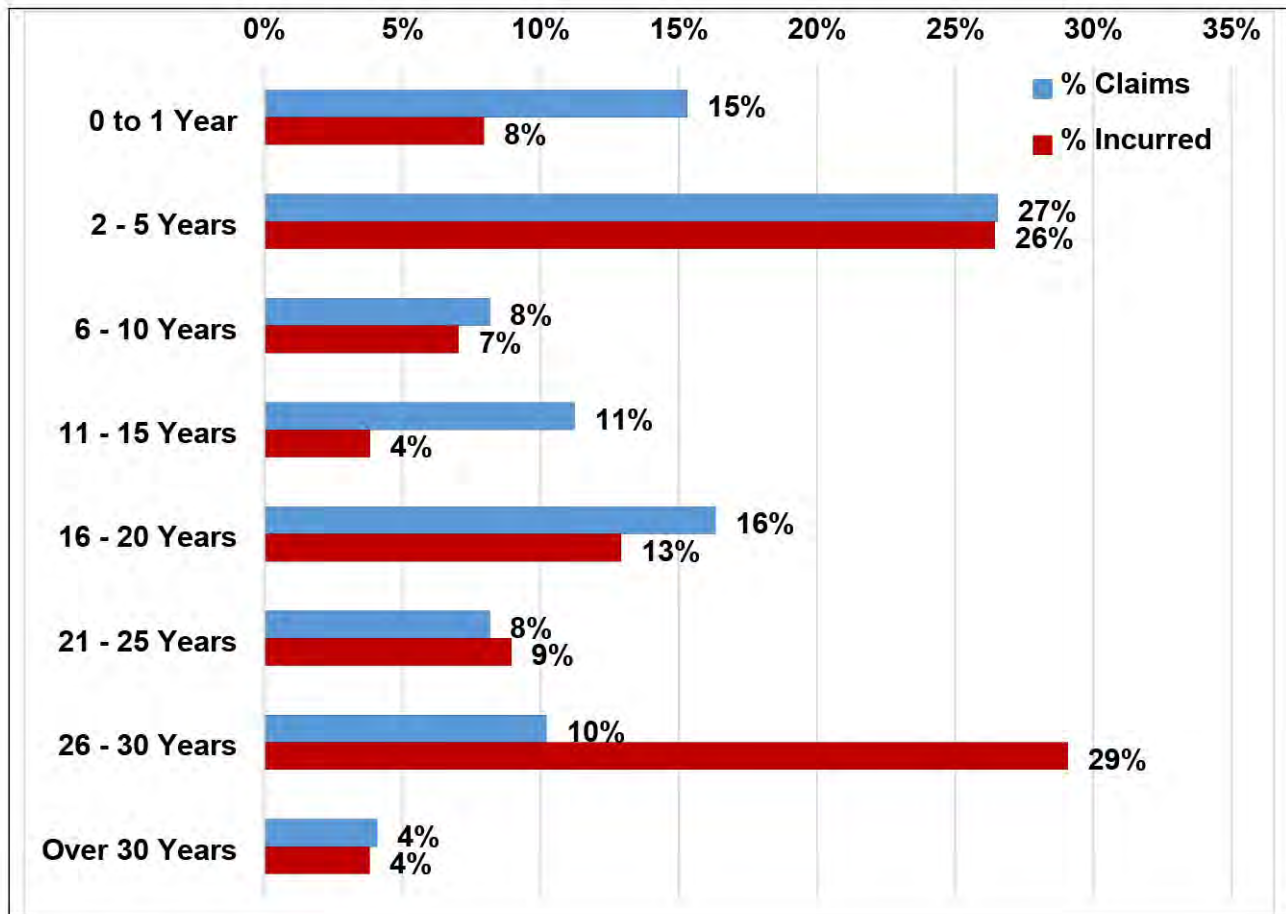
| Occupation             | Claims    | % Claims    | Incurred Total      | % Incurred  |
|------------------------|-----------|-------------|---------------------|-------------|
| CLERICAL               | 9         | 9%          | \$64,802.65         | 9%          |
| FIREFIGHTERS           | 24        | 24%         | \$334,875.16        | 49%         |
| MUNICIPAL - MANUAL     | 23        | 23%         | \$126,047.94        | 18%         |
| MUNICIPAL - NON-MANUAL | 17        | 17%         | \$17,483.20         | 3%          |
| POLICE                 | 25        | 26%         | \$147,227.32        | 21%         |
| <b>Total</b>           | <b>98</b> | <b>100%</b> | <b>\$690,436.27</b> | <b>100%</b> |





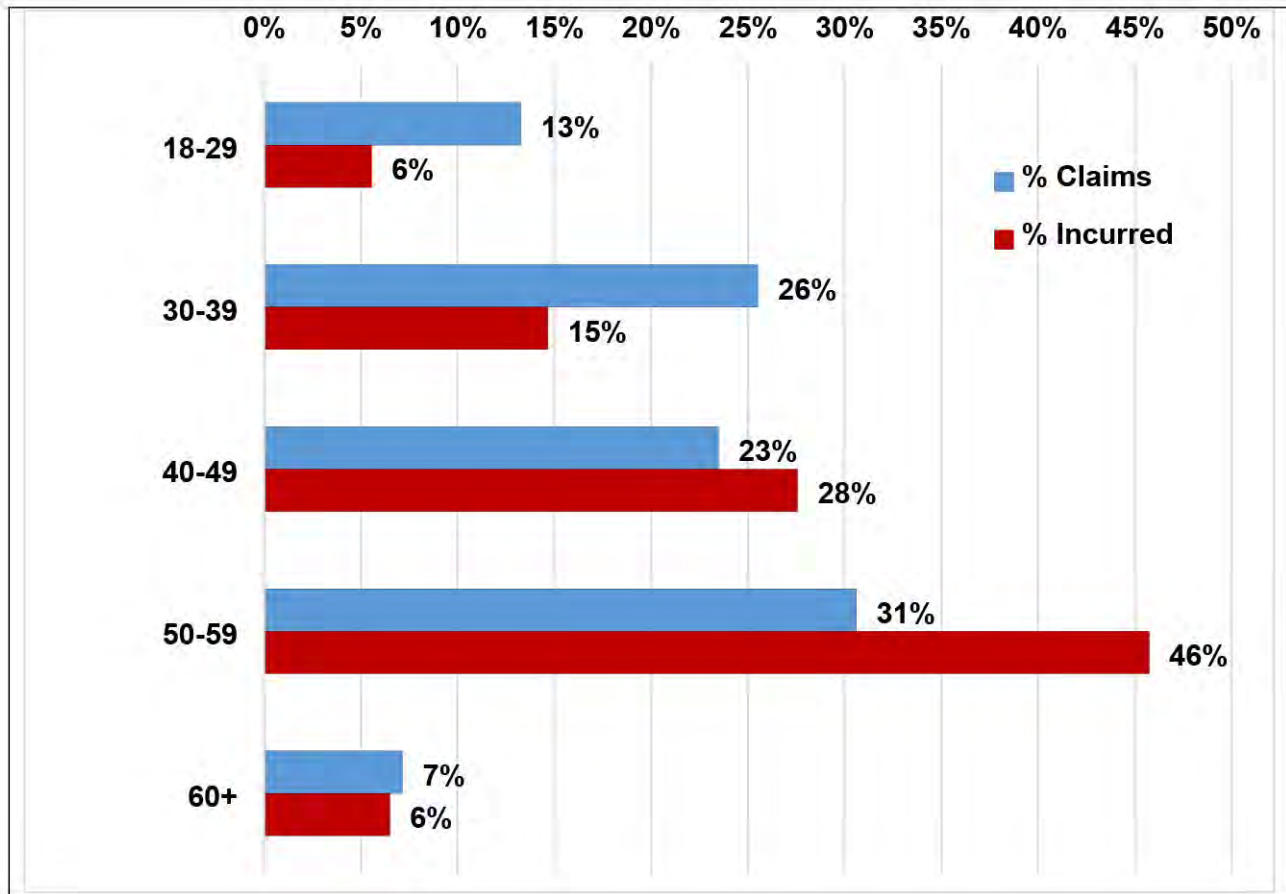
**Claim Frequency by Length of Service – FY 2017 (through December 31, 2016)**

| Length of Service | Claims    | % Claims    | Incurred            | % Incurred  |
|-------------------|-----------|-------------|---------------------|-------------|
| 0 to 1 Year       | 15        | 15%         | \$54,871.56         | 8%          |
| 2 - 5 Years       | 26        | 27%         | \$182,530.88        | 26%         |
| 6 - 10 Years      | 8         | 8%          | \$48,574.63         | 7%          |
| 11 - 15 Years     | 11        | 11%         | \$26,459.01         | 4%          |
| 16 - 20 Years     | 16        | 16%         | \$89,150.47         | 13%         |
| 21 - 25 Years     | 8         | 8%          | \$61,742.62         | 9%          |
| 26 - 30 Years     | 10        | 10%         | \$200,765.36        | 29%         |
| Over 30 Years     | 4         | 4%          | \$26,341.74         | 4%          |
| <b>Totals</b>     | <b>98</b> | <b>100%</b> | <b>\$690,436.27</b> | <b>100%</b> |



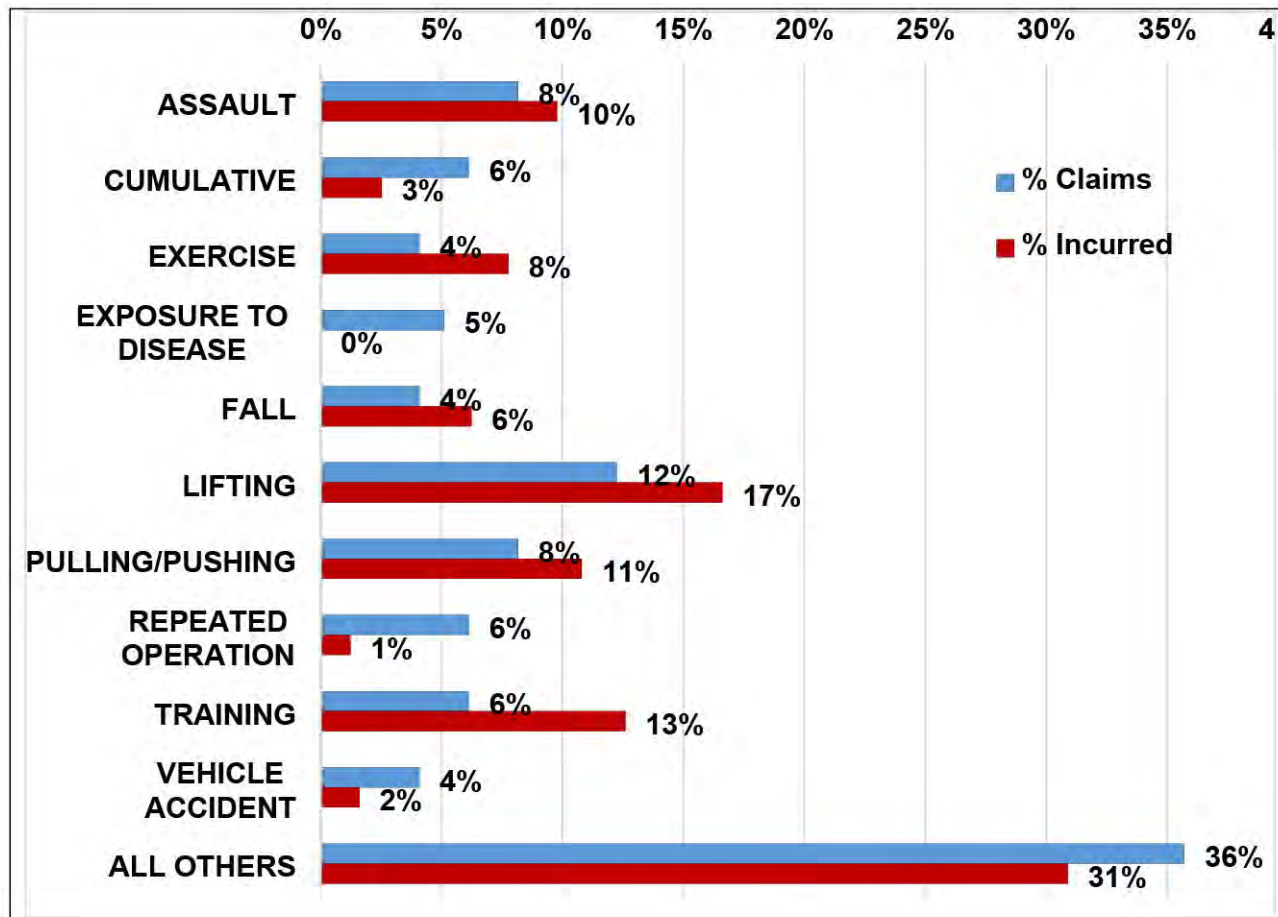
**Claim Frequency by Age of Injured Worker – FY 2017 (through December 31, 2016)**

| Age          | Claims    | % Claims    | Incurred            | % Incurred  |
|--------------|-----------|-------------|---------------------|-------------|
| 18-29        | 13        | 13%         | \$38,304.86         | 6%          |
| 30-39        | 25        | 26%         | \$101,207.82        | 15%         |
| 40-49        | 23        | 23%         | \$190,294.58        | 28%         |
| 50-59        | 30        | 31%         | \$315,826.00        | 46%         |
| 60+          | 7         | 7%          | \$44,803.01         | 6%          |
| <b>Total</b> | <b>98</b> | <b>100%</b> | <b>\$690,436.27</b> | <b>100%</b> |



**Claim Frequency by Cause of Injury – FY 2017 (through December 31, 2016)**

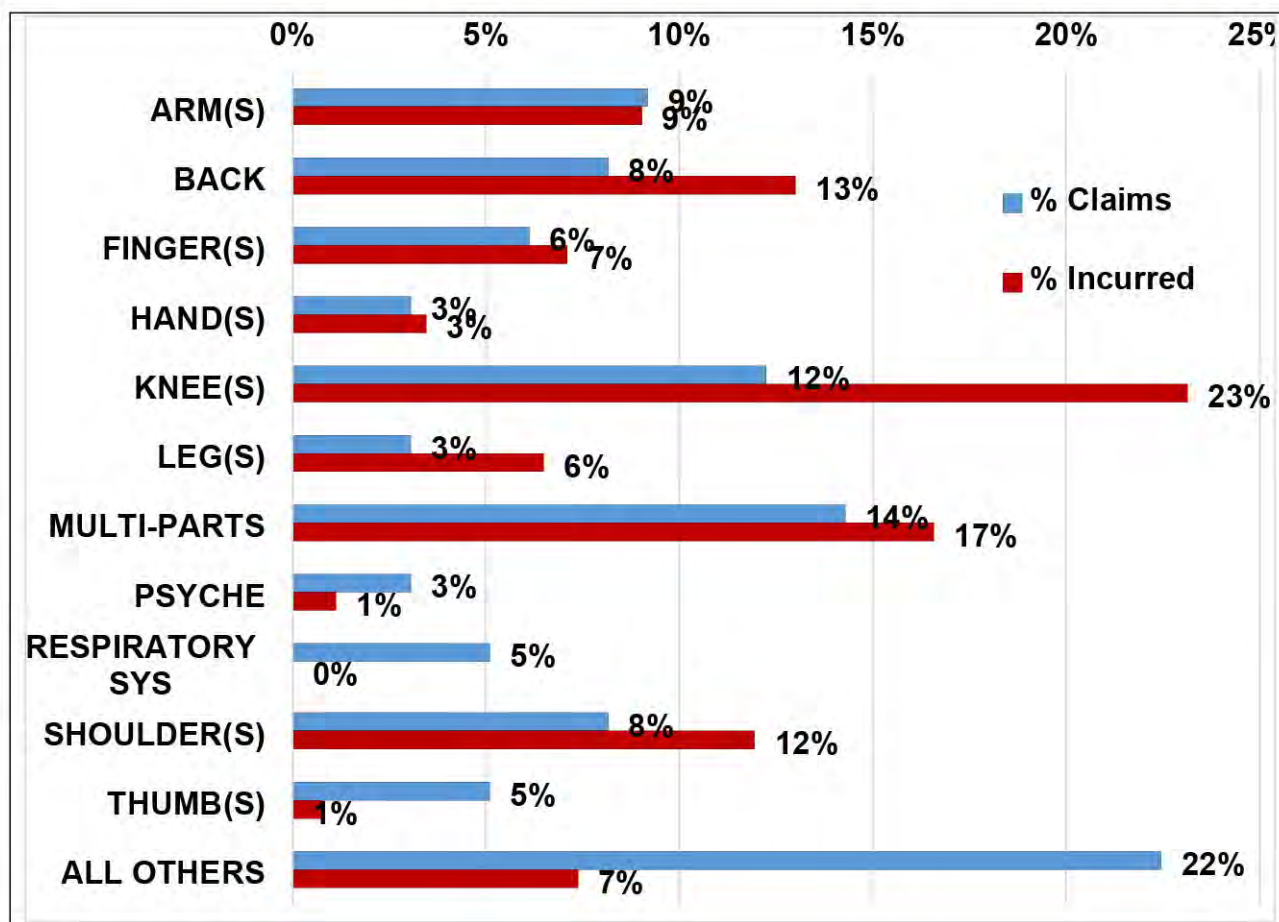
| Cause               | Claims    | % Claims    | Incurred            | % Incurred  |
|---------------------|-----------|-------------|---------------------|-------------|
| ASSAULT             | 8         | 8%          | \$67,480.12         | 10%         |
| CUMULATIVE          | 6         | 6%          | \$17,394.81         | 3%          |
| EXERCISE            | 4         | 4%          | \$53,545.39         | 8%          |
| EXPOSURE TO DISEASE | 5         | 5%          | \$46.00             | 0%          |
| FALL                | 4         | 4%          | \$42,979.32         | 6%          |
| LIFTING             | 12        | 12%         | \$114,685.82        | 17%         |
| PULLING/PUSHING     | 8         | 8%          | \$74,508.08         | 11%         |
| REPEATED OPERATION  | 6         | 6%          | \$8,483.37          | 1%          |
| TRAINING            | 6         | 6%          | \$86,954.18         | 13%         |
| VEHICLE ACCIDENT    | 4         | 4%          | \$11,091.73         | 2%          |
| ALL OTHERS          | 35        | 36%         | \$213,267.45        | 31%         |
| <b>Totals</b>       | <b>98</b> | <b>100%</b> | <b>\$690,436.27</b> | <b>100%</b> |





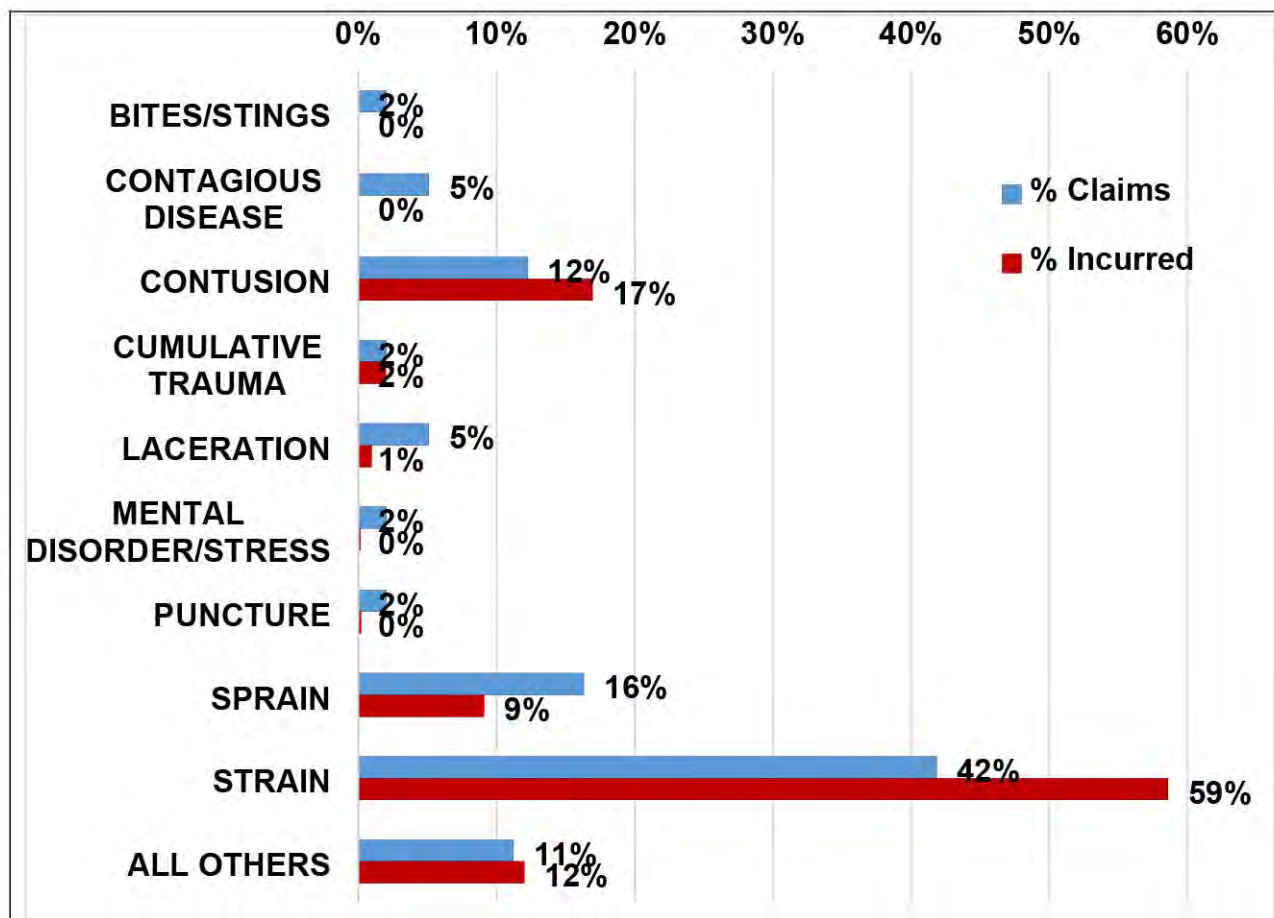
**Claim Frequency by Part of Body – FY 2017 (through December 31, 2016)**

| Body part       | Claims    | % Claims    | Incurred            | % Incurred  |
|-----------------|-----------|-------------|---------------------|-------------|
| ARM(S)          | 9         | 9%          | \$62,362.50         | 9%          |
| BACK            | 8         | 8%          | \$89,763.51         | 13%         |
| FINGER(S)       | 6         | 6%          | \$49,027.40         | 7%          |
| HAND(S)         | 3         | 3%          | \$23,871.44         | 3%          |
| KNEE(S)         | 12        | 12%         | \$159,710.92        | 23%         |
| LEG(S)          | 3         | 3%          | \$44,830.43         | 6%          |
| MULTI-PARTS     | 14        | 14%         | \$114,438.77        | 17%         |
| PSYCHE          | 3         | 3%          | \$7,809.20          | 1%          |
| RESPIRATORY SYS | 5         | 5%          | \$46.00             | 0%          |
| SHOULDER(S)     | 8         | 8%          | \$82,448.75         | 12%         |
| THUMB(S)        | 5         | 5%          | \$5,171.48          | 1%          |
| ALL OTHERS      | 22        | 22%         | \$50,955.87         | 7%          |
| <b>Totals</b>   | <b>98</b> | <b>100%</b> | <b>\$690,436.27</b> | <b>100%</b> |



**Claim Frequency by Nature of Injury – FY 2017 (through December 31, 2016)**

| Nature                 | Claims    | % Claims    | Incurred            | % Incurred  |
|------------------------|-----------|-------------|---------------------|-------------|
| BITES/STINGS           | 2         | 2%          | \$176.19            | 0%          |
| CONTAGIOUS DISEASE     | 5         | 5%          | \$46.00             | 0%          |
| CONTUSION              | 12        | 12%         | \$116,971.66        | 17%         |
| CUMULATIVE TRAUMA      | 2         | 2%          | \$13,819.98         | 2%          |
| LACERATION             | 5         | 5%          | \$6,693.59          | 1%          |
| MENTAL DISORDER/STRESS | 2         | 2%          | \$1,009.20          | 0%          |
| PUNCTURE               | 2         | 2%          | \$1,344.39          | 0%          |
| SPRAIN                 | 16        | 16%         | \$62,860.87         | 9%          |
| STRAIN                 | 41        | 42%         | \$404,580.99        | 59%         |
| ALL OTHERS             | 11        | 11%         | \$82,933.40         | 12%         |
| <b>Total</b>           | <b>98</b> | <b>100%</b> | <b>\$690,436.27</b> | <b>100%</b> |









Office of the City Manager

CONSENT CALENDAR  
September 24, 2019

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: LaTanya Bellow, Director, Human Resources  
Subject: Adopt a Resolution Authorizing the City Manager to Provide a Three Percent (3%) Special Class Commercial License Premium to the Solid Waste Supervisor Job Classification

RECOMMENDATION

Adopt a Resolution to: (1) Provide Public Employees Union, Local One’s (Local One) a three percent (3%) Special Class Commercial License Premium to the Solid Waste Supervisor Job Class; and, (2) provide the incumbents in the Solid Waste Supervisor classification a three percent differential pay (Add Pay) to maintain internal pay equity.

The City has already negotiated a three percent differential pay for the Public Works Supervisor, a classification represented by Service Employee International Union (SEIU), Local 1021 because the classification requires the maintenance of a commercial license.

FISCAL IMPACTS OF RECOMMENDATION

The three percent Add Pay for the current incumbents will result in a fiscal impact of approximately \$8,681.088 annually. The cost of the Add Pay can be absorbed in the current General Fund.

CURRENT SITUATION AND ITS EFFECTS

Provide the incumbents in the Solid Waste Supervisors classification a three percent differential pay for maintaining a commercial license relates to the City’s Strategic Plan goals, in that it advances our goal to:

*Attract and retain a talented and diverse City government workforce.*

Many of our comparable agencies pay special premiums to their employees who are required to maintain a commercial licenses. The cities of Oakland and San Leandro have negotiated language with their employee organizations who represent supervisory

staff to provide special premium pays for use and maintenance of commercial licenses and driving/operating commercial vehicles.

#### BACKGROUND

The current Memorandum of Understanding between the Public Employees Union, Local One and the City of Berkeley (MOU), Section 6.04, provides that Local One and the City would meet and discuss which classifications should require the maintenance of a commercial license as a minimum qualification (MQ).

On March 20, 2019, Local One representatives and Public Works management met and agreed that a commercial license should remain as minimum qualification for the Solid Waste Supervisor classification.

Solid Waste Supervisor job duties do not include the driving/operating of commercial vehicles, however, it is a business need that they maintain the licensure to do so in times where staffing levels necessitate them to drive/operate commercial vehicles.

#### ENVIRONMENTAL SUSTAINABILITY

N/A

#### RATIONALE FOR RECOMMENDATION

The City has already negotiated a three percent differential pay for the Public Works Supervisor, a classification represented by Service Employee International Union (SEIU), Local 1021 because the classification requires the maintenance of a commercial license. MOU language between the City and SEIU, Local 1021, Section 17.13 - Special Class Commercial Driver's License Premium, states in pertinent part the following:

*"Employees required to possess and maintain a valid California Class A or Class B Commercial Driver's License as a condition of employment shall receive a three percent (3%) differential to base pay. This differential shall be reported to CalPERS as Special Class Driver's License Pay. However, any hours worked on overtime are excluded from CalPERS reported "compensation earnable" in California Government Code Section 20635."*

The Public Works Supervisor position is the Solid Waste Supervisor counterpart in the Corporation Yard division of the Public Works department. Providing the three percent differential as recommended will provide internal pay equity for the Solid Waste Supervisor classification.

Moreover, the Solid Waste Supervisor classification, supervises the Solid Waste Truck Driver and Solid Waste Worker positions. Both classifications already receive a three percent differential pay for maintaining a commercial license and are also represented by SEIU.

ALTERNATIVE ACTIONS CONSIDERED

N/A

CONTACT PERSON

LaTanya Bellow, Human Resources Director, [lbellow@cityofberkeley.info](mailto:lbellow@cityofberkeley.info) or (510) 981-6800

Attachments:

1: Resolution

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

Provide a three percent (3%) Special Class Commercial Driver's License Premium differential pay for the Solid Waste Supervisor classification pursuant to the City and Local One's agreement that the classification requires maintenance of a commercial license

WHEREAS, (Local One represents a number of classifications at the City of Berkeley ("City"), to include Solid Waste Supervisor, the subject classification; and

WHEREAS, the City and Local One entered into a Memorandum of Understanding dated October 21, 2018 – June 27, 2020 ("MOU") which set forth the wages, hours and other terms and conditions of employment for SEIU members; and

WHEREAS, Section 6.4 (Union/Management Meetings) of the City/Local One MOU specifically provides in pertinent part that:

*"The City agrees to meet and discuss with Public Employees Union Local 1, at the first meeting after February 1, 2019, regarding which classifications should require a Class A or B license and what the appropriate compensation is for possessing the license. If the parties agree that licenses should be maintained as outlined in the current job descriptions, the unions proposal for differential pay to maintain said license will be presented to council for review and action."*; and,

WHEREAS, The City and Local One met and conferred on March 20, 2019 and agreed that the Solid Waste Supervisor classification continue the maintenance of a commercial license as required minimum qualification; and

WHEREAS, Local One provided the City with a proposal on April 22, 2019 that included a three percent differential pay to the Solid Waste Supervisor classification due to the commercial license requirement; and,

WHEREAS, The City recommends authorizing the three percent differential pay as the City has already negotiated a three percent commercial license differential pay for Public Works Supervisor, a classification represented by Service Employee International Union, Local 1021 as the classification requires the maintenance of a commercial license.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that a three percent differential pay will be provided for the Solid Waste Supervisor classification effective the start of the pay period containing the date of Council approval.



Office of the City Manager

CONSENT CALENDAR  
September 24, 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: Ghilotti Construction Company for John Hinkel Park Improvement Project

RECOMMENDATION

Adopt a Resolution:

1. Approving the plans and specifications for John Hinkel Park Improvement Project, Specification No. 19-11321-C; and
2. 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 Ghilotti Construction Company, for the John Hinkel Park Improvement Project at 41 Somerset Avenue, Berkeley, CA 94704, in an amount not to exceed \$790,306, which includes a contract amount of \$658,588 and a 20% contingency in the amount of \$131,718.

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). No other funding is required, and no other projects will be delayed due to this expenditure.

|                                                                 |           |
|-----------------------------------------------------------------|-----------|
| Contractor (lowest bid) .....                                   | \$658,588 |
| 20% Contingency                                                 | \$131,718 |
| <hr/>                                                           | <hr/>     |
| Total construction cost                                         | \$790,306 |
| <br>                                                            |           |
| Measure WW Parks Bond Fund (345-52-545-000-0000-000-461-663110) | \$418,722 |
| Parks Tax Fund (138-52-545-000-0000-000-461-663110)             | \$371,584 |
| <hr/>                                                           | <hr/>     |
| Total construction cost .....                                   | \$790,306 |

CURRENT SITUATION AND ITS EFFECTS

The John Hinkel Park site was designated a City Landmark in 2001. In early 2015, a fire destroyed the John Hinkel Clubhouse and the Clubhouse was demolished in April of that year. The upper area of the park has been fenced off-limits in the interim for 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 repairs an existing hazard site. The reconstructed slope and retaining wall will restore and improve site safety.

#### BACKGROUND

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 1 bid at \$1,139,500. CF Contracting, Inc. was the singular bidder. CF Contracting, Inc.'s base bid exceeded the available budget for the project and the project was unable to proceed. Under Council Recess authorization, the City Manager rejected all bids and authorized staff to negotiate in the open market in accordance with City Charter Article XI, Public Works and Supplies, Section 67(a). Negotiations with Ghilotti Construction Company resulted in a proposal for a contract to perform the work using available project funding.

This project is one of two remaining projects which are partially funded by Measure WW funds. The City has incurred expenses for the design of the project utilizing Measure WW Grant funds that may only be reimbursed at the completion of the project.

The Living Wage Ordinance does not apply to this project since construction contracts are subject to State prevailing wage laws, per City policy. The contractor will need to submit a Certification of Compliance for the Equal Benefits Ordinance.

#### ENVIRONMENTAL SUSTAINABILITY

The construction contract includes requirements to comply with the City's Environmentally Preferable Purchasing Policy. The project is a renovation of a developed site and therefore will not negatively affect natural habitat.

#### RATIONALE FOR RECOMMENDATION

The John Hinkel Park upper area is in need of restoration, renovation and safety improvements. 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, (510) 981-6700  
Evelyn Chan, Supervising Civil Engineer, PRW, (510) 981-6430  
Wendy Wellbrock, Associate Civil Engineer, PRW, (510) 981-6346

Attachments:  
1: Resolution



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

CONTRACT: GHILOTTI CONSTRUCTION COMPANY FOR THE  
JOHN HINKEL PARK IMPROVEMENT PROJECT

WHEREAS, the John Hinkel Park Improvement Project repairs an existing hazard site, and the reconstructed slope and retaining wall will restore and improve site safety; and

WHEREAS, the City has neither the labor nor the equipment necessary to undertake this project; and

WHEREAS, the John Hinkel Park Improvement Project was advertised for bids on Thursday, June 13, 2019 and bids were opened on July 9, 2019; the City received 1 bid at \$1,139,500, from CF Contracting, Inc.; CF Contracting, Inc.'s base bid exceeded the available budget for the project and the project was unable to proceed; and

WHEREAS, under Council Recess authorization, the City Manager rejected all bids and authorized staff to negotiate in the open market to obtain a contractor to perform the work using the available project funding. Negotiations with Ghilotti Construction Company resulted in a proposal for a contract to perform the work using available project funding; and

WHEREAS, funding is available in the FY 2020 Measure WW Parks Bond Fund (Fund 345) and the Parks Tax Fund (Fund 138).

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Plans and Specification No. 19-11321-C for John Hinkel Park Improvement Project are approved.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley authorizes the City Manager to execute a contract and any amendments, extensions, or change orders until completion of the project in accordance with the approved plans and specifications with Ghilotti Construction Company for the John Hinkel Park Improvement Project in an amount not to exceed \$790,306, and authorizes a 20% construction contingency of \$131,718 for unforeseen circumstances. A record signature copy of the agreement and any amendments to be on file in the Office of the City Clerk.





Office of the City Manager

CONSENT CALENDAR  
September 24, 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: The Dutra Group for the South Cove ADA Accessible Gangway Project at the Berkeley Marina

RECOMMENDATION

Adopt a Resolution:

1. Approving the plans and specifications for the South Cove ADA Accessible Gangway Project, (Bid Specification No. 19-11340); and
2. Accepting the bid of The Dutra Group as the lowest responsive and responsible bidder on the Project, and authoring the City Manager to execute a contract with The Dutra Group, and any amendments, extensions, or change orders until completion of the Project in accordance with the approved plans and specifications in an amount not to exceed \$261,100, and authorizing a 15% contingency of \$39,165.

FISCAL IMPACTS OF RECOMMENDATION

Funding for this project is provided by the following: a) a grant of \$125,400 from the Water Trail Program of the State Coastal Conservancy (budget code 626-5950-331.2002-17WF03; and b) Marina Funds in the amount of \$174,864 (budget code 825-5950-450-65.81-17WF03).

CURRENT SITUATION AND ITS EFFECTS

On August 6, 2019, the South Cove ADA Accessible Gangway Project was advertised for competitive bids. On September 5, 2019, three (3) bids were received (See Attachment 1: Bid Abstract Summary). Staff reviewed the bid results and the Contractor's references, and has determined that the bid from The Dutra Group is the lowest responsive and responsible bidder.

The Living Wage Ordinance does not apply to this Project as public works construction contracts are, pursuant to City policy, subject to State prevailing wage laws. The Dutra Group has submitted a Certification of Compliance with the Equal Benefits Ordinance.

Construction is expected to begin in October, 2019 and be completed by March 2020.

BACKGROUND

Increasing the accessibility of recreational features at the Berkeley Marina is a long-standing City policy, and is described in the Berkeley Master Plan of 2003. In 2016, the City received a grant award in the amount of \$125,400 from the Water Trail Program of the State Coastal Conservancy to install an ADA accessible gangway at the middle dock at the South Cove. The design was completed by Transystems Corporation, Inc, and was funded in part by an earlier grant from the State Division of Boating and Waterways.

ENVIRONMENTAL SUSTAINABILITY

This project does not have any environmental impacts and the City has filed a Categorical Exemption for the project. The construction contract includes requirements to comply with the City's Environmentally Preferable Purchasing Policy.

RATIONALE FOR RECOMMENDATION

This project has been funded to provide increased ADA access to the recreational waters of the San Francisco Bay. This work supports the City of Berkeley's strategic plan goal #1: Provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.

ALTERNATIVE ACTIONS CONSIDERED

None

CONTACT PERSON

Scott Ferris, Director, Parks Recreation & Waterfront, 981-6700  
Roger Miller, Senior Management Analyst, PRW, 981-6704

Attachments:

1: Resolution

Exhibit A: Bid Abstract Summary

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

CONTRACT: THE DUTRA GROUP FOR THE SOUTH COVE ADA ACCESSIBLE  
GANGWAY PROJECT  
(SPECIFICATION NO. 19-11340-C)

WHEREAS, increasing the accessibility of recreational features at the Berkeley Marina is a long-standing City policy, and is described in the Berkeley Master Plan of 2003; and

WHEREAS, in 2016, the City received a grant award in the amount of \$125,400 from the Water Trail Program of the State Coastal Conservancy to install an ADA accessible gangway at the middle dock at the South Cove; and

WHEREAS, the design was completed by Transystems Corporation, Inc, and was funded in part by an earlier grant from the State Division of Boating and Waterways; and

WHEREAS, on August 6, 2019, the South Cove ADA Accessible Gangway Project was advertised for competitive bids. On September 5, 2019, three (3) bids were received (See Attachment 1: Bid Abstract Summary). Staff reviewed the bid results and the Contractor's references, and has determined that the bid from The Dutra Group is the lowest responsive and responsible bidder.

WHEREAS, funding in the amount of \$261,100 for the contract and \$39,165 for the contingency is available from the Water Trail Grant of \$125,400 (budget code 626-5950-331-2002-17WF03 and the Marina Fund in the amount of \$174,865 (budget code 825-5950-450-65.81-17WF03.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the plans and specifications for the South Cove ADA Accessibility Gangway Project (Bid Specification No. 19-11340-C) are approved.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley authorizes the City Manager to execute a contract and any amendments, extensions, or change orders until completion of the Project in accordance with the approved plans and specifications with The Dutra Group for the South Cove ADA Accessible Gangway Project, in an amount not to exceed \$261,100, and authorizes \$39,165 in contingency funds for unforeseen circumstances. A record signature copy of said agreement and any amendments to be on file in the Office of the City Clerk.

Attachment: Exhibit A – Bid Abstract



City of Berkeley  
Abstract of Bids Worksheet

Finance Department  
General Service Division

For: South Cove ADA Accessible Gangway Project

Specification#: 19-11340

Engineer's Estimate: \$215,900

Bid Date: 9/5/19

|    | Bidders                  | Base Bid   | Nuc Free | Work Force Comp | Opp. States | Living Wage | EBO | Bid Bond | Addendum |
|----|--------------------------|------------|----------|-----------------|-------------|-------------|-----|----------|----------|
| 1  | VALENTINE CORP.          | 288,369.00 |          |                 |             |             |     | ✓        | ✓        |
| 2  | THE DUTRA GROUP          | 261,100.00 |          |                 |             |             |     | ✓        | ✓        |
| 3  | BELLINGHAM MARINE INDUST | 332,082.00 |          |                 |             |             |     | ✓        | ✓        |
| 4  |                          |            |          |                 |             |             |     |          |          |
| 5  |                          |            |          |                 |             |             |     |          |          |
| 6  |                          |            |          |                 |             |             |     |          |          |
| 7  |                          |            |          |                 |             |             |     |          |          |
| 8  |                          |            |          |                 |             |             |     |          |          |
| 9  |                          |            |          |                 |             |             |     |          |          |
| 10 |                          |            |          |                 |             |             |     |          |          |

Bid Recorder:

SP [Signature] 9/5/2019

Bid Opener:

SP [Signature] 9/5/19

Project Manager:

[Signature] 9/5/19

2180 Milvia Street, Berkeley, CA 94704 Tel: 510.981.7320 TDD: 510: 510.981.6903 Fax: 510.981.7390  
E-mail: finance@cl.berkeley.ca.us





Office of the City Manager

CONSENT CALENDAR  
September 24, 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: Mar Con Builders, Inc. for Live Oak Community Center Seismic Upgrade Project

RECOMMENDATION

Adopt a Resolution:

1. Approving the plans and specifications for the Live Oak Community Center Seismic Upgrade project, Specification No. 19-11320-C; and
2. Accepting the bid of the lowest responsive and responsible bidder, Mar Con Builders, 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 Mar Con Builders, Inc., for the Live Oak Community Center Seismic Upgrade project at 1301 Shattuck Avenue, Berkeley, CA 94704, in an amount not to exceed \$6,271,635, which includes a contract amount consisting of base bids and three alternates of \$5,226,363 and a 20% contingency in the amount of \$1,045,272.

FISCAL IMPACTS OF RECOMMENDATION

Funding is available in the FY 2020 budget in the Measure T1 Fund (Fund 511). No other funding is required, and no other projects will be delayed due to this expenditure.

|                                                         |                   |
|---------------------------------------------------------|-------------------|
| Mar Con Builders, Inc. (lowest bid) .....               | \$4,923,570       |
| Additive Alternate 1 (Partition in Fireside Room) ..... | \$31,509          |
| Additive Alternate 2 (Refinish wood flooring) .....     | \$29,833          |
| Additive Alternate 3 (Kitchen remodel) .....            | \$241,451         |
| 20% Contingency .....                                   | \$1,045,272       |
| <hr/> Total construction cost                           | <hr/> \$6,271,635 |

Measure T1 Fund FY2020 (Fund 511-52-545-000-0000-000-461-663110-PRWT119005) ..... \$6,271,635

CURRENT SITUATION AND ITS EFFECTS

The existing community center at Live Oak Park, 1301 Shattuck Avenue, Berkeley, CA 94704 is in need of renovations. The center has been identified as a location to be used as a mass care site in the event of an earthquake per the City of Berkeley's Local

Hazard Mitigation Plan. This project will provide seismic upgrades to foundations, roofing, and wall systems to achieve an “Immediate Occupancy” rating to serve the community in the event of an earthquake or other disaster.

In addition, the previous ADA improvements to the building no longer meet current code. This projects includes updating the path of entry to the building, theater restroom and seating, and community center restrooms to current accessibility standards.

### BACKGROUND

The project was advertised for bids on Monday, July 22, 2019, and bids were opened on August 29, 2019. The City received eight bids, from a low base bid of \$4,923,570 to a high base bid of \$6,218,000. Mar Con Builders, Inc. was the lowest responsive and responsible bidder. Staff conducted references checks and received satisfactory feedback. Staff recommends that a contract for this project be awarded to Mar Con Builders, Inc.

The Living Wage Ordinance does not apply to this project since construction contracts are, pursuant to City policy, subject to State prevailing wage laws. The contractor will need to submit a Certification of Compliance for the Equal Benefits Ordinance. The contract will be subject to the Community Workforce Agreement.

### ENVIRONMENTAL SUSTAINABILITY

The construction contract includes requirements to comply with the City’s Environmentally Preferable Purchasing Policy. The project is a renovation of a developed urban site and therefore will not negatively affect natural habitat. The project includes a complete upgrade of the HVAC system to an all electrical option. This will increase the resiliency of the building as well as prepare the building for solar power.

### RATIONALE FOR RECOMMENDATION

The Local Hazard Mitigation Plan identified the Live Oak Community Center as a Care and Shelter Facility for the community and a seismic upgrade to the “Immediate Occupancy” level will reduce the chance of building collapse in the event of a moderate or major earthquake. Various upgrades to the building are overdue including accessibility upgrades to adhere to current code. This work supports the City of Berkeley’s strategic plan goal #1: Provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.

### ALTERNATIVE ACTIONS CONSIDERED

None

### CONTACT PERSON

Scott Ferris, Director, Parks Recreation & Waterfront, 981-6700  
Taylor Lancelot, Associate Civil Engineer, Parks Recreation & Waterfront, 981-6421

Attachments:

- 1: Resolution  
Exhibit A - Bid Results

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

CONTRACT: MAR CON BUILDERS, INC., FOR LIVE OAK COMMUNITY CENTER  
SEISMIC UPGRADE

WHEREAS, the community center at Live Oak Park is in need of renovation; and

WHEREAS, the City has neither the labor nor the equipment necessary to undertake this project; and

WHEREAS, an invitation for bids was duly advertised on July 22, 2019, bids were opened on August 29, 2019, and the City received eight bids; and

WHEREAS, Mar Con Builders, Inc. was determined to be the lowest responsive and responsible bidder, and references for Mar Con Builders, Inc. were provided and checked out satisfactorily; and

WHEREAS, funding is available in the FY 2020 budget the Measure T1 Fund (Fund 511).

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Plans and Specification No. 19-11320-C for the Live Oak Community Center Seismic Upgrade project are approved.

BE IT FURTHER RESOLVED that the construction contract is awarded to Mar Con Builders, Inc. as the lowest responsive and responsible bidder for a total contract amount of \$5,226,363; and

BE IT FURTHER RESOLVED that the Council of the City of Berkeley authorizes the City Manager to execute a contract and any amendments, extensions, or change orders until completion of the project in accordance with the approved plans and specifications with Mar Con Builders Inc. for the Live Oak Community Center Seismic Upgrade project in an amount not to exceed \$6,271,635, which includes a contract amount of \$5,226,363 and a 20% contingency in the amount of \$1,045,272 for unforeseen circumstances. A record signature copy of the agreement and any amendments to be on file in the Office of the City Clerk.

Attachment

Exhibit A – Bid Abstract

Exhibit A – Bid Abstract



City of Berkeley  
Abstract of Bids Worksheet

Finance Department  
General Service Division

For: 19-11320-C - Live oak Community center Seismic upgrade

Specification#: 19-11320-C

Engineer's Estimate:

Bid Date:

|    | Bidders                   | Base Bid     | Nuc Free | Work Force Comp | Opp. States | Living Wage | EBO | Bid Bond | Addendum |
|----|---------------------------|--------------|----------|-----------------|-------------|-------------|-----|----------|----------|
| 1  | Mar Con Builders Inc      | 4,923,570.00 |          |                 |             |             |     | ✓        | ✓        |
| 2  | CWS construction          | 6,130,000.00 |          |                 |             |             |     | ✓        | ✓        |
| 3  | Rodan Builders Inc        | 5,267,000.00 |          |                 |             |             |     | ✓        | ✓        |
| 4  | SCI                       | 6,218,000.00 |          |                 |             |             |     | ✓        | ✓        |
| 5  | W.A. Thomas Company Inc.  | 5,063,000.00 |          |                 |             |             |     | ✓        | ✓        |
| 6  | EF Brett and Company Inc. | 4,965,000.00 |          |                 |             |             |     | ✓        | ✓        |
| 7  | Atten Construction        | 5,100,000.00 |          |                 |             |             |     | ✓        | ✓        |
| 8  | DL Falk Construction Inc. | 5,296,000.00 |          |                 |             |             |     | ✓        | ✓        |
| 9  |                           |              |          |                 |             |             |     |          |          |
| 10 |                           |              |          |                 |             |             |     |          |          |

Bid Recorder: PJom 8/29/19

Bid Opener: Shari Deegan 8/29/19

Project Manager: W/L 8/29/2019

2180 Milvia Street, Berkeley, CA 94704 Tel: 510.981.7320 TDD: 510.981.6903 Fax: 510.981.7390  
E-mail: finance@ci.berkeley.ca.us



Office of the City Manager

15

CONSENT CALENDAR  
September 24, 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: Don Fowler Construction for Berkeley Tuolumne Camp Repairs, Specification 19-11333

RECOMMENDATION

Adopt a Resolution:

1. Approving plans and specifications for the Berkeley Tuolumne Camp Cabin Repairs Project (Specification No. 19-11333);
2. Accepting the bid of the lowest responsible bidder, Dow Fowler Construction; and
3. Authorizing the City Manager to execute a contract and any amendments, extensions or other change orders with Don Fowler Construction until completion of the Project in accordance with the approved plans and specifications, in an amount not to exceed \$228,735, which includes a 15% contingency for unforeseen circumstances.

FISCAL IMPACTS OF RECOMMENDATION

Funds for the contract in the amount of \$228,735 are available in the Camps Fund and will be included in the first amendment to FY20 Annual Appropriations Ordinance and budgeted in the Camps Fund budget code 125-52-543-583-0000-000-461-612990.

The cost of this this contract is covered by a combination of expected insurance payments (partially received), expected FEMA/CalOES grant payments, and City Reserve Funds (authorized on April 4, 2017, Resolution No. 67,889-N.S.).

CURRENT SITUATION AND ITS EFFECTS

In August 2013, the California Rim Fire destroyed the Berkeley Tuolumne Camp (BTC), a residential family camp located within the Stanislaus National Forest.

Since the Rim Fire, the City has worked in partnership with the U.S. Forest Service and Tuolumne County to stabilize and remove debris and hazardous trees from the site, to develop design documents for reconstruction, to complete National Environmental Protection Act (NEPA) and California Environmental Quality Act (CEQA) compliance, and to apply for a Special Use Permit which authorizes the re-building of Berkeley Tuolumne Camp. It is anticipated the BTC reconstruction will begin in Spring, 2020. The repair of 16

remnant structures currently on site and construction of a permanent fence for cultural mitigation is required prior to the larger reconstruction Project.

### BACKGROUND

Berkeley Tuolumne Camp, established in 1922, is a 30-acre property operated under a Special Use Permit with the US Forest Service (USFS). The camp has served primarily as a family camp, but also offered teen leadership programs, adult hiking camps, and private group rental opportunities. Prior to the fire, BTC had the capacity to host approximately 280 campers, 60 staff members, and 10 counselors-in-training at one time, and served over 4,000 campers each year. The major facilities at the Camp included a Dining Hall; a Recreation Hall, 77 small single-story wood-frame camper tent cabins; staff cabins; maintenance and storage structures; a bridge across the river; parking and loading areas, and electric, water supply, and wastewater utilities.

In August of 2013, the Rim Fire destroyed Berkeley Tuolumne Camp (BTC) and in December was declared a federal disaster. The majority of structures at BTC were destroyed by the fire. The property was covered by the City's insurance policy, and insurance proceeds will be the primary source of reconstruction funds. The City has also been awarded a Public Assistance Grant from the Federal Emergency Management Agency (FEMA) and California Office of Emergency Services (CalOES) to partially fund reconstruction.

Since the fire, the City has been working closely with the USFS to complete an updated master plan in order to rebuild Camp. On June 11, 2019, USFS completed its environmental review and finding of no significant impact for the Berkeley Tuolumne Camp Project. The City of Berkeley adopted the Mitigated Negative Declaration for the Project on January 22, 2019 (Resolution No. 68,734-N.S.). The City of Berkeley authorized execution of a new, 30-year Special Use Permit on July 23, 2019 (Resolution No. 69,045-N.S.).

The total cost estimate for the Berkeley Tuolumne Camp Rebuild Project is \$60M. This cost will be covered by insurance, FEMA and state grant funding, and City funds. On April 4, 2017, City Council allocated \$3.3M of City funds from the Catastrophic Reserve to fund the City cost share of the reconstruction project (Resolution No. 67,889-N.S.). The City currently anticipates beginning construction in 2020, with a goal to re-open camp in 2022.

On August 13, 2019 the City issued an invitation for bids to complete Cabin repairs and fence construction at Berkeley Tuolumne Camp (Spec No. 19-11333). The City received three bids. Don Fowler Construction is the lowest responsive and responsible bidder.

### ENVIRONMENTAL SUSTAINABILITY

The City approved the Project CEQA documents on January 22, 2019. The United States Forest Service issued its final NEPA documents on June 11, 2019.



This Project will implement Best Management Practices (BMPs) to encourage biodiversity, preserve resources, and maintain riparian and other natural habitats while mitigating hazardous conditions.

RATIONALE FOR RECOMMENDATION

Repairs to the damaged remnant cabins at Berkeley Tuolumne Camp are required for safety reasons, and construction of an exclusion fence is required by the environmental mitigation and funding requirements of the BTC Camp Reconstruction Project. This project is the last of three pre-construction projects that must precede the commencement of the larger Camp Reconstruction Project that is scheduled for April 2020. Don Fowler Construction is the lowest responsive and responsible bidder for the Project. This work supports the City of Berkeley's strategic plan goal #1: Provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.

ALTERNATIVE ACTIONS CONSIDERED

The City does not have the expertise required to complete the tasks covered by this contract. Delay of the Project would adversely impact the larger Berkeley Tuolumne Camp Reconstruction Project. Therefore no alternative actions were considered.

CONTACT PERSON

Scott Ferris, Director, PRW, 981-6700  
Liza McNulty, Project Manager, PRW, 981-6437

Attachments:

1: Resolution

Exhibit A: Bid Abstract

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

CONTRACT: DON FOWLER CONSTRUCTION FOR BERKELEY TUOLUMNE CAMP REPAIRS

WHEREAS, the City operated the Berkeley Tuolumne Camp, a residential family camp, since 1922 on United States Forest Service land pursuant to a special use permit; and

WHEREAS, in August 2013, the Berkeley Tuolumne Camp was destroyed by the California Rim Fire; and

WHEREAS, on March 2, 2015, the U.S. Forest Service formally accepted the City's conceptual proposal to rebuild Berkeley Tuolumne Camp; and

WHEREAS, on June 11, 2019, the U.S. Forest Service formally completed environmental review and finding of no significant impacts for the Berkeley Tuolumne Camp Project; and

WHEREAS, on January 22, 2019 the City of Berkeley adopted the Mitigated Negative Declaration and Mitigation and Monitoring and Reporting Plan for the Berkeley Tuolumne Camp Permit (46690) Project; and

WHEREAS, an invitation for bids was duly advertised and Don Fowler Construction was the lowest responsive and responsible bidder; and

WHEREAS, funds for the contract in the amount of \$228,735 are available in the Camps Fund and will be included in the first amendment to FY20 Annual Appropriations Ordinance and budgeted in the Camps Fund budget code 125-52-543-583-0000-000-461-612990.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Plans and Specification No. 19-11333 for the Berkeley Tuolumne Camp Cabin Repairs are approved.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley accepts the bid of the lowest responsive and responsible bidder, Down Fowler Construction.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley authorizes the City Manager to execute a contract and any amendments, extension, and/or change orders until completion of the Project in accordance with the approved plans and specifications with Don Fowler Construction for the Berkeley Tuolumne Camp Cabin Repairs Project in an amount not to exceed \$228,735, which includes a 15% contingency for unforeseen circumstances. A record signature copy of said agreements and any amendments to be on file in the Office of the City Clerk.

Exhibit A – Bid Abstrat

Exhibit – Bid Abstract



City of Berkeley  
Abstract of Bids Worksheet

Finance Department  
General Service Division

For: Berkeley Toulomne Camp Cabin Repairs

Specification#: 19-11333

Engineer's Estimate: \$125,000

Bid Date: 9/5/19

|    | Bidders                            | Base Bid   | Nuc Free | Work Force Comp | Opp. States | Living Wage | EBO | Bid Bond | Addendum |
|----|------------------------------------|------------|----------|-----------------|-------------|-------------|-----|----------|----------|
| 1  | DON FOWLER CONSTRUCTION            | 198,900.00 |          |                 |             |             |     | ✓        | ✓        |
| 2  | SOUTHWEST CONST. AND PROPERTY MGMT | 338,783.00 |          |                 |             |             |     | ✓        | ✓        |
| 3  | CNW CONST. INC.                    | 254,000.00 |          |                 |             |             |     | ✓        | ✓        |
| 4  |                                    |            |          |                 |             |             |     |          |          |
| 5  |                                    |            |          |                 |             |             |     |          |          |
| 6  |                                    |            |          |                 |             |             |     |          |          |
| 7  |                                    |            |          |                 |             |             |     |          |          |
| 8  |                                    |            |          |                 |             |             |     |          |          |
| 9  |                                    |            |          |                 |             |             |     |          |          |
| 10 |                                    |            |          |                 |             |             |     |          |          |

Bid Recorder: [Signature] 9/5/2019

Bid Opener: [Signature] 9/5/19

Project Manager: [Signature] 9/5/19

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





Office of the City Manager

16

CONSENT CALENDAR  
September 24, 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: Grant Application for Technical Assistance to Develop a Proposal for Challenge Grant for Housing Protection and Preservation

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to submit a grant application in the amount of \$7,000 to The San Francisco Foundation, in order to receive technical assistance from SEEDs Collaborative to help develop a competitive Partnership for the Bay's Future Challenge Grant proposal, and to accept grant funds and execute a resulting grant agreement.

FISCAL IMPACTS OF RECOMMENDATION

The City of Berkeley would receive \$7,000 in technical assistance to develop a competitive application for Partnership for the Bay's Future Challenge Grant for Protection and Preservation of Affordable Housing. Funds would be deposited to 336-53-584-622-0000-000-000-434110- and expended for consultant services from 336-53-584-622-0000-000-441-612990-.

CURRENT SITUATION AND ITS EFFECTS

The San Francisco Foundation (TSFF) is providing technical assistance to jurisdictions interested in applying for Partnership for the Bay's Future Challenge Grant for Protection and Preservation of Affordable Housing ("Challenge Grant"). Challenge Grants will be awarded to no more than ten Bay Area jurisdictions. This grant program will invest approximately four million dollars in jurisdictions that commit to advancing and implementing affordable housing preservation and affordable housing protection policies that result in measurable benefits for tenants.

Technical assistance will allow Berkeley to partner with local experts and develop a competitive application. The Challenge Grant award -- and by association, TSFF's Technical Assistance Grant -- align with Berkeley's Strategic Plan Priority Project of advancing our goals to create affordable housing and housing support service for our most vulnerable community. If awarded the Technical Assistance Grant, the City of Berkeley would hire SEEDs Collaborative, a local consulting firm focused on community development policies and practices that help to correct racial disparities and promote community stability.

BACKGROUND

The Challenge Grant, if awarded, would provide the City of Berkeley with support to develop and implement two important affordable housing protection and preservation policies: one focused on tenants' opportunities to purchase housing and the other focused on a preference for local residents when allocating of affordable housing in Berkeley. Both of these policies would preserve and expand the supply of affordable housing in Berkeley.

Berkeley City Council has directed staff to develop these policies as part of the City's Housing Action Plan (HAP), adopted in 2017:

*HAP Referral #2: Develop an ordinance modeled after Washington D.C.'s Tenant Opportunity to Purchase Act (TOPA) that offers existing tenants in multi-unit properties of three units or more the first right of refusal when property owners place rental property on the market.*

*HAP Referral #7: Develop an ordinance to clarify existing preferences in allocating City affordable housing units to Berkeley residents living within 1/2 mile of any new housing project and tenants evicted under the Ellis Act.*

ENVIRONMENTAL SUSTAINABILITY

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

RATIONALE FOR RECOMMENDATION

Technical Assistance will increase Berkeley's capacity to develop a strong Challenge Grant application and will allow the City to partner with local experts.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Alene Pearson, Principal Planner, Planning and Development, 510-981-7489

Attachments:

1: Resolution



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

GRANT FROM THE SAN FRANCISCO FOUNDATION FOR TECHNICAL ASSISTANCE  
ON THE PARTNERSHIP FOR THE BAY'S FUTURE CHALLENGE GRANT  
APPLICATION

WHEREAS, California is experiencing an affordable housing crisis; and

WHEREAS, the City of Berkeley has prioritized policy development that preserves and protects affordable housing in the 2017 Housing Action Plan; and

WHEREAS, The Partnership for the Bay's Future has released a request for proposals for a Challenge Grant focused on Protection and Preservation of Affordable Housing ("Challenge Grant"); and

WHEREAS, The San Francisco Foundation has offered a Technical Assistance Grant to help cities develop competitive Challenge Grant proposals; and

WHEREAS, the Planning Department will benefit from the added capacity and guidance from local experts to develop its Challenge Grant application;

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is authorized to submit a grant application in the amount of \$7,000 to The San Francisco Foundation for the Technical Assistance Grant, accept the grant, and execute any resulting grant agreement. A record signature copy of said agreements and any amendments to be on file the office of the City Clerk.





Office of the City Manager

CONSENT CALENDAR  
September 24, 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. 31900106 Amendment: Coastland Civil Engineering for On-Call Civil Engineering Services for the Sanitary Sewer Program

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to amend Contract No. 31900106 with Coastland Civil Engineering for On-Call Civil Engineering Services for the Sanitary Sewer Program, increasing the contract by \$500,000, for a total amount no to exceed \$900,000, and extending the term of the contract from June 30, 2021 to June 30, 2022.

FISCAL IMPACTS OF RECOMMENDATION

Initial funding for this contract amendment in Fiscal Year 2020 is available in the Engineering budget in the Sanitary Sewer Fund 611. Future funding for FY 2021 and FY 2022 will be subject to appropriation based on the department's need for civil engineering services to support capital projects.

|                                    |                  |
|------------------------------------|------------------|
| Current Contract Amount            | \$400,000        |
| <u>Contract amendment</u>          | <u>\$500,000</u> |
| Total revised not-to-exceed amount | \$900,000        |

The Contract Management System number for the amendment is CMS No. PIT5R.

CURRENT SITUATION AND ITS EFFECTS

The Sanitary Sewer Program (Program) needs additional civil engineering services from Coastland Civil Engineering (Coastland) due to a reduction in the current availability of other consultants contracted with the City to provide services for the Program. The cost of additional services needed exceeds the available contract balance. The amendment will allow Coastland to take on more design work in FY 2020 and beyond, allowing the City to meet its sewer rehabilitation regulatory requirements in a timely manner.

The services provided by Coastland support the City's Strategic Plan goal of providing state-of-the-art, well-maintained infrastructure and facilities.

BACKGROUND

On September 22, 2014, East Bay Municipal Utility District (EBMUD), the City of Berkeley, and EBMUD's other satellite agencies entered into a Consent Decree (CD) with the United States Environmental Protect Agency (EPA), the Regional Water Board, and the State Water Board. The mandate of this consent decree is to eliminate sanitary sewer overflows and reduce wet weather inflow and infiltration into the sanitary sewer system. The ultimate goal is to eliminate EBMUD facility discharges of untreated or partially treated wastewater into the San Francisco Bay during storm events. Under the CD, the City agreed to replace its sanitary sewer mains at an average annual rate of no less than 4.2 miles based on a three-fiscal-year rolling average. In order to meet this requirement, the City needs design and construction support from on-call consultants.

On July 24, 2018, Council authorized the City Manager to execute on-call civil engineering services contracts with three consulting firms, including Coastland. Based on forecasted needs for services, Coastland was awarded a contract for an amount not to exceed \$400,000 over a three year term. Since then, the need for services from Coastland has increased as a result of a reduction in the availability of the other consultants contracted with the City to provide services for the Sanitary Sewer Program.

ENVIRONMENTAL SUSTAINABILITY

Improvements to the City's sanitary sewer system will help to minimize the frequency of Sanitary Sewer Overflows, and reduce infiltration and inflow into the City's sanitary sewer system, which in turn will minimize impacts of untreated sewer discharge into the San Francisco Bay and protect water quality.

RATIONALE FOR RECOMMENDATION

Of the firms currently contracted with the City to provide on-call civil engineering services, Coastland has the most availability to provide the additional services the City needs in order to meet CD mandated sewer rehabilitation requirements.

ALTERNATIVE ACTIONS CONSIDERED

No alternative actions were considered. The City does not have the resources to provide the necessary civil engineering services in-house.

CONTACT PERSON

Phillip L. Harrington, Director, Department of Public Works, (510) 981-6303  
Andrew Brozyna, Department of Public Works, Deputy Director, (510) 981-6396  
Nisha Patel, Manager of Engineering/City Engineer, (510) 981-6406  
Ricardo Salcedo, Assistant Civil Engineer, Public Works, (510) 981-6407

Attachment:  
1: Resolution

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

CONTRACT NO. 31900106 AMENDMENT: COASTLAND CIVIL ENGINEERING FOR ON-CALL CIVIL ENGINEERING SERVICES FOR SANITARY SEWER PROGRAM

WHEREAS, the delivery of sanitary sewer projects is part of the City's on-going Sanitary Sewer Program (Program) to replace the aging and deteriorated sanitary sewer system; and

WHEREAS, the Program is a requirement of compliance with the Consent Decree (CD) filed September 22, 2014; and

WHEREAS, on-call consultant support is required because City staff cannot perform the volume of engineering design work needed to meet CD requirements; and

WHEREAS, Council authorized the City Manager to enter into a contract with Coastland Civil Engineering for On-Call Civil Engineering Services for an amount not to exceed \$400,000 on July 24, 2018 (Resolution No. 68,550-N.S.); and

WHEREAS, the need for services from Coastland has increased as a result of a reduction in the availability of other on-call civil engineering consultants currently contracted to provide services for the Program; and

WHEREAS, Coastland Civil Engineering has the availability to provide the additional design services in support of the Program; and

WHEREAS, funding is available in Fiscal Year (FY) 2020 from the Sanitary Sewer Fund (611); and funding for FY 2021 and FY 2022 is subject to appropriation based on each project or program, or the department's need for civil engineering services; and the contract has been entered into the citywide contract database and assigned CMS No. PIT5R;

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. 31900106 with Coastland Civil Engineering for On-Call Civil Engineering Services for the Sanitary Sewer Program, increasing the contract by \$500,000, for a total amount not to exceed \$900,000, and extending the term of the contract from June 30, 2021 to June 30, 2022.







Office of the City Manager

CONSENT CALENDAR  
September 24, 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. 10485 Amendment: Fehr & Peers, Inc. for On-Call Transportation Planning Services

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to amend Contract No. 10485 with Fehr & Peers, Inc. for On-Call Transportation Planning Services, increasing the contract by \$225,000, for a total amount not to exceed \$725,000.

FISCAL IMPACTS OF RECOMMENDATION

Funding sources that will be utilized depending on the project are the Capital Improvement Fund (Fund 501), State Transportation Tax Fund (Fund 127), and Measure BB Local Streets and Roads Fund (Fund 134). Funding will be subject to appropriation in FY 2020.

|                                    |                   |
|------------------------------------|-------------------|
| Current contract amount            | \$ 500,000        |
| <u>Contract amendment</u>          | <u>\$ 225,000</u> |
| Total revised not-to-exceed amount | \$ 725,000        |

The Contract Management System number for the contract amendment is CMS No. HIQRC.

CURRENT SITUATION AND ITS EFFECTS

This amendment to the Fehr & Peers, Inc. (F&P) On-Call Transportation Planning Services contract is necessary for the uninterrupted continuation of ongoing projects and programs until the new On-Call Traffic Engineering Services contract is executed, which is anticipated to be August 2019. The not to exceed amount of the current On-Call Transportation Planning Services contract with F&P is insufficient to cover the originally-planned work and additional unexpected time-critical services necessary for delivery of capital improvement projects.

BACKGROUND

On June 28, 2016, Council authorized the City Manager to execute a contract with F&P for On-Call Transportation Planning Services for an amount not to exceed \$500,000. This culminated in Contract No. 10485, effective June 1, 2016 through June 30, 2021.

Since that time, several key project delivery staff within Public Works have ceased employment with the City, which has resulted in the use of F&P's contract for previously unanticipated staff support services on time-sensitive grant-funded projects. In addition, F&P has been utilized to provide consultant support for the development of the Vision Zero Action Plan, a high priority in the City's Strategic Plan, due to the firm's experience in this subject area.

ENVIRONMENTAL SUSTAINABILITY

There are no anticipated negative environmental effects of this action. The execution of this contract amendment will help ensure successful completion of several ongoing capital improvement projects including a pathway project, which facilitates walking and cycling as alternatives to driving, and a signal relocation and intersection improvement project, which is intended to reduce motor vehicle traffic congestion and improve pedestrian safety. This in turn promotes environmental sustainability and meets the Strategic Plan goal of providing state-of-the-art, well-maintained infrastructure, amenities, and facilities.

RATIONALE FOR RECOMMENDATION

F&P has necessary design and project management expertise to continue work on existing projects, and they are also well-equipped to provide additional unexpected time-critical services for capital improvement projects.

ALTERNATIVE ACTIONS CONSIDERED

Council could choose not to amend F&P's contract, in which case upcoming capital improvement projects would be delayed, resulting in the potential loss of grant funding for projects in the design phase and increased construction costs for projects in the construction phase.

CONTACT PERSON

Farid Javandel, Transportation Manager, Public Works Department, (510) 981-7061  
Beth Thomas, Principal Planner, Public Works Department, (510) 981-7068  
Kenneth Jung, Associate Civil Engineer, Public Works Department, (510) 981-7028

Attachments:

- 1: Resolution

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

CONTRACT NO. 10485 AMENDMENT: FEHR & PEERS, INC. FOR ON-CALL  
TRANSPORTATION PLANNING SERVICES

WHEREAS, Council authorized the City Manager to enter into a contract with Fehr & Peers, Inc. for On-Call Transportation Planning Services for an amount not to exceed \$500,000 on June 28, 2016 (Resolution No. 67,586-N.S.), and Contract No. 10485 was subsequently executed, effective July 1, 2016 to June 30, 2021; and

WHEREAS, recently several key project delivery staff in the City's Public Works Department have ceased employment with the City, resulting in acute project delivery staffing needs; and

WHEREAS, Fehr & Peers, Inc. has necessary design and project management expertise to continue work on existing projects and programs; and

WHEREAS, an amendment to Fehr & Peers, Inc.'s On-Call Transportation Planning Services contract would allow for the uninterrupted continuation of traffic engineering services for ongoing projects and programs until such time when their upcoming On-Call Traffic Engineering Services contract (described in Resolution No. 68,792-N.S.) is executed; and

WHEREAS, funding will be subject to appropriation in the specific fiscal year (covered in the contract term) that the services are needed; and

WHEREAS, the Contract Management System number for this contract amendment is CMS No. HIQRC.

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. 10485 with Fehr & Peers, Inc. for On-Call Transportation Planning Services, increasing the contract by \$225,000, for a total amount not to exceed \$725,000.





Office of the Mayor

19

CONSENT CALENDAR  
September 24, 2019

To: Honorable Members of the City Council

From: Mayor Jesse Arreguín and Councilmembers Rigel Robinson and Ben Bartlett

Subject: Support H.R. 2809 – The Improving Access to Nutrition Act of 2019

RECOMMENDATION

Adopt a Resolution in support of H.R. 2809 – The Improving Access to Nutrition Act of 2019. Send a copy of the Resolution to Congressperson Barbara Lee, Senators Dianne Feinstein and Kamala Harris, and President Donald Trump.

BACKGROUND

In 2017, an estimated 1 in 8 Americans, or 40 million people, were food insecure. Food insecurity, according to the US Department of Agriculture, is defined as a lack of consistent access to enough food for an active, healthy life. This is caused by a lack of available financial resources for food. Climate change is expected to increase the cost of food in the coming decades as crop failures become more frequent. This will place further strain on the most vulnerable communities who are already struggling to pay for food.

Currently, adults without children between the ages of 18-49 and do not have a documented disability are limited to three months of Supplemental Nutrition Assistance Program (SNAP) benefits if they are not working at least 80 hours a month. This places millions of people who are unable to find stable employment at risk of being unable to have adequate access to food. H.R. 2809, the Improving Access to Nutrition Act of 2019, introduced by Congressperson Barbara Lee, removes the three month limit to SNAP benefits.

Many of the people who are limited to the current three month restriction for SNAP benefits are students. A 2017 report from the UC Global Food Initiative revealed that 44% of undergraduates and 26% of graduate students throughout the UC system were food insecure. Students that are transfer students, former foster care youth, low socioeconomic status, independent, LGBTQ, and/or a part of an underrepresented minority are more likely to be disproportionately represented as food insecure. The UC Berkeley Food Pantry has seen a ten-fold increase in traffic between 2016-2018. According to the UC Undergraduate Experience Survey, 1 in 5 UC Berkeley students have reported skipping meals due to financial reasons. While some financial aid and food programs help fill in some of the gaps student faces, it is clear that reforming the SNAP program will provide much needed support to food insecure students.

FINANCIAL IMPLICATIONS

None.

ENVIRONMENTAL SUSTAINABILITY

Not applicable.

CONTACT PERSON

Mayor Jesse Arreguín 510-981-7100

Councilmember Rigel Robinson 510-981-7170

Attachments:

1: Resolution

2: Text of H.R. 2809



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

IN SUPPORT OF H.R. 2809 – THE IMPROVING ACCESS TO NUTRITION ACT OF 2019

WHEREAS, food insecurity, defined as a lack of consistent access to enough food for an active, healthy life, impacts an estimated 1 in 8 Americans, equating to 40 million people; and

WHEREAS, with food prices expected to rise in the coming years and decades in part due to climate change's impact on food crops, it is expected that food insecurity will become a bigger issue, disproportionately impacting the most vulnerable populations; and

WHEREAS, many students are impacted by food insecurity, with a 2017 report from the UC Global Food Initiative revealing that 44% of undergraduates and 26% of graduate students across the UC system are food insecure; and

WHEREAS, students that are transfer students, former foster care youth, low socioeconomic status, independent, LGBTQ, and/or a part of an underrepresented minority are more likely to be disproportionately represented as food insecure; and

WHEREAS, at UC Berkeley, 1 in 5 students have reported skipping meals due to financial reasons; and

WHEREAS, currently, adults without children between the ages of 18-49 and do not have a documented disability are limited to three months of Supplemental Nutrition Assistance Program (SNAP) benefits if they are not working at least 80 hours a month; and

WHEREAS, these restrictions disproportionately impact students and adults without stable employment; and

WHEREAS, H.R. 2809, the Improving Access to Nutrition Act of 2019, introduced by Congressperson Barbara Lee, removes the three month limit to SNAP benefits.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it hereby supports H.R. 2809 – the Improving Access to Nutrition Act of 2019.

BE IT FURTHER RESOLVED that copies of this Resolution be sent to Congressperson Barbara Lee, Senators Dianne Feinstein and Kamala Harris, and President Donald Trump.

116TH CONGRESS  
1ST SESSION

# H. R. 2809

To amend the Food and Nutrition Act of 2008 to repeal the particular work requirement that disqualifies able-bodied adults for eligibility to participate in the supplemental nutrition assistance program.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 16, 2019

Ms. LEE of California (for herself, Ms. MOORE, Ms. ADAMS, Mrs. KIRKPATRICK, Mr. GRIJALVA, Mr. RUSH, Ms. NORTON, Ms. WILSON of Florida, Ms. OMAR, Mr. KHANNA, Mrs. NAPOLITANO, Mr. DESAULNIER, Mr. ESPAILLAT, Ms. PRESSLEY, Mrs. WATSON COLEMAN, Mr. ENGEL, Mr. BLUMENAUER, Ms. HAALAND, Ms. ESHOO, Mr. PAYNE, Mr. CÁRDENAS, Mr. HUFFMAN, Mr. COHEN, and Mr. CORREA) introduced the following bill; which was referred to the Committee on Agriculture

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## A BILL

To amend the Food and Nutrition Act of 2008 to repeal the particular work requirement that disqualifies able-bodied adults for eligibility to participate in the supplemental nutrition assistance program.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Improving Access to  
5 Nutrition Act of 2019”.

1 **SEC. 2. AMENDMENTS.**

2 (a) WORK REQUIREMENT.—Section 6 of the Food  
3 and Nutrition Act of 2008 (7 U.S.C. 2015) is amended—

4 (1) in subsections (d)(4)(B)(ii)(I)(bb),  
5 (d)(4)(N)(iii)(I)(bb), (d)(4)(N)(iv)(II), and  
6 (d)(4)(N)(v)(IV) by striking “or subsection (o)”, and  
7 (2) by striking subsection (o).

8 (b) ADDITIONAL ALLOCATIONS FOR STATES THAT  
9 ENSURE AVAILABILITY OF WORK OPPORTUNITIES.—Sec-  
10 tion 16(h)(1) of the Food and Nutrition Act of 2008 (7  
11 U.S.C. 2025(h)(1)) is amended by striking subparagraph  
12 (E).

13 (c) TECHNICAL AMENDMENTS.—

14 (1) Section 7(i)(1) of the Food and Nutrition  
15 Act of 2008 (7 U.S.C. 2016(i)(1)) is amended by  
16 striking “section 6(o)(2) of this Act or”.

17 (2) Section 16(h) of the Food and Nutrition  
18 Act of 2008 (7 U.S.C. 2025(h)) is amended—

19 (A) in paragraph (1)—

20 (i) in subparagraph (B)—

21 (I) by striking “that—” and all  
22 that follows through “(i)”, and

23 (II) by striking “; and” and all  
24 that follows through “6(o)”, and

25 (ii) in subparagraph  
26 (F)(ii)(III)(ee)(AA) by striking “, individ-

1 uals subject to the requirements under sec-  
2 tion 6(o),”, and

3 (B) in paragraph (5)(C)—

4 (i) in clause (ii) by inserting “and” at  
5 the end, and

6 (ii) in clause (iii) by striking “; and”  
7 and all that follows through “appropriate”.

8 **SEC. 3. CONFORMING AMENDMENTS.**

9 (a) INTERNAL REVENUE CODE.—Section  
10 51(d)(8)(A)(ii) of the Internal Revenue Code of 1986 (26  
11 U.S.C. 51(d)(8)(A)(ii)) is amended—

12 (1) by striking “family—” and all that follows  
13 through “(I)” and inserting “family”, and

14 (2) by striking “, or” and all that follows  
15 through “of 2008”.

16 (b) WORKFORCE INNOVATION AND OPPORTUNITY  
17 ACT.—The Workforce Innovation and Opportunity Act  
18 (29 U.S.C. 3101 et seq.) is amended—

19 (1) in section 103(a)(2) by striking subpara-  
20 graph (D), and

21 (2) in section 121(b)(2)(B) by striking clause  
22 (iv).

23 **SEC. 4. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.**

24 (a) EFFECTIVE DATE.—Except as provided in sub-  
25 section (b), this Act and the amendments made by this

1 Act shall take effect 180 days after the date of enactment  
2 of this Act.

3 (b) APPLICATION OF AMENDMENTS.—

4 (1) The amendments made by section 2 shall  
5 not apply with respect to an allotment issued under  
6 the Food and Nutrition Act of 2008 (7 U.S.C. 2011  
7 et seq.) before the effective date of this Act.

8 (2) The amendments made by section 3(a) shall  
9 not apply to individuals hired before the expiration  
10 of the 90-day period that begins on the effective  
11 date of this Act.

○







Office of the Mayor

20

CONSENT CALENDAR  
September 24, 2019

To: Honorable Members of the City Council  
From: Mayor Jesse Arreguín, and Councilmembers Susan Wengraf, Kate Harrison, and Ben Bartlett  
Subject: United Against Hate Week 2019

RECOMMENDATION

Adopt a Resolution approving the D-13 expenditure of \$1,000 in an amount not to exceed \$250 per Councilmember, to Not in Our Town for United Against Hate Week scheduled for November 17-23, 2019.

BACKGROUND

Starting in Berkeley in 2017 in response to far-right rallies, United Against Hate was originally a poster campaign that has since transformed into an annual event. The goal for United Against Hate Week is to provide communities with the tools, resources, and support they need to create locally driven actions to stand united against growing intolerance. This annual week of activities and follow up events are designed to not just raise awareness about the dangers of hate and the need for respect and civil discourse, but to help community members build stronger connections with civic leaders, businesses, and schools, so that deeper engagement can continue year-round.

Not in Our Town is a non-profit that serves communities across the country working to build safety, inclusion and equity for all. They are the facilitating organization for United Against Hate Week, and are requesting donations of \$1,000 from each jurisdiction participating in this year's event. Funds raised from these jurisdictions will be used for the printing of signs, communications, and promotion of the event and will leverage additional foundation and grant funding.

FINANCIAL IMPLICATIONS

\$250 from the Mayor's D-13 account and other Councilmembers who wish to contribute.

ENVIRONMENTAL SUSTAINABILITY

Not applicable.

CONTACT PERSON

Mayor Jesse Arreguín 510-981-7100

United Against Hate Week 2019

CONSENT CALENDAR  
September 24, 2019

Attachments:  
1: Resolution

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

AUTHORIZING THE EXPENDITURE OF SURPLUS FUNDS FROM THE OFFICE  
EXPENSE ACCOUNTS OF THE MAYOR AND COUNCILMEMBERS FOR NOT IN  
OUR TOWN'S UNITED AGAINST HATE WEEK

WHEREAS, Mayor Jesse Arreguin has surplus funds in his office expenditure account;  
and

WHEREAS, a California non-profit tax exempt corporation Not in Our Town seeks funds  
in the amount of \$1000 to provide the following public services: Promotion and  
distribution of information relating to 2019's United Against Hate Week on November  
17-23.

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 Not in Our Town.





Office of the Mayor

21

CONSENT CALENDAR  
September 24, 2019

To: Honorable Members of the City Council  
 From: Mayor Jesse Arreguín, and Councilmembers Wengraf, Harrison, and Bartlett  
 Subject: Clean Air Day 2019

RECOMMENDATION

Adopt a Resolution declaring October 2<sup>nd</sup>, 2019 as Clean Air Day.

BACKGROUND

Since the creation of the Spare the Air program in 1991, the Bay Area has seen an average of 11.3 Spare the Air Days a year. However, between 2016-2018, the average has been 19.3. Last year, air pollution in Berkeley became so extreme, as a result of the Camp Fire that destroyed the town of Paradise, that the City Manager ordered city staff who work outdoors to stay home unless they had an indoor work station.

Despite recent statewide efforts to mitigate pollutants, California has some of the most polluted regions in the United States, with seven of the country's ten most ozone polluted cities. Air pollution contributes to higher rates of cancer and heart and lung diseases, which adversely affect health.

Between 2000-2016, emissions in Berkeley have declined by 15%, despite an 18% increase in our population. Specifically, emissions from electricity are down 60% and natural gas 18%. However, emissions from transportation have gone up 8%, and now account for 60% of Berkeley's greenhouse gas emissions.

To help promote the reduction of air pollution, the Coalition for Clean Air is holding its second annual California Clean Air Day on October 2<sup>nd</sup>, 2019. It calls upon California residents and cities to take action on ways to reduce their carbon footprint, such as taking public transit instead of driving a car. While actions like these should be promoted every day, this event also serves to educate people on ways to create a cleaner environment and raise awareness of the consequences of air pollution. Given Berkeley's continued focus on environmental sustainability, it is important to express our support by joining other cities in passing a resolution in support of Clean Air Day.

FINANCIAL IMPLICATIONS

None.

ENVIRONMENTAL SUSTAINABILITY

Clean Air Day promotes environmentally friendly actions such as reducing people's carbon footprint and reduction of greenhouse gases and pollutants.

CONTACT PERSON

Mayor Jesse Arreguín      510-981-7100

Attachments:

1: Resolution

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

DECLARING OCTOBER 2, 2019 AS CLEAN AIR DAY

WHEREAS, air pollution contributes to higher rates of cancer and heart and lung diseases, which adversely affect health; and

WHEREAS, California has some of the most polluted regions in the United States; and

WHEREAS, it is vital that we protect the health and well-being of our residents, visitors, and workforce; and

WHEREAS, emissions from vehicles, industry, and even household sources significantly affects the natural environment, air quality and well-being of residents, employees, and visitors of the City of Berkeley; and

WHEREAS, individual actions such as not idling vehicles, walking or biking to work and school, carpooling, and conserving energy can directly improve air quality in our region; and

WHEREAS, education about air quality can raise community awareness, encourage our community to develop better habits, and improve our community health; and

WHEREAS, Californians will be joining together across the state to clear the air on October 2, 2019; and

WHEREAS, the City of Berkeley is committed to the health of our residents, workforce, visitors, and community at large.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that October 2, 2019 be declared "Clean Air Day" in the City.

BE IT FURTHER RESOLVED that we encourage all City Department heads to determine how their employees can participate in Clean Air Day.

BE IT FINALLY RESOLVED that we encourage all residents, businesses, employees, and community members to participate in Clean Air Day and help clear the air for all Californians.







Cheryl Davila  
Councilmember  
District 2

22

CONSENT CALENDAR  
September 24, 2019

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

**From:** Councilmember Cheryl Davila, Councilmember Kate Harrison and Councilmember Sophie Hahn

**Subject:** Letter in Support of AB 342, Prohibiting the Use of Public Lands for Oil and Gas Production.

#### RECOMMENDATION

Send a Letter to Governor Gavin Newsom In Support of AB 342 by State Assemblymember Al Muratsuchi, prohibiting the State of California from authorizing new construction of oil and gas infrastructure upon public lands and direct the city clerk or designee to send a letter to our state representatives.

#### BACKGROUND

The United States Bureau of Land Management is currently proposing to open more than a million acres of public land and mineral estate in California to oil drilling and fracking, ending the federal moratorium on leasing California's federal public lands to oil companies that has been in effect for over 5 years. In 2018, the United States Bureau of Land Management authorized the drilling of a new well and the installation of a new pipeline inside the boundaries of the Carrizo Plain National Monument near San Luis Obispo. These are only a few examples of the current Administration's policy to open federal land to oil and gas exploration and production, at the expense of our environment, health, and wildlife.

Opening our beautiful and precious public lands to oil production would put our landscapes at risk. It threatens not only our public lands managed by the Bureau of Land Management, but risks polluting the air and water of other federal and state lands in the region, from the Sequoia National Forest to the Los Padres National Forest and California's beautiful coastlines.

The state of California has jurisdiction over the use of state lands, including leasing authority in those areas. If an oil or gas lease is authorized on federal land, the state should not facilitate fossil fuel production with additional supporting infrastructure on state lands.

AB 342 prohibits any state agency, department, commission, or local trustee, with leasing authority over public lands, from entering into any new lease authorizing the construction of oil- and gas-related infrastructure upon state lands to support oil and gas production on federally protected lands.

#### FISCAL IMPACTS OF RECOMMENDATION

There is no fiscal impact to send a letter.

#### ENVIRONMENTAL SUSTAINABILITY

Should AB 342 be signed into law by the Governor, it will protect our communities, health, wildlife and climate by prohibiting the state to authorize new construction of oil and gas infrastructure on public lands.

CONTACT PERSON

Cheryl Davila  
Councilmember, District 2  
510.981.7120  
[cdavila@cityofberkeley.info](mailto:cdavila@cityofberkeley.info)

ATTACHMENTS:

1. Letter.
2. Link to Text of AB 342:  
[http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200AB342](http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB342)

Governor Gavin Newsom  
State Capitol, Suite 1173  
Sacramento, CA 95814

To: Governor Gavin Newsom

Date: September 24, 2019

Re: AB 342 Public lands: leasing: oil and gas: prohibition – SUPPORT

Dear Governor Newsom:

The City of Berkeley supports for AB 342 by Assemblymember Al Muratsuchi, which would prohibit the state from authorizing new construction of oil and gas related infrastructure upon public lands to support new production of oil and natural gas from protected federal lands.

The US Bureau of Land Management is currently proposing to open more than a million acres of public land and mineral estate in California to oil drilling and fracking, ending the federal moratorium on leasing California's federal public lands to oil companies that has been in effect for over 5 years. In 2018, the Bureau of Land Management authorized the drilling of a new well and the installation of a new pipeline inside the boundaries of the Carrizo Plain National Monument near San Luis Obispo. These are only a few examples of the current administration's policy to open federal land to oil and gas exploration and production, at the expense of the nation's environment, health, and wildlife.

Opening California's beautiful and precious public lands to oil production would put the state's most iconic landscapes at risk. It threatens not only lands managed by the Bureau of Land Management, but risks polluting the air and water of other federal and private lands in the region, including the Sequoia National Forest, Los Padres National Forest and California's beautiful coastlines.

While federal land use determinations are largely outside of state control, California does have jurisdiction over the use of state lands, including leasing authority in those areas. If an oil or gas lease is authorized on federal land, the state should not facilitate fossil fuel production with additional supporting infrastructure on state lands.

AB 342 prohibits any state agency, department, commission, or local trustee, with leasing authority over public lands, from entering into any new lease authorizing the construction of oil- and gas-related infrastructure upon state lands to support oil and gas production on federally protected lands.

We respectfully ask that you will sign AB 342 into law when it comes before your desk for the protection of California's iconic public lands, our communities, health, wildlife and climate.

Best regards,

The Berkeley City Council

cc: Senator Nancy Skinner  
Assemblymember Buffy Wicks





Cheryl Davila

Councilmember  
District 2

23

CONSENT CALENDAR  
September 24, 2019

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

**From:** Councilmember Cheryl Davila, Councilmember Kate Harrison and Councilmember Sophie Hahn

**Subject:** Letter in Support of SB 210, Implementing a Comprehensive Heavy Duty Vehicle Inspection and Maintenance Program

#### RECOMMENDATION

Send a Letter to Governor Gavin Newsom In Support of SB 210 by Senator Connie Leyva, authorizing the California Air Resources Board (CARB) to develop and implement a comprehensive heavy duty vehicle inspection and maintenance program, similar to Smog Check requirements for other vehicles, and direct the city clerk or designee to send a letter to our state representatives.

#### BACKGROUND

Most Californians would be very surprised to find out that, while their passenger cars are subject to Smog Check, there is no similar requirement for diesel big rigs other than a minimal smoke test. SB 210 would improve air quality and public health in communities choked by smog, protect our changing climate from Super pollutants. These pollutants not only accelerate climate change but also are harmful to human health by irritating the eyes, nose, throat, and lungs and contributing to heart and lung diseases, asthma, cancer, and even premature death.

Air pollution has dire consequences on the health and safety of both people and the environment. According to the Centers for Disease Control and Prevention, nationwide 7.4% of adults and 8.6% of children have been diagnosed with asthma. In California, the numbers are significantly higher: 13.1% of adults and 12.5% of children have been diagnosed with asthma. Lower income and minority groups are disproportionately affected by asthma due to their increased exposure to air pollution.

Our neighborhoods are right next to Interstate 80, a major freeway corridor heavily used by diesel freight trucks daily traveling to and from the Port of Oakland. In addition, major rail lines traverse through West Berkeley Neighborhoods with diesel freight trains. West Berkeley neighborhoods have one of the highest asthma rates in Alameda County.

Diesel exhaust is produced when an engine burns diesel fuel. It is a complex mixture of thousands of gases and 40 toxic air contaminants. These include many known or suspected cancer-causing substances, such as benzene, arsenic and formaldehyde. It also contains other harmful pollutants, including nitrogen oxides.

SB 210 authorizes CARB to establish test procedures, require motor vehicles to pass the test procedures in order to register or operate in the state, and allow a streamlined process for the operators of fleets with established compliance histories. We believe this system would allow

the vast majority of trucks to pass without difficulty, while it would require improvements from the small fraction of vehicles that generate most of the pollution.

For the protection of our air, climate, and health, I respectfully ask for your support for SB 210.

FISCAL IMPACTS OF RECOMMENDATION

There is no fiscal impact to send a letter.

ENVIRONMENTAL SUSTAINABILITY

Should SB 210 be signed into law by the Governor, it will protect our communities, health, wildlife and climate.

CONTACT PERSON

Cheryl Davila,  
Councilmember District 2  
510.981.7120  
[cdavila@cityofberkeley.info](mailto:cdavila@cityofberkeley.info)

ATTACHMENTS:

1. Letter.
2. Link to Text of SB 210:  
[http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200SB210](http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB210)

Governor Gavin Newsom  
State Capitol, Suite 1173  
Sacramento, CA 95814

To: Governor Gavin Newsom

Date: September 24, 2019



Re: SB 210 Heavy Duty Vehicle Inspection and Maintenance Program – SUPPORT

Dear Governor Newsom:

The City of Berkeley supports SB 210 by Senator Connie Leyva, which would authorize the California Air Resources Board (CARB) to develop and implement a comprehensive heavy-duty vehicle inspection and maintenance program, similar to Smog Check requirements for light-duty vehicles which has been in place since 1984.

Most Californians would be very surprised to find out that, while their passenger cars are subject to Smog Check, there is no similar requirement for diesel big rigs other than a minimal smoke test. SB 210 would improve air quality and public health in communities choked by smog, protect our changing climate from black carbon – a powerful super pollutant – and create a level playing field for truckers who take the time and money to maintain their vehicles adequately.

Air pollution has dire consequences on the health and safety of both people and the environment. According to the Centers for Disease Control and Prevention, nationwide 7.4% of adults and 8.6% of children have been diagnosed with asthma. In California, the numbers are significantly higher: 13.1% of adults and 12.5% of children have been diagnosed with asthma. Lower income and minority groups are disproportionately affected by asthma due to their increased exposure to air pollution. These pollutants are preventing many of our communities – particularly in low-income communities of color – from breathing healthy air. Particulates not only accelerate climate change but also are harmful to human health by irritating the eyes, nose, throat, and lungs and contributing to heart and lung diseases, asthma, cancer, and even premature death.

Our neighborhoods are right next to Interstate 80, a major freeway corridor heavily used by diesel freight trucks daily traveling to and from the Port of Oakland. In addition, major rail lines traverse through West Berkeley Neighborhoods with diesel freight trains. West Berkeley neighborhoods has some of the highest asthma rates in Alameda County.

“Adoption of comprehensive heavy-duty vehicle inspection and maintenance program” is a proposed action of both the multi-agency California Sustainable Freight Action Plan of 2016 and CARB’s State Implementation Plan of 2017, the state’s strategy to attain health-based federal air quality standards. SB 210 would make this proposal a reality and allow Californians to breathe easier.

The bill would authorize CARB to establish test procedures, require motor vehicles to pass the test procedures in order to register or operate in the state, and allow a streamlined process for the operators of fleets with established compliance histories. We believe this system would allow the vast majority of truckers to pass without difficulty, while it would require improvements from the small fraction of vehicles that generate most of the pollution.

SB 210 is a very important measure that is good for our air, climate and health and levels the playing field for owners and operators who take the time and spend the money to keep their trucks in compliance with state emission regulations.

We respectfully ask that you will sign SB 210 into law that will be good for our air, climate and health.

Best regards,

The Berkeley City Council

cc: Senator Nancy Skinner

Assemblymember Buffy Wicks



Kate Harrison  
Councilmember District 4

CONSENT CALENDAR  
September 24, 2019

To: Honorable Mayor and Members of the City Council  
From: Councilmembers Harrison, Wengraf, and Bartlett  
Subject: Pollinators and Habitat

RECOMMENDATION

Adopt three referrals that will deepen Berkeley’s commitment to protecting pollinator plants and establishing habitats that will protect pollinators and our environment:

1. Refer to City Manager to establish a City Liaison to the Bee City USA program.
2. Refer to Public Works Commission and Parks and Waterfront Commission consideration of how to incorporate pollinators and habitat into the Adopt-A-Spot initiative referred on April 2, 2019.
3. Refer to the City Manager to transition the City’s medians to non-turf green infrastructure, including pollinator gardens when appropriate.

BACKGROUND

At least 75% of all flowering plants require pollination assistance from birds, bats, bees, butterflies, or other pollinators.<sup>1</sup> These flowering plants bring us fruits and vegetables, represent half of the world’s oils and fibers, and prevent soil erosion. Unfortunately, pollinators have been under attack over the past several decades.<sup>2</sup> Agriculture and over-paving decrease physical space for pollinator habitats; commerce and globalization transfer parasites and diseases more rapidly; climate change affects flowering rates and plants become out of sync with their pollinators; pesticides kill pollinators or hamper their ability to navigate and forage.

The threats facing pollinators are wide and varied, but the solutions are remarkably simple. To protect pollinators,<sup>3</sup> we need to maximize land conservation by creating pollinator gardens with native plants and no pesticides.

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<sup>1</sup> <https://www.pollinator.org/pollinators#importance>

<sup>2</sup> <https://www.nps.gov/subjects/pollinators/pollinators-in-trouble.htm>

<sup>3</sup> <https://www.nrcs.usda.gov/wps/portal/nrcs/main/national/plantsanimals/pollinate/gardeners/>

## **Joining Bee City USA**

Bee City USA is a coalition of cities across the United States that have committed to creating sustainable habitats for pollinators.<sup>4</sup> Bee City USA affiliates are accountable for achieving pollinator conservation results every year, and receive ongoing support from the program to achieve these goals. The purpose of Bee City USA is not to replace other conservation efforts, but to allow cities to become part of a larger network committed to these efforts and more.

On November 8, 2017, the Parks and Waterfront Commission<sup>5</sup> established a subcommittee to explore becoming a Bee City USA affiliate. On October 11, 2018, the Community Environmental Advisory Commission<sup>6</sup> created a subcommittee for the same purpose. Various city entities have spent years exploring this program, and have laid the foundation for Berkeley to officially become a Bee City USA affiliate.

Bee City USA requires every affiliate have a facilitation committee, a role which Transition Berkeley<sup>7</sup> has generously agreed to play. The program must be housed in a local government department, such as Parks Waterfront and Recreation, and an employee thereof liaises with Bee City USA. In discussion with other Bee Cities, the role of liaison requires about 20 hours of work per year. After the facilitation committee and government liaison are chosen, the City Council can pass a resolution formally establishing that Berkeley is a Bee City.<sup>8</sup> By choosing a staff liaison, the Parks Department allows pollinator activists to take the next step in a multiyear process of becoming an affiliate of Bee City USA.

## **Pollinators as Part of Adopt-A-Spot**

Joining Bee City USA is only a first step in becoming a pollinator activist city. Berkeley should seriously consider how to convert public land into pollinator gardens and habitat, particularly our medians and other areas that are already public green space.

On April 2, 2018, the City Council unanimously voted to refer the creation of an Adopt-A-Spot program to the Parks Commission and to the Public Works Commission. Adopt-A-Spot is a city-run program that will utilize volunteer labor to clean, maintain, and beautify public spaces.<sup>9</sup> Some projects include maintaining storm drains and other infrastructure, but many adoptable spots are parks, creeks, and even traffic circles, all of which are

<sup>4</sup> <https://www.beecityusa.org/what-is-a-bee-city.html>

<sup>5</sup>

[https://www.cityofberkeley.info/uploadedFiles/Parks\\_Rec\\_Waterfront/Commissions/PWC%20Agenda%20-%2011-08-2017.pdf](https://www.cityofberkeley.info/uploadedFiles/Parks_Rec_Waterfront/Commissions/PWC%20Agenda%20-%2011-08-2017.pdf)

<sup>6</sup>

[https://www.cityofberkeley.info/Planning\\_and\\_Development/Commissions/Commission\\_for\\_Community\\_Environmental\\_Advisory/20181011\\_CEAC\\_Agenda.aspx](https://www.cityofberkeley.info/Planning_and_Development/Commissions/Commission_for_Community_Environmental_Advisory/20181011_CEAC_Agenda.aspx)

<sup>7</sup> <https://www.transitionberkeley.org/get-involved-1>

<sup>8</sup> <https://www.beecityusa.org/application-city.html>

<sup>9</sup> <http://www2.oaklandnet.com/government/o/PWA/o/FE/s/VO/index.htm>

possible locations for native plant pollinator gardens. In all cases, volunteers should consider the local ecological conditions of their “spot”; this referral is a request that as this program develops, we consider where such habitats may be appropriate, and how to incorporate native plants into ongoing projects.

### **Adding Pollinators to Medians**

In addition, Berkeley has roughly nine miles of medians and islands in major roads across the City. Our medians provide important engineering and aesthetic benefits:<sup>10</sup> they visually break down the right-of-way, create space for pedestrian refuges and traffic signs, and guide traffic for calming measures. However, the majority of medians in Berkeley are only, or primarily, grass. In Berkeley’s climate zone,<sup>11</sup> where an overwhelming majority of rain occurs in the four-months between December and March, grass dies in the summer and autumn, and grows faster than it can be maintained in the spring. Over the past several years, many Council offices have received complaints over the maintenance of our medians. Berkeley residents take great pride in the aesthetics of our City, and it is not possible to keep grass attractive year-round without sizeable increases to our Parks maintenance staff.

Under former Governor Brown’s Executive Order B-40-17<sup>12</sup>, cities will be prohibited from watering grass medians starting in 2020. However, that prohibition does not extend to other plants. In light of this executive order and ongoing maintenance concerns, it is prudent to consider transitioning our city-owned green space away from grass quickly anyways, and we have an opportunity to add well-needed pollinator and habitat space in its stead.

### **FINANCIAL IMPLICATIONS**

Staff time:

1. Bee City USA: average of two hours per month
2. Adopt-A-Spot: no additional staff time beyond original Adopt-A-Spot referral
3. Median upkeep: potential to significantly reduce staff time, as pollinator gardens do not require annual mowing and volunteers may be able to contribute to ongoing maintenance.

### **ENVIRONMENTAL SUSTAINABILITY**

Pollinators and the flowering plants that they pollinate bring us fruits and vegetables, represent half of the world’s oils and fibers, and prevent soil erosion. Pollinator gardens require significantly less water than grass. Hardscape causes a heat-island effect and

<sup>10</sup> <https://www.sfbetterstreets.org/find-project-types/pedestrian-safety-and-traffic-calming/traffic-calming-overview/medians-and-islands/>

<sup>11</sup>

[https://www.pge.com/includes/docs/pdfs/about/edusafety/training/pec/toolbox/arch/climate/california\\_climate\\_zone\\_03.pdf](https://www.pge.com/includes/docs/pdfs/about/edusafety/training/pec/toolbox/arch/climate/california_climate_zone_03.pdf)

<sup>12</sup> [https://www.waterboards.ca.gov/water\\_issues/programs/conservation\\_portal/executive\\_orders.html](https://www.waterboards.ca.gov/water_issues/programs/conservation_portal/executive_orders.html)

causes water run-off, both of which are mitigated by open green space and healthy soil that can absorb water.

CONTACT PERSON

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

ATTACHMENTS

1: Item 12, April 2, 2018: "Adopt-A-Spot Initiative."



Lori Droste  
Councilmember, District 8

**Consent Calendar**

April 2, 2019

To: Honorable Mayor and Members of City Council

From: Councilmember Lori Droste and Councilmember Rashi Kesarwani

Subject: Adopt a Spot Initiative

**Recommendation**

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

*Rationale:*

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

**Background**

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

*The City of Oakland Adopt a Spot Program*

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



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

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

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

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

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

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

## **Environmental Sustainability**

Helps Berkeley fulfill Watershed and Stormwater Management Plan goals.

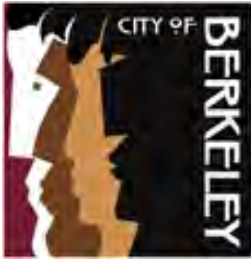
**Financial Implications**

Staff time to coordinate volunteers and provide technical assistance.

**Contact**

Councilmember Lori Droste 510-981-7180





**Sophie Hahn**  
**Berkeley City Council District 5**  
**2180 Milvia Street**  
**Berkeley, CA 94707**  
**510-981-7150**  
**shahn@cityofberkeley.info**

CONSENT CALENDAR  
September 24, 2019

To: Honorable Members of the City Council  
From: Councilmember Sophie Hahn  
Mayor Jesse Arreguin and Councilmembers Susan Wengraf and Cheryl Davila  
Subject: Naming Berkeley Paths for Women Founders of the Berkeley Path Wanderers Association

**RECOMMENDATION**

1. Pursuant to Berkeley’s Policy for Naming and Renaming Public Facilities, refer to the City Manager and Public Works Commission to consider and return to the City Council a recommendation regarding the naming and renaming of four Berkeley Paths, as identified on the map at Attachment 1, in honor of the four women founders of the Berkeley Path Wanderers:
  - a. Rename a path off of Keith Avenue near Shasta Road, currently named Eleanor Path, to “Eleanor Hall Gibson Path,” after founder Eleanor Hall Gibson, who passed away in 2016;
  - b. Name the following paths, subject to a 2/3 vote of the City Council as provided at Section 2(B) of the Policy, as follows:
    - i. The extension connector of Walnut Street through the UC complex between Hearst and Berkeley Way to be named “Ruth Armstrong Path” in honor of Ruth Armstrong (Moskovitz);
    - ii. The path parallel to the top of Solano Avenue running along Los Angeles Avenue up the tunnel slope towards the Marin Circle, to be named “Jacque Ensign Way” in honor of Jacque Ensign; and
    - iii. Path 71 to be named “Patricia DeVito Path” in honor of Pat DeVito.

**SUMMARY STATEMENT**

Throughout Berkeley’s history, important community work has been initiated, championed, and performed by women of Berkeley. One of the many great examples of women’s’ leadership in our City has been the Berkeley Path Wanderers, founded by

Jacque Ensign, Eleanor Hall Gibson, Ruth Armstrong (nee Moskovitz), and Pat DeVito. Since 1997, Berkeley Path Wanderers has played an essential role in preserving and restoring pathways throughout Berkeley.

Though women have long served Berkeley with distinction, most streets and other named facilities in our City have been named after men. Because some of the paths in Berkeley are unnamed or have generic names taken from adjoining streets, they present a meaningful opportunity to name and rename public facilities. Naming four paths in honor of the women founders of the Berkeley Path Wanderers Association serves the dual purposes of honoring individuals who have done important work for our community and helping to rectify the gender imbalance in Berkeley's place names.

## **BACKGROUND**

### Path Development in Berkeley Neighborhoods

Berkeley's population grew rapidly in the early part of the 20th century due primarily to the growth of the University of California, the extension of the Key System rail line and the influx of refugees following the 1906 San Francisco earthquake and fire. Large areas of undeveloped land, primarily in the hills to the north, northeast and south of the University campus were purchased, platted into residential lots and sold. These neighborhoods were developed before the automobile became a common mode of transportation. The Hillside Club, formed in 1898 by a group of local women, had urged the developers and the City planners to lay out streets to follow the contours of the Berkeley hills with "footpaths above and below (with) connecting steps for pedestrians." These roads and pathways were included by the tract developers to serve as pedestrian transportation routes, linking residents to rail lines, parks and schools, and as short cuts for neighborhood circulation.

### History of the Berkeley Path Wanderers

During the Oakland firestorm of 1991, many pathways in the Berkeley hills were obstructed by vegetation and fences, making it difficult or impossible for firefighters to haul fire equipment up paths and blocking evacuation routes from hillside residences. After the fire, the City explored options for improving paths throughout Berkeley, but plans were not implemented.

In 1997, Ruth Armstrong (Moskovitz), a long-time parks activist who was instrumental in the formation of Berkeley Partners for Parks, posted a notice at the North Berkeley branch library seeking community members with an interest in Berkeley pathways. Jacque Ensign responded to the notice, leading to an initial meeting with Ms. Armstrong, Pat DeVito and Eleanor Hall Gibson. Thus began a collaborative effort among four avid path walkers to raise community awareness of pathway conditions and the need for action after years of neglect.

In December 1997, the Berkeley Path Wanderers Association (BPWA) was established, with a mission “dedicated to the creation, preservation and restoration of public paths, steps and walkways in Berkeley for the use and enjoyment of all.” The group set short-term goals to develop maps of the paths, re-survey paths, replace or add missing signs, and sponsor free monthly walks to raise path awareness.

In May 1998, the BPWA held its first public meeting, attended by a standing room-only crowd. By the end of the year, BPWA had grown to more than 250 paid members, held four public meetings, hosted free monthly Saturday morning path walks, formed an Adopt-a-Path committee, and secured \$5,000 in City funds earmarked to replace missing path signs.

In subsequent years, BPWA has played an essential role in creating, restoring, and protecting Berkeley’s paths. The organization has promoted stewardship by reporting hazards, encroachments or missing signs on paths to City staff for correction. It created a comprehensive guide to all known paths throughout Berkeley, resulting in the *Berkeley and Its Pathways* map, which has been published in multiple editions. In 2002, BPWA formed a committee to focus on restoring impassable or unbuilt paths; within three years, eleven newly improved paths, including two new paths, had been built.

BPWA continues to be a vital community resource in Berkeley, offering regular path walks led by volunteers, sponsoring events and talks on the history of Berkeley and the City’s environment, publishing a newsletter and maintaining a website.

#### Underrepresentation of Women in Public Spaces

Throughout California and across the Bay Area, women are underrepresented in public spaces. For example, as of 2018 only two of 87 public art sculptures in the City of San Francisco depicted real life women. In response, the San Francisco Board of Supervisors passed an ordinance requiring that women be depicted in at least 30% of city-sponsored artwork.<sup>1</sup>

Women are also underrepresented in naming streets and other public thoroughfares. Though exact figures are not available for Berkeley, a 2007 study of seven cities worldwide, including San Francisco, found that only 27.5% of streets were named after women.<sup>2</sup>

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<sup>1</sup> San Francisco Supervisor Catherine Stefani, *SF Supervisors Pass Legislation to Increase Women's Representation in Public Art*, Oct. 04, 2018, [https://www.supervisorstefani.com/public\\_art](https://www.supervisorstefani.com/public_art).

<sup>2</sup> *Mapping the Sexism of City Street Names*, Linda Poon, CityLab, Nov. 4, 2015, <https://www.citylab.com/equity/2015/11/mapping-the-sexism-of-city-street-names/414094/>

Similarly in Berkeley, a significant proportion of the City's major streets are named after men. For example, Shattuck Avenue is named after Francis K. Shattuck, a male civic leader and city planner. Ashby Avenue is named after William Ashby, a Massachusetts man who came to California during the Gold Rush hoping to strike it rich. The City of Berkeley itself is named after George Berkeley.

Though a number of Berkeley paths are now named after women, this was not always the case. For example, when paths were named after Bret Harte, Charles Warren Stoddard, Mark Twain, and other literati, women such as Ina Donna Coolbrith, California's first poet laureate, were not included.<sup>3</sup> In subsequent years, some paths have been renamed to help remedy these omissions. For example, Twain Path was renamed in 2013 after Councilmember Betty Olds<sup>4</sup>, and Bret Harte Path was renamed in 2016 after Coolbrith<sup>5</sup>.

### Importance of Berkeley Paths for Public Safety, Access to Public Transit and for Health, Recreation and Enjoyment

#### **Public Safety:**

For decades, Berkeley paths and steps have served a critical public safety purpose as evacuation routes in times of emergency. In case of fire or earthquake, paths provide egress and can be used by firefighters to bring up equipment if streets are blocked. For example, during the 1991 Oakland Hills firestorm, paths enabled people to escape and were used to carry hoses up hills on the Berkeley-Oakland border.<sup>6</sup> In the aftermath of the fire, the Berkeley City Council began allocating sidewalk funds to repair and maintain paths. Paths are part of Berkeley's evacuation and safety plans, providing alternative routes when roads are blocked.<sup>7</sup>

#### **Access to Public Transit:**

Berkeley paths were originally built in the early 1900s to help people get to and from streetcar routes on Arlington, the Alameda, Solano, and other thoroughfares. Unlike San Francisco, which incorporated a grid pattern on its steep terrain, Berkeley built a

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<sup>3</sup> Berkeley Historical Plaque Project, <https://berkeleyplaques.org/plaque/ina-coolbrith-poet/>.

<sup>4</sup> Berkeley Public Works Commission, Consent Calendar Item: Naming Twain Path No. 68 for Betty Olds, Nov. 19, 2013, [http://www.cityofberkeley.info/Clerk/City\\_Council/2013/11Nov/Documents/2013-11-19\\_Item\\_07\\_Naming\\_Twain\\_Path\\_No\\_68.aspx](http://www.cityofberkeley.info/Clerk/City_Council/2013/11Nov/Documents/2013-11-19_Item_07_Naming_Twain_Path_No_68.aspx).

<sup>5</sup> Berkeley Public Works Commission, Consent Calendar Item: Renaming Bret Harte Path Coolbrith Path to Honor Poet Ina Donna Coolbrith, Dec. 13, 2016, [https://www.cityofberkeley.info/Clerk/City\\_Council/2016/12\\_Dec/Documents/2016-12-13\\_Item\\_27\\_Renaming\\_Bret\\_Harte\\_Path.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2016/12_Dec/Documents/2016-12-13_Item_27_Renaming_Bret_Harte_Path.aspx).

<sup>6</sup> *Berkeley: Teams restoring paths one step at a time*, S.F. Chronicle, July 23, 2004, available at <https://www.sfgate.com/bayarea/article/Berkeley-Teams-restoring-paths-one-step-at-a-time-2705867.php>.

<sup>7</sup> Household Wildlife Evacuation Plan, City of Berkeley, July 12, 2018, [https://www.cityofberkeley.info/uploadedFiles/Fire/Level\\_3\\_-\\_General/BR%20Household%20Wildfire%20Evacuation%20Plan%20Flyer%20No%20Map.pdf](https://www.cityofberkeley.info/uploadedFiles/Fire/Level_3_-_General/BR%20Household%20Wildfire%20Evacuation%20Plan%20Flyer%20No%20Map.pdf).



system of roads with “intriguing twists and turns.”<sup>8</sup> While offering breathtaking views, the layout was burdensome for pedestrians navigating on foot. The solution was a series of pathways that provided shortcuts through the winding streets to rail and streetcar lines.<sup>9</sup> Today, Berkeley paths remain very convenient for people taking AC Transit on Grizzly Peak, Euclid, Spruce, Arlington, the Alameda, Adeline, Ashby, and other transit.

The Berkeley Climate Action Plan identifies walking and public transit as key modes of transportation to reduce energy use, and thus greenhouse gas emissions.<sup>10</sup> Moreover, the Berkeley Pedestrian Master Plan recommends developing a strategy to prevent the loss of existing pathways and to identify opportunities to expand the public pedestrian pathways network in Berkeley.<sup>11</sup> By providing safe, beautiful, and efficient routes for pedestrians, paths encourage Berkeley residents and visitors to get out of their individual cars and avail themselves of bus and rail lines throughout the City.

### **Health, Recreation and Enjoyment:**

Walking is an important health activity and great for people of all ages. Among the many benefits of walking are maintaining a healthy weight, preventing conditions like heart disease and high blood pressure, strengthening bones and muscles, and improving balance and coordination.<sup>12</sup>

Walking is an especially good activity as one ages. According to the recent Age-Friendly Berkeley Action Plan, the City’s population of older people is expected to double in the next decade, resulting in 1 in 5 adults being 65 years of age or older.<sup>13</sup> Physically active seniors who exercise regularly are more likely to walk and do other daily activities independently compared to their sedentary peers.<sup>14</sup>

Paths provide an avenue for walking, connect neighbors to each other, as well as to public transportation and shopping areas. They are tree-lined, enchanting, and a peaceful respite from the urban noise beyond. They give all Berkeley residents and

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<sup>8</sup> *Berkeley and Its Pathways*, Berkeley Path Wanderers Association, 8th Edition (2018).

<sup>9</sup> Charles Fleming, *Secret Stairs: East Bay: A Walking Guide to the Historic Staircases of Berkeley and Oakland* (2011).

<sup>10</sup> Climate Action Plan Update, Office of the City Manager, Dec. 6, 2018, <https://www.cityofberkeley.info/recordsonline/api/Document/AS1qYEO88qcY6lps8nwbGgL4jGxxlSquza3ESIDOTS6DL2nWI1jPxxzLJVhyvQgYDIKPUJDdT3oigVB31dHEfM%3D/>.

<sup>11</sup> Berkeley Pedestrian Master Plan, City of Berkeley, Jan. 2010, [https://www.cityofberkeley.info/uploadedFiles/Public\\_Works/Level\\_3\\_-\\_Transportation/Optimized%20Final%20Document%20January%202010.pdf](https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Transportation/Optimized%20Final%20Document%20January%202010.pdf).

<sup>12</sup> *Walking: Trim Your Waistline, Improve Your Health*, Mayo Clinic Staff, <https://www.mayoclinic.org/healthy-lifestyle/fitness/in-depth/walking/art-20046261>.

<sup>13</sup> Age-Friendly Berkeley, <https://www.agefriendlyberkeley.org/executive-summary>.

<sup>14</sup> *Walking, other exercise helps seniors stay mobile, independent*, Howard LeWine, M.D., May 28, 2019, <https://www.health.harvard.edu/blog/walking-exercise-helps-seniors-stay-mobile-independent-201405287173>.

visitors access to incredible vistas, parks and neighborhoods. In 1898, the nature writer Cornelius Beach Bradley wrote of the Berkeley hills, “Thus it is that the number and Variety of these rambles is a source of unending pleasure to those who have come to know them.”<sup>15</sup> Those words still ring true.

### **REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES & LAWS**

The Berkeley City Council Rules of Procedure and Order (adopted by Resolution No. 68,753-N.S, effective Jan. 29, 2019)<sup>16</sup> lays out City policy for naming and renaming public facilities, with the objective of “ensur[ing] that naming public facilities will enhance the values and heritage of the City of Berkeley and will be compatible with community interest.”

Bodies responsible for the naming or renaming of Berkeley pathways are the Parks and Recreation Commission, which has been designated as the Lead Commission in overseeing, evaluating, and ultimately advising the Council in any naming or renaming of a public facility in parks and other public open spaces, and the Public Works Commission, which has been so designated for structures in the public thoroughfare. Pathways are part of the public thoroughfare. Naming and renaming of pathways is thus subject to review by the Public Works Commission.

A public facility can be named for a living person with a  $\frac{2}{3}$  vote of the City Council. The naming of a facility or any parts thereof in recognition of an individual posthumously may be considered with a simple majority vote.

Recommendations for naming or renaming of public facilities may come directly from the City Council. When a recommendation is made, the City Manager refers it to the appropriate lead commission (in the case of paths, the Public Works Commission) for that commission’s review, facilitation, and recommendation to the City Council.

The lead commission holds a public hearing and notifies the public of opportunities to provide comment regarding the naming or renaming of the public facility. In the case of the proposed naming and renaming of Paths in honor of the founders of the Berkeley Path Wanderers, members of the public will have the opportunity to provide comments to the Planning Commission meeting where the naming and renaming are considered.

When naming or renaming a public facility, the honoree must have made a major contribution toward the development of the facility or a major contribution to the City,

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<sup>15</sup> *Pedestrian Pathways*, Tasneem Raja, N.Y. Times, July 2, 2010, <https://www.nytimes.com/2011/07/03/us/03bcintel.html>.

<sup>16</sup> Berkeley City Council Rules of Procedure and Order, [https://www.cityofberkeley.info/uploadedFiles/Clerk/Level\\_3\\_-\\_City\\_Council/Council%20Rules%20of%20Procedure%20FINAL.pdf](https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_City_Council/Council%20Rules%20of%20Procedure%20FINAL.pdf).

and have a record of outstanding service to the community. In addition, weight is given to a name that lends a site, or property, authenticity and heritage.

### **ACTIONS/ALTERNATIVES CONSIDERED**

The paths recommended for naming/renaming either have no current name or, in the case of the path recommended for renaming to “Eleanor Hall Gibson” path, is currently called “Eleanor’s Path.” No alternative proposal has come forward for naming or renaming these paths. Naming them after the four women founders of the Path Wanderers Association is the only action that was considered, as honoring these women, and working to redress the gender imbalance in public place-names, is the purpose of this legislation.

### **CONSULTATION/OUTREACH OVERVIEW & RESULTS**

We have consulted with the three living founders of the Berkeley Path Wanderers and the daughter of the founder who is deceased. They are all in support of the proposed naming/renamings. The Board of the Berkeley Path Wanderers passed a resolution in support of the proposed naming and renaming of paths in honor of these four Founders. A note about the proposed naming/renaming is being developed and will be hand-delivered to each adjoining residence and to neighbors in the immediate vicinity of each path being considered for naming/renaming, informing them of the proposed change and of the opportunity to speak or submit comments to the Public Works Commission. Additional public input will be taken at the Public Works Commission.

### **RATIONALE FOR RECOMMENDATION**

Berkeley Path Wanderers is an organization that provides important services to the City of Berkeley on a 100% volunteer basis. Paths are created, upgraded and maintained, providing both an important public safety improvement in the case of fire or earthquake, and a delightful amenity for those who walk Berkeley for pleasure, or to access transit or shops. Honoring the four women founders of Berkeley Path Wanderers by naming paths after each of them is a fitting tribute to their important and lasting contributions to the City and community of Berkeley.

### **IMPLEMENTATION, ADMINISTRATION & ENFORCEMENT**

Once the naming and renaming are approved, Public Works will order and install signs.

### **ENVIRONMENTAL SUSTAINABILITY**

Walking is a key strategy for reducing GHG emissions, as is taking public transit. Paths invite and support both of these activities. By supporting and highlighting the work of the Berkeley Path Wanderers and drawing attention to our paths, we reinforce the importance of Berkeley’s paths for sustainability, safety and health.

**FISCAL IMPACTS**

The Public Works Department estimates a cost of approximately \$2,500 for fabrication and installation of eight (8) signs, and funds are available under current public works programs.

**OUTCOMES & EVALUATION**

The goals of the item will have been fulfilled if/when the paths are renamed and signs are posted on location. It is expected that signs can be posted within two (2) months of official renaming. The office of Councilmember Hahn and the Path Wanderers Association will work with Public Works to ensure these signs are posted once renaming has been achieved.

**CONTACT**

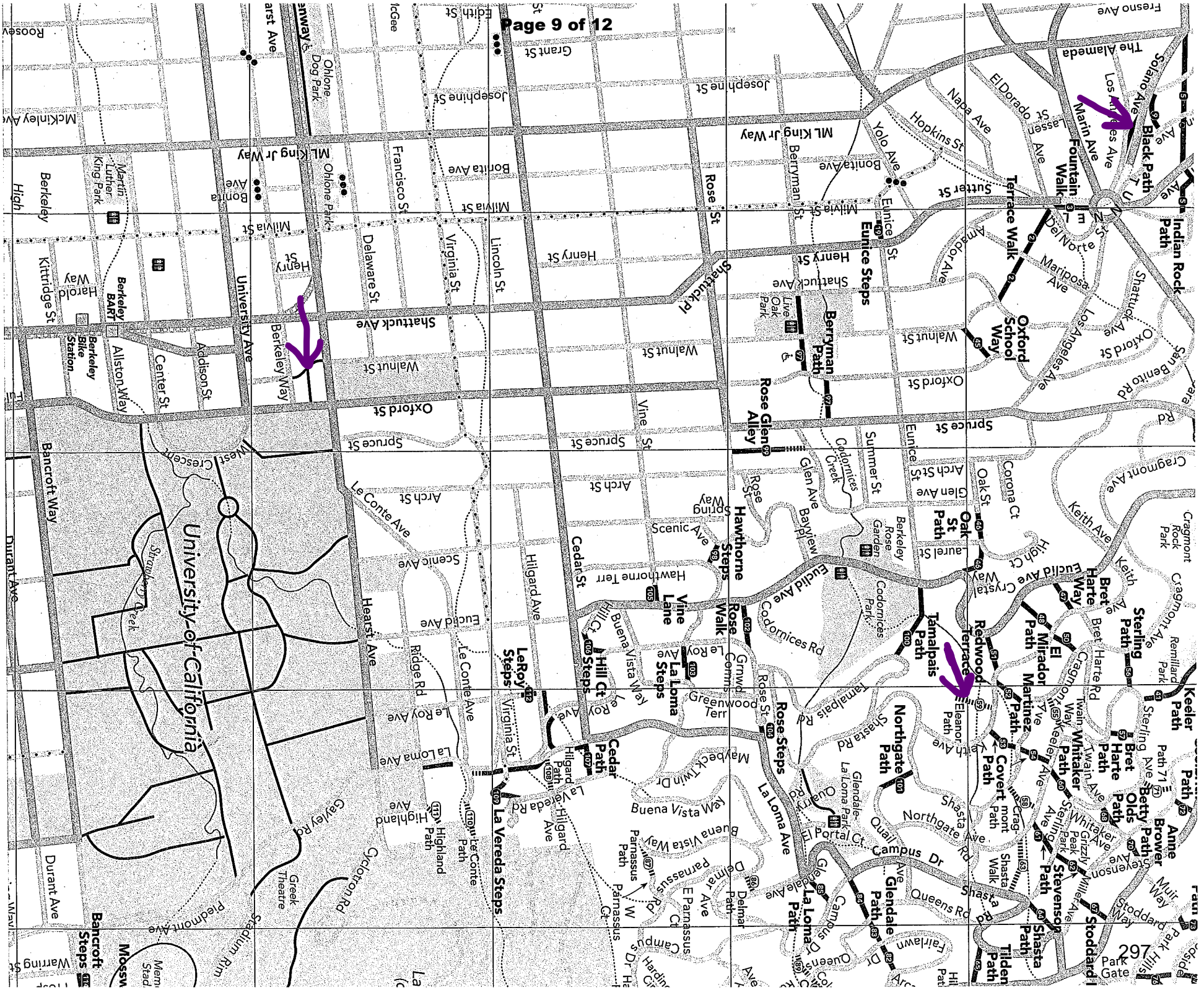
Author: Councilmember Sophie Hahn, District 5, (510) 981-7150

Attachments:

Attachment 1: Map of Paths to be named/renamed

Attachment 2: Policy on Naming and Renaming of Public Facilities





## APPENDIX A. POLICY FOR NAMING AND RENAMING PUBLIC FACILITIES

### Purpose

To establish a uniform policy regarding the naming and renaming of existing and future parks, streets, pathways and other public facilities.

### Objective

- A. To ensure that naming public facilities (such as parks, streets, recreation facilities, pathways, open spaces, public building, bridges or other structures) will enhance the values and heritage of the City of Berkeley and will be compatible with community interest.

### Section 1 – Lead Commission

The City Council designates the following commissions as the ‘Lead Commissions’ in overseeing, evaluating, and ultimately advising the Council in any naming or renaming of a public facility. The lead commission shall receive and coordinate comment and input from other Commissions and the public as appropriate.

#### Board of Library Trustees

Parks and Recreation Commission –Parks, recreation centers, camps, plazas and public open spaces

Public Works Commission –Public buildings (other than recreation centers), streets and bridges or other structures in the public thoroughfare.

Waterfront Commission –Public facilities within the area of the City known as the Waterfront, as described in BMC 3.36.060.B.

### Section 2 – General Policy

- A. Newly acquired or developed public facilities shall be named immediately after acquisition or development to ensure appropriate public identity.
- B. No public facility may be named for a living person, but this policy can be overridden with a 2/3 vote of the City Council.
- C. Public facilities that are renamed must follow the same criteria for naming new facilities. In addition, the historical significance and geographical reference of the established name should be considered when weighing and evaluating any name change.
- D. The City encourages the recognition of individuals for their service to the community in ways that include the naming of activities such as athletic events, cultural presentations, or annual festivals, which do not involve the naming or renaming of public facilities.
- E. Unless restricted by covenant, facilities named after an individual should not necessarily be considered a perpetual name.

### Section 3 – Criteria for Naming of Public Facilities

When considering the naming of a new public facility or an unnamed portion or feature within an already named public facility (such as a room within the facility or a feature within an established park), or, the renaming of an existing public facility the following criteria shall be applied:

- A. Public Facilities are generally easier to identify by reference to adjacent street names, distinct geographic or environmental features, or primary use activity. Therefore, the preferred practice is to give City-owned property a name of historical or geographical significance and to retain these names.
- B. No public facility may be named for a living person, but this policy can be overridden with a 2/3 vote of the City Council.
- C. The naming of a public facility or any parts thereof in recognition of an individual posthumously may only be considered if the individual had a positive effect on the community and has been deceased for more than 1 year.
- D. When a public facility provides a specific programmatic activity, it is preferred that the activity (e.g. skateboard park, baseball diamond) be included in the name of the park or facility.
- E. When public parks are located adjacent to elementary schools, a name that is the same as the adjacent school shall be considered.
- F. When considering the renaming of an existing public facility, in addition to applying criteria A-E above, proper weight should be given to the fact that: a name lends a site or property authenticity and heritage; existing names are presumed to have historic significance; and historic names give a community a sense of place and identity, continuing through time, and increases the sense of neighborhood and belonging.

#### Section 4 –Naming Standards Involving a Major Contribution

When a person, group or organization requests the naming or renaming of a public facility, all of the following conditions shall be met:

- A. An honoree will have made a major contribution towards the acquisition and/or development costs of a public facility or a major contribution to the City.
- B. The honoree has a record of outstanding service to their community
- C. Conditions of any donation that specifies that name of a public facility, as part of an agreement or deed, must be approved by the City Council, after review by and upon recommendation of the City Manager.

#### Section 5 –Procedures for Naming or Renaming of Public Facilities

- A. Any person or organization may make a written application to the City Manager requesting that a public facility or portion thereof, be named or renamed.
  - 1. Recommendations may also come directly of the City Boards or Commissions, the City Council, or City Staff.
- B. The City Manager shall refer the application to the appropriate lead commission as defined in Section 1 of the City’s policy on naming of public facilities, for that commission’s review, facilitation, and recommendation of disposition.
  - 1. The application shall contain the name or names of the persons or organization making the application and the reason for the requested naming or renaming.
- C. The lead commission shall review and consider the application, using the policies and criteria articulated to the City Policy on Naming and Renaming to make a recommendation to Council.
  - 1. All recommendations or suggestion will be given the same consideration without regard to the source of the nomination
- D. The lead commission shall hold a public hearing and notify the general public of any discussions regarding naming or renaming of a public facility.



1. Commission action will be taking at the meeting following any public hearing on the naming or renaming.
- E. The commission's recommendation shall be forwarded to Council for final consideration.

The City of Berkeley Policy for Naming and Renaming Public Facilities was adopted by the Berkeley City Council at the regular meeting of January 31, 2012.



Susan Wengraf  
Councilmember District 6

26

CONSENT CALENDAR  
September 24, 2019

To: Honorable Mayor and Members of the City Council  
From: Councilmembers Wengraf, Droste and Harrison, and Mayor Arreguin  
Subject: Support for League of California Cities Resolution to CPUC

RECOMMENDATION

Adopt a Resolution in support of the League of California Cities' Resolution to the California Public Utilities Commission (CPUC) requesting that the CPUC amend Rule 20A to allow for the addition of projects in Very High Fire Hazard Severity Zones to the list of eligibility criteria and to increase funding allocations for Rule 20A projects.

FINANCIAL IMPLICATIONS

None.

BACKGROUND

In 2017, The California Public Utilities Commission opened its current Rulemaking [R.17-05-010](#) to consider changes to Electric Tariff Rule 20 in order to enhance the fair, efficient allocation of ratepayer funds to communities for the undergrounding of electric infrastructure.

Rule 20A mandates that public utilities allocate ratepayer funds to the conversion of above ground to undergrounded utility wires. The conversion must have a public benefit and meet one or more of the CPUC's narrowly defined criteria. Currently vulnerability to wildfires is not listed as an eligible criteria for Rule 20A projects. – The League resolution calls for adding wildfire risk to the criteria list for eligible projects and increasing funding for Rule 20A projects.

On February 13, 2018, The Berkeley City Council unanimously approved the following item:

**Referral to the City Manager to Submit a Filing to the CPUC Recommending Adjusting Electric Rule 20 to Better Serve the City of Berkeley and Other Communities with Very High Fire Hazard Severity Zones**

**From: Councilmembers Wengraf and Hahn, Mayor Arreguin, and Councilmember Droste**

**Recommendation:** A referral to the City Manager to submit a filing with the California Public Utilities Commission (CPUC) concerning the CPUC's current review of Electric Rule 20. The CPUC is considering, among other things, how the existing program is administered by the various utility companies operating in California and the definition of what projects are to be included in the public interest.

**Financial Implications:** Staff time

Contact: Susan Wengraf, Councilmember, District 6, 981-7160

**Action:** Approved recommendation.

In response to the Council item, the City Manager sent a letter to the President of the CPUC, Michael Picker, advocating for changes to Rule 20A (Attachment 4).

Berkeley is considered to be at very high hazard severity risk for wildfire. Two of California's most destructive fires; the 1991 Oakland/Berkeley fire ranked first as the state's largest home loss from wildfire at the time, and the 1923 Berkeley fire ranked fourth. Thirty nine percent of residences destroyed in California's 30 major wildfires were lost in the East Bay Hills.<sup>1</sup>

Councilmember Harrison will be attending the League of California Cities Annual Conference in Long Beach from October 16-October 19. Passage of this resolution will give her the authority she needs to represent Berkeley and advocate for this resolution.

ENVIRONMENTAL SUSTAINABILITY

Wildfire mitigation supports our Climate action goals.

CONTACT PERSON

Councilmember Wengraf                      Council District 6                      510-981-7160

Attachments:

1. Resolution: City of Berkeley, in support
2. Resolution: League of California Cities
3. Council Item, February 13, 2018
4. Letter from City Manager to CPUC, April 4, 2018

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<sup>1</sup> EBRPD/Background on wildfire risks

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

SUPPORT FOR LEAGUE OF CALIFORNIA CITIES RESOLUTION TO CPUC

WHEREAS, The League of California Cities will vote on a drafted Resolution to the California Public Utilities Commission (CPUC) on October 18, 2019, requesting Electric Rule 20A be amended to include wildfire risk as a criteria for eligible undergrounding projects and funding; and

WHEREAS, On February 13, 2018 Berkeley City Council unanimously approved an Item which requested that the City Manager to submit a filing to the CPUC recommending adjusting Electric Rule 20 to better serve the City of Berkeley and other communities with Very High Fire Hazard Severity Zones; and

WHEREAS, On April 4, 2018 the City Manager sent a letter to CPUC President Michael Picker asking the CPUC to consider recommendations prioritizing wildfire risk in 20A projects during their review and revision period; and

WHEREAS, The City of Berkeley has had two of California's most destructive fires (1991 and 1923) and is considered to be at very high severity risk for wildfire; and

WHEREAS, Undergrounding overhead utilities is a crucial part of wildfire mitigation and therefore a public benefit that should be eligible for Rule 20A funds.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City of Berkeley unanimously supports the League of California Cities' Resolution requesting the CPUC amend Rule 20A to include projects in Very High Fire Hazard Severity Zones to the list of eligibility criteria and to increase funding allocations for Rule 20A projects.

**RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES CALLING ON THE CALIFORNIA PUBLIC UTILITIES COMMISSION TO AMEND RULE 20A TO ADD PROJECTS IN VERY HIGH FIRE HAZARD SEVERITY ZONES TO THE LIST OF ELIGIBILITY CRITERIA AND TO INCREASE FUNDING ALLOCATIONS FOR RULE 20A PROJECTS**

Source: City of Rancho Palos Verdes Concurrence of five or more cities/city officials

Cities: City of Hidden Hills, City of La Cañada Flintridge, City of Laguna Beach, City of Lakeport, City of Malibu, City of Moorpark, City of Nevada City, City of Palos Verdes Estates, City of Rolling Hills Estates, City of Rolling Hills, City of Ventura

Referred to: Environmental Quality Policy Committee; Transportation, Communications, and Public Works Policy Committee

**WHEREAS**, the California Public Utilities Commission regulates the undergrounding conversion of overhead utilities under Electric Tariff Rule 20 and;

**WHEREAS**, conversion projects deemed to have a public benefit are eligible to be funded by ratepayers under Rule 20A; and

**WHEREAS**, the criteria under Rule 20A largely restricts eligible projects to those along streets with high volumes of public traffic; and

**WHEREAS**, the cost of undergrounding projects that do not meet Rule 20A criteria is left mostly or entirely to property owners under other parts of Rule 20; and

**WHEREAS**, California is experiencing fire seasons of worsening severity; and

**WHEREAS**, undergrounding overhead utilities that can spark brush fires is an important tool in preventing them and offers a public benefit; and

**WHEREAS**, brush fires are not restricted to starting near streets with high volumes of public traffic; and

**WHEREAS**, expanding Rule 20A criteria to include Very High Fire Hazard Severity Zones would facilitate undergrounding projects that would help prevent fires; and

**WHEREAS**, expanding Rule 20A criteria as described above and increasing funding allocations for Rule 20A projects would lead to more undergrounding in Very High Fire Hazard Severity Zones; and now therefore let it be,

**RESOLVED** that the League of California Cities calls on the California Public Utilities Commission to amend Rule 20A to include projects in Very High Fire Hazard Severity Zones to the list of criteria for eligibility and to increase funding allocations for Rule 20A projects.

CONSENT CALENDAR  
February 13, 2018

To: Honorable Mayor and Members of the City Council  
From: Councilmembers Wengraf, Hahn, Droste and Mayor Arreguin  
Subject: Referral to the City Manager to submit a filing to the CPUC recommending adjusting Electric Rule 20 to better serve the City of Berkeley and other communities with Very High Fire Hazard Severity Zones

RECOMMENDATION

A referral to the City Manager to submit a filing with the California Public Utilities Commission (CPUC) concerning the CPUC's current review of Electric Rule 20. The CPUC is considering, among other things, how the existing program is administered by the various utility companies operating in California and the definition of what projects are to be included in the public interest.

Electric Rule 20 governs utility undergrounding matters, including funding, priorities and strategies. Berkeley's time sensitive filing should be similar to the filing by the City of San Francisco. In addition to San Francisco's recommendations, the City of Berkeley's filing should also address our City's special needs due to its large Urban-Wildland Interface and large Very High Fire Hazard Zones which threaten the entire City. Additional considerations should be given to the following, as suggested by the Joint Subcommittee on Undergrounding Utilities:

1. Categorize all public streets and roads in an Urban-Wildland Interface Zone (Very High Fire Hazard Severity Zone) as eligible for Rule 20 funding
2. Provide a more equitable distribution of credits to cities containing Urban-Wildland Fire Danger Zones (Very High Fire Hazard Severity Zones)
3. Provide for a mechanism to utilize, borrow, loan, or trade credits among cities.
4. Provide priority status to Rule 20A projects in Urban-Wildland Interface Zones. (Very High Fire Hazard Severity Zones)

FINANCIAL IMPLICATIONS

Staff time to research, write, and send the filing.

BACKGROUND

A stated goal of the City of Berkeley, as outlined in the *General Plan, Disaster Preparedness and Safety Element*, is to ensure the City's disaster-related efforts are directed toward preparation, mitigation, response and recovery from disaster shocks. Integrating safety into all City decisions for the purpose of sustaining the community is the guiding principle of policy decision making.

The 2014 *Berkeley Hazard Mitigation Plan* states that our two greatest disaster challenges are a Hayward Fault rupture and wildland urban interface (WUI) fire. The December 2017 "Conceptual Study to Underground Utility Wires in Berkeley", jointly drafted by the Public Works, Disaster & Fire Safety, and Transportation Commissions, states:

“The history of undergrounding in Berkeley goes back at least to the 1970’s. Of the 25.6 miles of arterial streets, 12.5 miles have been undergrounded (49%). Of the 36.1 miles of collector streets, 11.3 miles have been undergrounded (31%). Funding for undergrounding projects has come primarily from the California Public Utilities Commission (CPUC) Rule 20 tariff program.”<sup>2</sup>

Predicted climate changes are forecast to produce increasingly severe periods of drought followed by very wet winters (producing heavy vegetation), dry summers, and hot easterly winds in the late summer. These conditions are known to create significant fires such as the 1991 Oakland Hills Tunnel fire and the 2017 North Bay fires renamed by Cal Fire as the October 2017 Fire Siege.

In the past, methods to reduce the threat of overhead power lines creating WUI fires have included vegetation management and other fire hardening techniques. This has not proven to be fully effective as many recent urban wildfires have been initiated by pole supported power lines and/or associated equipment such as pole mounted transformers and switches. Undergrounding this equipment along with the associated communication cables hung from the power poles is recognized as an effective response to reduce urban wildfire incidents.

Overhead power and communication lines, more so than undergrounded utilities, amplify unsafe conditions either by contributing to the disaster itself through fire initiation and/or hampering public safety efforts post disaster. Earthquakes and landslides can knock over utility poles creating a special hazard. In an earthquake, poles have a tendency to sway in opposite directions causing wires to snap and set off sparks. Live wires and wooden poles are an added fuel source for fire. Some of California’s biggest fires have started because of live wires in contact with combustible fuel.

The City’s input into the CPUC’s Electric Rule 20 revisions is intended to influence the CPUC as it considers significant revisions and rule changes. Many of the anticipated revisions will benefit the entire City of Berkeley increasing our capacity to underground utilities. The need for undergrounding action has never been stronger. The time has urgently come for the City to work cooperatively with the CPUC on this matter.

#### ENVIRONMENTAL SUSTAINABILITY

Undergrounding Utility Wires supports the City’s Climate Action goals.

#### CONTACT PERSON

Councilmember Susan Wengraf Council District 6 510-981-7160

Attachments: 1: City of San Francisco CPUC filing of August 9, 2017

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<sup>2</sup> Public Works, Disaster and Fire Safety, and Transportation Commissions (2017, Dec.). *Conceptual Study to Underground Utility Wires in Berkeley* pg.3





Office of the City Manager

April 4, 2018

California Public Utilities Commission  
Michael Picker, President  
505 Van Ness Avenue  
San Francisco, CA 94102

Re: City of Berkeley's comments on the Order Instituting Rulemaking to consider revisions to Electric Rule 20 and related matters

Dear Mr. Picker:

In accordance with Rule 6.2 of the California Public Utilities Commission (the "CPUC") Rules of Practice and Procedure, the City of Berkeley ("City") submits these comments with respect to the Order Instituting Rulemaking (OIR) to Consider Revisions to Electric Rule 20 and Related Matters.

As discussed below, Berkeley has a strong interest in and community support for utility undergrounding. Berkeley enjoys a landscape consisting of urban and wildland areas. Overhead utility facilities can be unsafe (fire danger), unreliable, and a source of urban blight. The history of undergrounding in Berkeley goes back to the 1970's. Of the 26.6 miles of arterial streets, 12.5 miles have been undergrounded (49%). Of the 36.1 miles of collector streets, 11.3 miles have been undergrounded (31%). Funding for undergrounding projects has come primarily from the CPUC Rule 20A tariff program.

#### RECOMMENDATION

The City of Berkeley submits for the CPUC's consideration the City's special needs due to its large Urban-Wildland Interface and large Very High Fire Hazard Zones, which threaten the entire City. Additional considerations should be given to the following, as suggested by the City of Berkeley's Joint Subcommittee on Undergrounding Utilities:

1. Categorize all public streets and roads in an Urban-Wildland Interface Zone (Very High Fire Hazard Severity Zone) as eligible for Rule 20 funding
2. Provide a more equitable distribution of credits to cities containing Urban-Wildland Fire Danger Zones (Very High Fire Hazard Severity Zones)
3. Provide for a mechanism to utilize, borrow, loan, or trade credits among cities.
4. Provide priority status to Rule 20A projects in Urban-Wildland Interface Zones. (Very High Fire Hazard Severity Zones)

April 4, 2018  
Page 2 of 3

#### BACKGROUND

A stated goal of the City of Berkeley, as outlined in the *General Plan, Disaster Preparedness and Safety Element*, is to ensure the City's disaster-related efforts are directed toward preparation, mitigation, response and recovery from disaster shocks. Integrating safety into all City decisions for the purpose of sustaining the community is the guiding principle of policy decision making.

The 2014 *Berkeley Hazard Mitigation Plan* states that our two greatest disaster challenges are a Hayward Fault rupture and a wildland urban interface (WUI) fire. Predicted climate changes are forecast to produce increasingly severe periods of drought followed by very wet winters (producing heavy vegetation), dry summers, and hot easterly winds in the late summer. These conditions are known to create significant fires such as the 1991 Oakland Hills Tunnel fire and the 2017 North Bay fires renamed by Cal Fire as the October 2017 Fire Siege.

In the past, methods to reduce the threat of overhead power lines creating WUI fires have included vegetation management and other fire hardening techniques. This has not proven to be fully effective as many recent urban wildfires have been initiated by pole supported power lines and/or associated equipment such as pole mounted transformers and switches. Undergrounding this equipment along with the associated communication cables hung from the power poles is recognized as an effective response to reduce urban wildfire incidents.

Overhead power and communication lines, more so than undergrounded utilities, amplify unsafe conditions either by contributing to the disaster itself through fire initiation and/or hampering public safety efforts post disaster. Earthquakes and landslides can knock over utility poles creating a special hazard. In an earthquake, poles have a tendency to sway in opposite directions causing wires to snap and set off sparks. Live wires and wooden poles are an added fuel source for fire. Some of California's biggest fires have started because of live wires in contact with combustible fuel.

Berkeley also has comments on the questions proposed in the "Order Instituting Rulemaking to consider Revisions to Electric Rule 20 and Related matters" that the CPUC should address. Under the section entitled "Rule 20A Work Credits", we believe it is reasonable to have a different methodology that differentiates between urban, suburban, rural and wooded fire danger areas. The City of Berkeley currently utilizes the "Public Interest Criteria," by combining undergrounding with other public improvement projects whenever feasible, however an additional criteria is needed where the street does not currently qualify. The City of Berkeley recognizes the issue of the "Allocation Methodology/Funding". Reallocating the unspent allocation to communities with active programs would allow them to continue their activity in the undergrounding program. For Berkeley, the additional allocation could be used to underground in the high fire danger areas of the City. We also request that the CPUC review the addition of an undergrounding surcharge to the electric bills in Berkeley and other cities. Finally, in the section, entitled "Additional Rule 20 Concerns" the CPUC includes a number of questions. We support that third parties should be allowed to bid on the construction of rule 20A projects. This would

April 4, 2018  
Page 3 of 3

help to reduce the cost to underground. We also support the use of incentives to manage project costs and schedule.

The City of Berkeley recommends that the CPUC find ways to facilitate undergrounding in California. This was the goal in past OIR's where criteria was added to simplify the determination of qualifying streets. The City of Berkeley understands that funding additional undergrounding will be an issue. We propose that the CPUC look to the benefits of undergrounding especially in the Urban-Wildlife Interface Zone as a means of justifying additional funding.

The City of Berkeley also suggests the following items:

- Develop a plan to underground all utility wires within twenty-five years.
- Create a transparent process that involves residents in the decision-making process.
- Seek alternative funding sources for utility undergrounding.
- Establish a policy of where extensions of overhead utility wires will not be allowed.
- Implement an undergrounding program that reduces current project timelines by 50% and project costs by 25%. Limit the amount of overrun that can be charged to the allocation to 10%.
- Establish a utility undergrounding master plan to allow for improved planning of larger scale, more efficient projects.
- Use competitively selected contractors for construction work.
- Establish more City control and quality checks of the construction process.
- Audit completed projects.

The City of Berkeley appreciates the opportunity to make these comments to the CPUC. The City maintains a strong interest for the reasons discussed. We welcome any opportunity to meet with the CPUC to discuss ways to expand utility undergrounding in Berkeley and throughout the State of California.

Sincerely,

  
Dee Williams-Ridley  
City Manager

cc: Jovan Grogan, Deputy City Manager  
Phillip Harrington, Director of Public Works  
Nisha Patel, Manager of Engineering/City Engineer





CITY COUNCILMEMBER  
**RIGEL ROBINSON**  
 DISTRICT 7

CONSENT CALENDAR  
 September 24, 2019

To: Honorable Mayor and Members of the City Council  
 From: Councilmember Rigel Robinson and Mayor Arreguin  
 Subject: Support for ACA - 8: Elections: Voter Qualifications

### RECOMMENDATION

Adopt a resolution supporting ACA - 8, which would lower California's voting age to 17.

### BACKGROUND

On February 11, 2019, Assemblymember Kevin Mullin introduced ACA - 8, which would give California residents who are 17 years of age the right to vote. This would help promote civic engagement among young people, and encourage students to take a more active role in democracy. Seventeen other states allow 17-year-olds to vote in primary elections if they will be 18 in the following general election, but California would be the first to give 17-year-olds a vote in federal elections.<sup>1</sup> ACA - 8 has received bipartisan support and has 35 co-authors.

17-year-olds deserve a say in government for several reasons. Most are seniors in high school, and if this bill is signed into law, would be the only voters who are currently students in the public education system. Public education is one of the most important issues in the State of California's jurisdiction, and the issue frequently comes up in ballot measures and candidate platforms. Additionally, many 17-year-olds work and pay taxes – more than one in four high school students have jobs.<sup>2</sup> Just like any other taxpayers, they deserve a say in how their dollars are spent. Furthermore, they rely heavily on government services such as public transportation and student loans, and should have input in how those services are run.

Another issue young people face in California is climate change. Youth will have to deal with the consequences of global warming their entire lives, and should have a voice in choosing the politicians that have to figure out how to combat it. Additionally, young people in the United States are faced with gun violence and have organized demonstrations on a national level to urge politicians to enact stricter gun laws.

<sup>1</sup> [https://www.fairvote.org/primary\\_voting\\_at\\_age\\_17](https://www.fairvote.org/primary_voting_at_age_17)

<sup>2</sup> <https://oklahoman.com/article/3748886/1-in-4-high-school-students-work-us-census-finds-including-many-in-oklahoma-to-support-families>

Students need to have a voice in electing the politicians that will make those important decisions.

17-year-olds would be informed voters. Every high school student in California takes a United States history class in their junior year and most take a government class in their senior year. Youth in California have also demonstrated their political awareness through demonstrations and activism, most recently around climate change and gun reform.

Currently, voter turnout among young people in California is low. Only 27.5 percent of eligible voters aged 18 to 24 voted in the 2018 midterm elections. Lowering the voting age would allow people to vote earlier in life, instilling a life-long habit of voting. Research shows that 17 is a more effective age to instill that habit than 18.<sup>3</sup> Lowering the voting age would increase overall voter turnout in the future and ensure that young people, who are disproportionately affected by many issues facing our state and country today, stay engaged.

The attached resolution states the City of Berkeley's endorsement of the bill and subsequent ballot measure. Copies of the resolution will be sent to Senator Nancy Skinner, Assemblymember Buffy Wicks, and Assemblymember Evan Low.

#### FINANCIAL IMPLICATIONS

None.

#### ENVIRONMENTAL SUSTAINABILITY

No impact.

#### CONTACT PERSON

Rawan Mohsen, Intern for Councilmember Rigel Robinson  
Rachel Alper, Intern for Councilmember Rigel Robinson

#### ATTACHMENTS

1. Resolution
2. The State of California Constitution section to be changed, with suggested amendments detailed.

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<sup>3</sup> <https://www.washingtonpost.com/news/monkey-cage/wp/2018/02/28/the-surprising-consequence-of-lowering-the-voting-age/?noredirect=on>

RESOLUTION IN SUPPORT OF ACA - 4

WHEREAS, many states currently allow 17-year-olds to vote in primary elections, but none allow it for general and federal elections; and

WHEREAS, Many 17-year-olds work, pay taxes, and use government services; and

WHEREAS, 17-year-olds would be informed voters, having taken United States history and government classes in high school; and

WHEREAS, voter turnout, both among young people and generally in California is low; and

WHEREAS, lowering the voting age would create a habit of voting, increasing voter turnout over time; and

WHEREAS, ACA - 8 would grant 17-year-olds the right to vote in California.

NOW THEREFORE, BE IT RESOLVED that the City of Berkeley hereby endorses and the ballot measure that will result from its passage; and

BE IT FURTHER RESOLVED that the City of Berkeley may be listed as a supporter of ACA - 4 said ballot measure by the official proponents of the measure; and

BE IT FURTHER RESOLVED that copies of this resolution will be sent to Senator Nancy Skinner, Assemblymember Buffy Wicks, and Assemblymember Evan Low.



## ASSEMBLY CONSTITUTIONAL AMENDMENT

A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 2 of Article II thereof, relating to elections

### **That Section 2 of Article II thereof is amended to read:**

**SEC. 2.** A United States citizen~~-18~~ *who is at least 17* years of age and resident in this State may vote.



CITY COUNCILMEMBER  
**RIGEL ROBINSON**  
 DISTRICT 7

28

CONSENT CALENDAR  
 September 24, 2019

To: Honorable Mayor and Members of the City Council  
 From: Councilmember Rigel Robinson  
 Subject: Budget Referral: RFP for a Freestanding Public Restroom Facility

RECOMMENDATION

Refer to the budget process to set aside up to \$100,000 to issue an RFP for a freestanding, 24/7 public restroom facility in the Telegraph Business Improvement District.

BACKGROUND

Access to a public restroom is crucial for a livable, equitable city. A study by the National Coalition for the Homeless showed that 65 percent of unhoused individuals have been denied access to a restroom in a private business.<sup>1</sup> As homelessness continues to increase in Berkeley and throughout the Bay Area, cities must take action to protect the human dignity of their unhoused population.<sup>2</sup> Public restrooms also benefit those who are “restroom-challenged” as defined by the American Restroom Association, such as pregnant people, young children, and seniors.<sup>3</sup>

Furthermore, public restrooms serve as a boost for tourism and foot traffic. People are more likely to bike, walk, and explore a public space if they know that a restroom is available.<sup>4</sup> Attracting visitors to Telegraph Avenue by providing restroom access is essential for supporting our small businesses and maintaining the vibrancy of our commercial districts.

Other cities are also recognizing the importance of 24/7 public restroom access. In April 2017, the Washington D.C. City Council passed the Public Restroom Facilities Installation and Promotion Act to identify up to ten sites for installing public restrooms.<sup>5</sup> The City of Denver recently added two new mobile restroom facilities, which are used equally by tourists, downtown workers, and unhoused individuals, and have reduced complaints about human waste in the surrounding area.<sup>6</sup> In August 2019, the San

<sup>1</sup> <https://pffcdc.org/wp-content/uploads/2016/04/DiscriminationReport2014.pdf>

<sup>2</sup> <https://www.berkeleyside.com/2019/07/23/berkeleys-homeless-population-jumped-13-in-past-two-years>

<sup>3</sup> <https://pffcdc.org/wp-content/uploads/2017/03/The-restroom-challenged.pdf>

<sup>4</sup> <https://consumerist.com/2017/09/05/the-future-of-tourism-is-public-toilets/>

<sup>5</sup> <http://lms.dccouncil.us/Download/37807/B22-0223-Introduction.pdf>

<sup>6</sup> [https://www.huffpost.com/entry/cities-look-to-public-restrooms-to-clean-up-downtowns\\_b\\_59aea6b3e4b0c50640cd61d2](https://www.huffpost.com/entry/cities-look-to-public-restrooms-to-clean-up-downtowns_b_59aea6b3e4b0c50640cd61d2)

Francisco Department of Public Works rolled out a pilot program to keep three of their busiest public toilet locations open for 24/7 use.

One notable example of a public restroom is the Portland Loo, which was originally developed in partnership with Portland city officials, police, fire, and park staff. It is designed to address the problems cities encounter with such facilities, such as vandalism, drug use, and upkeep. Emeryville, Davis, Seattle, Salinas, Monterey, Charleston, and Waterloo are among the cities that have installed Portland Loos. The City of Berkeley should follow in these cities' footsteps in providing restroom access as a basic human right.

#### FINANCIAL IMPLICATIONS

The developer of the Enclave is contributing \$83,428 and a grant from the UC Berkeley Chancellor's office is contributing \$10,000, bringing total outside funding to \$93,428. This budget referral is intended to fund the remaining amount, including ongoing maintenance costs and staff time to create and review RFP applications.

#### ENVIRONMENTAL SUSTAINABILITY

Human waste can be a major environmental pollutant when it enters our waterways. Increasing the availability of public restrooms will reduce the volume of human waste that ends up in our watershed and eventually the Bay.

#### CONTACT PERSON

Councilmember Rigel Robinson, (510) 981-7170



CITY COUNCILMEMBER  
**RIGEL ROBINSON**  
 DISTRICT 7

29

CONSENT CALENDAR  
 September 24, 2019

To: Honorable Mayor and Members of the City Council  
 From: Councilmember Rigel Robinson  
 Subject: Referral: Telegraph Crosswalk Art Installations

### RECOMMENDATION

Refer to the Civic Arts Commission to develop and return to Council with a plan to:

1. Create a public contest to design new crosswalk art on Telegraph at the intersections of Bancroft, Durant, Channing, Haste, and Dwight Streets.
2. Build the winning design on the intersections.

### BACKGROUND

Crosswalk art installations are a simple, effective way to improve a community street. Such installations can improve the visual character of a neighborhood and help express the history of their community. Cities such as San Francisco, Vancouver, Portland, and Long Beach have celebrated their culture through painting unique designs on their streets.

Painting an intersection in bright colors can also improve safety and reduce conflict between different modes of transportation, especially when combined with the implementation of a scramble intersection. Artwork that sharply contrasts with unpainted pavement increases drivers' awareness of pedestrians crossing the street, which significantly reduces automobile accidents.<sup>1</sup> Following the installation of crosswalk beautification in Oakland, the rate of drivers stopping for pedestrians has increased 86 percent.<sup>2</sup> Telegraph Avenue is a zone of heavy foot traffic, particularly from UC Berkeley students who walk to and from campus every day.

Many cities across the country have installed colorful street art and received positive feedback from residents, visitors, and the media. A notable example can be seen in the City of San Francisco, which installed rainbow crosswalks throughout the Castro District to celebrate the city's rich LGBTQ+ history and community. Local residents appreciate the improved character and aesthetic of their streets, as well as the artistic expression and representation of their culture.

<sup>1</sup> <https://www.smartcitiesdive.com/news/creative-crosswalks-street-art-meets-safety-enhancement/526474/>

<sup>2</sup> <https://www.eastbayexpress.com/SevenDays/archives/2017/10/10/oakland-develops-new-approach-to-fixing-dangerous-intersections-faster>

Oakland has also recently implemented new crosswalk designs as part of its Paint The Town initiative, in which community groups partner with the city in street beautification efforts. The city emblazoned Chinatown's intersections with a pattern historically used in China's imperial court during the Qing Dynasty.<sup>3</sup> The design is a culturally relevant and community-rooted way to improve pedestrian safety.

This proposal is consistent with the Telegraph Public Realm Plan, approved by the Berkeley City Council in 2016. The plan lays out a proposal to build scramble intersections at the intersections of Telegraph Avenue with Bancroft, Durant, Channing, Haste, and Dwight Way. Scrambles allow pedestrians to cross diagonally at an intersection, and are accompanied by vibrant paint treatments that direct motorists to yield. The plan states that if a scramble is not possible at any of these intersections, the City should consider installing crosswalk art regardless.<sup>4</sup>

The City of Berkeley should create crosswalk art for the historic Telegraph district to celebrate its unique culture and history. By inviting local residents to participate in the creative process through a public contest, the city has an opportunity to build a sense of community and civic pride. These street beautification efforts would showcase the vibrancy of Telegraph Avenue, encourage foot traffic to nearby businesses, and bring the city closer to its Vision Zero goals.

#### FINANCIAL IMPLICATIONS

Cost depends on the specific design and the potential for outside funding. Installation costs in the various cities that have implemented permanent crosswalk art range from \$4,000 in Portland<sup>5</sup> to \$35,000 per crosswalk in West Hollywood.<sup>6</sup> Staff and the Commission should also consider maintenance costs when making their recommendation.

#### ENVIRONMENTAL SUSTAINABILITY

No impact.

#### CONTACT PERSON

Councilmember Rigel Robinson, (510) 981-7170  
Benjamin Salop, Intern

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<sup>3</sup> <https://www.eastbaytimes.com/2008/07/17/chinatown-more-pedestrian-friendly-2/>

<sup>4</sup> <https://www.berkeleyside.com/wp-content/uploads/2016/09/Telegraph-Public-Realm-Plan-Final-Low-Res.pdf>

<sup>5</sup> [https://www.oregonlive.com/commuting/2015/06/portland\\_unveils\\_citys\\_first\\_c.html](https://www.oregonlive.com/commuting/2015/06/portland_unveils_citys_first_c.html)

<sup>6</sup> [https://cdn.muckrock.com/foia\\_files/2018/06/18/PeerCities\\_RainbowCrosswalk\\_CaseStudyReport\\_August2015.pdf](https://cdn.muckrock.com/foia_files/2018/06/18/PeerCities_RainbowCrosswalk_CaseStudyReport_August2015.pdf)

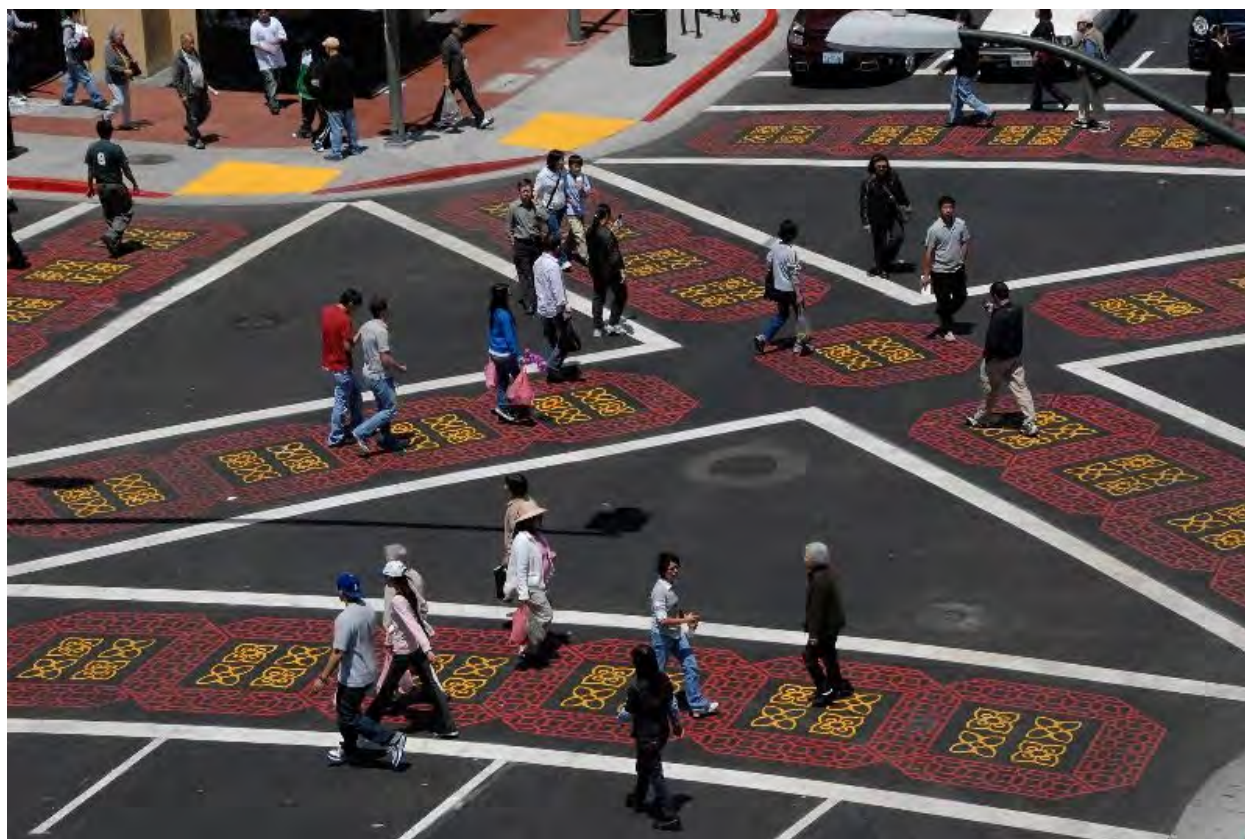
**Attachments:**

- 1: City of San Francisco, Castro District: Rainbow crosswalk
- 2: City of Oakland, Chinatown: Qing Dynasty crosswalk
- 3: City of Seattle crosswalk, Exhibit A
- 4: City of Seattle crosswalk, Exhibit B



Source: [https://www.baynewsnow.com/castro\\_39716121324\\_o](https://www.baynewsnow.com/castro_39716121324_o)



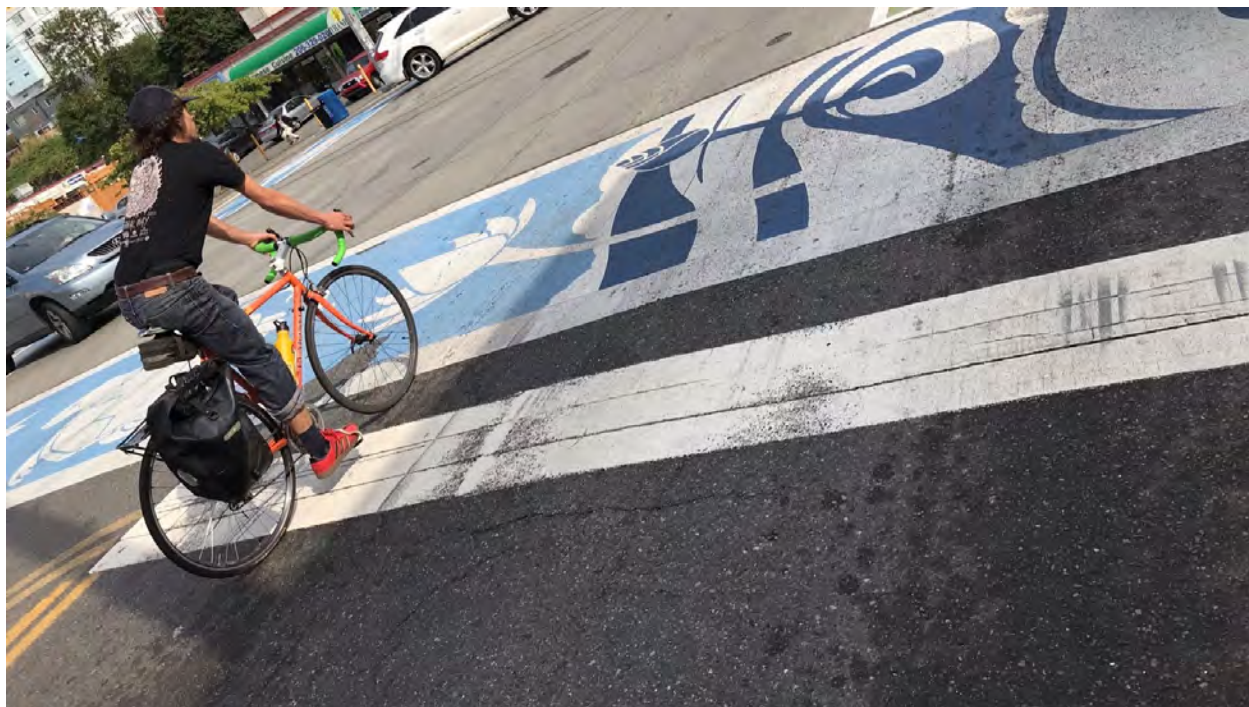


Source: <https://www.pinterest.com/pin/60657926207334135/>



Source: <https://www.twitter.com/rigelrobinson>





Source: <https://www.twitter.com/rigelrobinson>





Lori Droste  
Berkeley City Council District 8

CONSENT CALENDAR  
September 24, 2019

To: Honorable Mayor and Members of the City Council  
From: Councilmember Lori Droste  
Subject: Russell St. Halloween Celebration: Relinquishment of Council  
Funds and Sponsorship

RECOMMENDATION

Adopt a Resolution approving the expenditure of an amount up to \$870 for the 2019 Russell St. Halloween Celebration with funds relinquished for this purpose from the discretionary Council Office Budget of Councilmember Droste and any other Councilmembers who would like to contribute. The Claremont Elmwood Neighborhood Association is the fiscal sponsor of the event.

FISCAL IMPACTS OF RECOMMENDATION

No General Fund impact. Funds are available from Councilmember Droste's office budget discretionary account.

CONTACT PERSON

Lori Droste, Berkeley City Council, District 8, 510-981-7180

Attachments:

1. Resolution

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

AUTHORIZING THE EXPENDITURE OF SURPLUS FUNDS FROM THE OFFICE OF EXPENSE ACCOUNTS OF THE MAYOR AND COUNCILMEMBERS TO PROVIDE SPONSORSHIP AND A DONATION TO THE CLAREMONT ELMWOOD NEIGHBORHOOD ASSOCIATION FOR THE 2019 RUSSELL ST. HALLOWEEN EVENT

WHEREAS, Councilmember Lori Droste has surplus funds in her office expenditure account; and

WHEREAS, a California non-profit tax exempt organization, The Claremont Elmwood Neighborhood Association, seeks funds in the amount of \$870 to support the 2019 Russell St. Halloween Celebration; and

WHEREAS, the Russell St. Halloween Event is a longstanding neighborhood tradition; and

NOW THEREFORE, BE IT RESOLVED, by the Council of the City of Berkeley that funds relinquished by the Mayor and Councilmembers from their Council Office Budget up to \$870 shall be granted to the Claremont Elmwood Neighborhood Association for the 2019 Russell St. Halloween Event.



Office of the City Manager

31

PUBLIC HEARING  
September 24, 2019

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Timothy Burroughs, Director, Department of Planning & Development  
 Subject: ZAB Appeal: 2325 Sixth Street, Use Permit #ZP2017-0146

### RECOMMENDATION

Conduct a public hearing and, upon conclusion, adopt a Resolution affirming the Zoning Adjustments Board (ZAB) decision to approve Use Permit #ZP2017-0146 to alter a 6,000 sq. ft. parcel at 2325 Sixth Street by 1) raising the existing one-story, 1,348 sq. ft. single-family residence with an average height of 12 feet - 7 inches, to create a new, 3,330 sq. ft. two-story duplex, with an average height of 22 feet, 2) increasing the total number of bedrooms on the parcel from three to seven, and 4) constructing a two-story, 472 sq. ft. accessory building with an average height of 19 feet - 3 inches, located 1 foot - 6 inches from the rear and side yard property line to the south, that would consist of a two-car garage on the ground floor and a workshop on the second floor.

### FISCAL IMPACTS OF RECOMMENDATION

None.

### CURRENT SITUATION AND ITS EFFECTS

On September 13, 2017, Bacilia Macias submitted an application for a Use Permit as described above. On October 31, 2018, City staff deemed the application complete. The ZAB held a public hearing on May 9, 2019, and approved the Use Permit application, with modifications to the plans and conditions of approval, by a 6-3-0-0 vote (Yes: Clarke, Kahn, Kim, O'Keefe, Pinkston, Tregub; No: Selawsky, Sheahan, Olson; Abstain: none; Absent: none).

On May 22, 2019, staff issued the notice of the ZAB decision. After additional review of the captioner's record, staff issued a revised Notice of Decision on June 3, 2019. On June 17, 2019, Mary Beth Thomsen filed an appeal of the ZAB decision with the City Clerk. The Clerk set the matter for review by the Council on September 24, 2019. On September 10, 2019, staff posted the public hearing notice at the site and two nearby locations and mailed notices to property owners and occupants within 300 feet of the project site, and to all registered neighborhood groups that cover this area. This City Council hearing is required to resolve the appeal.



## BACKGROUND

The project approved by the ZAB would raise the existing single-family residence by 9 feet - 5 inches and extend the building by 18 feet - 3 inches toward the rear, convert the existing single-family residence into a duplex, and construct a two-story, 472 sq. ft. accessory building with an average height of 19 feet - 3 inches, located 1 foot - 6 inches from the rear and side yard property line to the south. The accessory building would consist of a two-car garage on the ground floor and a workshop on the second floor. Like many buildings in the area, the main building was originally built within the front yard setback (it is 17 feet from the front property line where 20 feet is required), and the applicants have proposed to vertically extend the portion of the building that projects into the required setback to create a new ground floor. New door and window openings are proposed on all sides of the main building and on three sides of the accessory building. Two decks are proposed along the south side of the main building, a 168 sq. ft. one-story deck for the ground floor dwelling and a 78 sq. ft. second-floor deck for the dwelling on the second floor; one 62 sq. ft. second-story deck is proposed along the north side of the accessory building.

After a lengthy public hearing at which testimony regarding various issues and options was considered, the ZAB entertained a motion to approve the project with revisions to reduce the size and massing of the addition to the main building and additional conditions that would reduce sunlight, air, and privacy impacts created by the addition to the main building.

Prior to taking a vote on this motion, a substitute motion was made by Board member Tregub, to continue the item, require mediation, and give the applicant specific direction about how to revise the project. The Board deliberated further before voting on the substitute motion. The substitute motion failed with a 4-5-0-0 vote (Yes: Olson, Selawsky, Sheahan, Tregub; No: Clarke, Kahn, Kim, O'Keefe, Pinkston; Abstain: none; Absent: none). The Board then voted on the main motion, which passed with a 6-3-0-0 vote (Yes: Clarke, Kahn, Kim, O'Keefe, Pinkston, Tregub; No: Selawsky, Sheahan, Olson; Abstain: none; Absent: none) and approved the project with the following conditions:

- The 203 sq. ft. area at the northeast corner of the second story of the main building, where bedroom and bathroom #4 was proposed, must be removed from the project;
- All second story bedroom windows along the north façade of the main building must be clerestory windows<sup>1</sup>; and
- The lower panes of all second story bedroom and bathroom windows along the north façade of the main building must contain obscured glass at all times.

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<sup>1</sup> Clerestory windows are typically located along the top of a structure's wall, near the roof line and above eye level. The purpose is generally to permit light and air flow without creating direct sight lines.

On August 21, 2019, the applicant provided revised project plans that comply with the additional Conditions of Approval.

The appeal filed by Mary Beth Thomsen, neighbor to the immediate north, is requesting that the Council overturn the ZAB decision and require mediation between the applicant and appellant if the project is reconsidered.

#### ENVIRONMENTAL SUSTAINABILITY

The project approved by the ZAB is in compliance with all state and local environmental requirements.

#### RATIONALE FOR RECOMMENDATION

The issues raised in the appellant's letter, and staff's responses, are as follows. For the sake of brevity, the appeal issues are not re-stated in their entirety; refer to the attached appeal letter for full text.

Issue 1: Quality of Life. The appellant contends that the project would be destructive to their quality of life and would create severe shadowing, loss of light, air, warmth, and open views, invasion of privacy, and elimination of green space (page 1 of appeal).

Response 1: At the public hearing the ZAB weighed whether the proposed project would unreasonably obstruct sunlight, air, views, or privacy and discussed ways in which the project could be revised to reduce the overall massing of both the main and accessory building, increase sunlight access, and ensure privacy of neighboring buildings, while acknowledging that almost any residential addition will create additional shadows on neighboring buildings.

The ZAB determined that with the removal of the 203 sq. ft. area at the northeast corner of the second story of the main building, where bedroom and bathroom #4 was proposed, use of obscured glass for all bedroom and bathroom windows along the north façade of the main building facing the appellant's property to the north, and the condition that all second story bedroom windows along the north façade of the main building be clerestory, the project would not unreasonably obstruct sunlight, air, views, or privacy and found that it would not be detrimental.

While the shadow studies show that the addition to the main dwelling will create an increase in shadows on the appellant's main dwelling and Accessory Dwelling Unit (ADU) during the winter, they also show that the project will have no impact on the appellant's main dwelling and ADU during the summer months.

The addition to the main building meets the R-1A District standards for allowable residential density, height, number of stories, lot coverage, useable open space, and parking. With the exception of the existing non-conforming front yard setback, all existing and proposed construction on the main building would meet required setbacks and satisfy the development standards of the Zoning Ordinance.

The proposed two-story accessory building would be 19 feet - 3 inches in average height and would be set back 1 foot - 6 inches from the east and south property line (for accessory buildings, this setback is measured to the eave; the wall of the building would be set back 3 feet from the east and south property line), where a 10-foot setback is required. While the accessory building would have a setback of less than 10 feet, the ZAB found that the two-story accessory building would not unreasonably obstruct sunlight, air, or views and found that it would not be detrimental.

Shadow studies show that during winter mornings, one living room door on the south façade of the ADU at 2323 Sixth Street would be fully shaded by the proposed accessory building. The new accessory building would be closest to the neighboring building to the southeast at 2328 Seventh Street, a 6-unit apartment building; however no windows are proposed along the rear of the new accessory building, and the west façade of the 6-unit apartment building that the accessory building would face also does not have any openings. One small bathroom window is proposed on the south façade, and there are no windows proposed on the rear of the accessory building facing east. In addition, the proposed accessory building is designed to be a workshop/studio space and will be secondary to the primary use of the main building on the property, which will serve as two dwellings.

Furthermore, significant views as defined in BMC Chapter 23F.04 (Definitions) are not available to neighboring dwellings because the area is flat, at a low elevation (in relation to sea level), and has mature trees.

The appellant does not provide new evidence to support the argument that ZAB erred in determined that, with revisions and additional conditions the project would not unreasonably obstruct sunlight, air, views, or privacy.

Issue 2: Significant Over-Crowding and Associated Parking and Noise Issues.  
The appellant contends that the applicant plans to “leverage the land” and has essentially created a “party house” (page 3 and 4 of appeal). In the appeal letter, the appellant describes that “last year the applicants

rented this home to a group of four to six young people; between them they had five cars which were almost always parked on the street.” The appellant goes on to say that “just this week the house has been rented again, this time to a group of six to eight young people, [and] while they mainly don’t have cars...they do have night life... Given this track record, and city guidelines for short-term rentals, that could mean 16 tenants living there.”

Response 2: The project would raise the existing one-story single-family dwelling to create a new two-story building that would contain two dwellings. The project would also construct a new two-story accessory building that would consist of a two-car garage on the ground floor, providing one off-street parking space for each dwelling, and a workshop on the second floor.

The project as it was presented to the ZAB proposed three bedrooms in the new dwelling unit on the ground floor and four bedrooms in the dwelling unit on the second floor, with the total number of bedrooms on the parcel increasing from three to eight (the second floor of the accessory building would be considered the eighth bedroom on the parcel).

During the public hearing, the ZAB discussed the number of bedrooms proposed and considered design changes that could give the applicants “the bedrooms they desire.” Ultimately, the ZAB approved the project with removal of the fourth bedroom in the dwelling unit on northeast corner of the second floor of the main building, in an effort to reduce the overall massing of the building and mitigate sunlight impacts to the appellant’s property to the north. This would have the effect of also reducing the potential occupancy of the unit.

Furthermore, the project is conditioned to require that all owners of record of the subject property sign and record with the Alameda County Clerk-Recorder a “Notice of Limitation on Use of Property” stipulating that no part of the accessory building shall be used or converted to use as a dwelling unit without applicable City of Berkeley permits and prohibiting rental of the accessory building separately from the main dwelling units on the property, except as a Short-Term Rental, pursuant to BMC Chapter 23C.22.

The project as approved and conditioned by ZAB would comply with residential density and off-street parking requirements of the Zoning Ordinance, would include only three bedrooms in each dwelling unit, and would meet the off-street parking requirements of the Zoning Ordinance.

Issue 3: Compatibility of Building's Design and Scale with Character of Surrounding Neighborhood Buildings. The appellant contends that the project would introduce "an apartment-like structure into a block of family homes" and that the design is incompatible with the historic character of the neighborhood (page 1 of appeal).

Response 3: The subject property is located in a neighborhood area which consists of a variety of uses, building heights, and architectural styles. A mixture of single- and multi-family residences abut the subject property to the north, east, and south, and a variety of office/warehousing and light industrial uses confront the subject property to the west. To determine this project was categorically exempt pursuant to CEQA Guidelines 15300.2, a Historic Resource Evaluation (HRE) was prepared for the property in February 2019 by Architectural Historian Stacy Farr. The HRE notes the subject property was developed in 1923 as a modest California Bungalow style single-family residence and has undergone a series of alterations since its construction which have reduced its ability to accurately convey its modest historic appearance. Stacy Farr concluded that the subject property is not historically significant under any of the four California Register criteria and is therefore ineligible for listing in the California Register. Because the subject property is not a historic resource, and is a residential building, located in a residential zoning district, the project is not subject to Design Review.

The appellant's property, directly north of the subject property (2321 Sixth Street, developed with a Queen Anne style residence) is a two-story single family residence and includes a two-story detached Accessory Dwelling Unit (ADU) at the rear of the property. The three abutting properties to the east consist of a two-story, 6-unit apartment building, and two, 2-story single-family residences, and the site directly south of the subject property (2329 Sixth Street, developed with a Queen Anne style residence) is a two-story single-family residence and includes a one-story detached accessory building at the rear. A two story office/warehouse building in the MU-R zoning district confronts the subject property to the west along Sixth Street.

Issue 4: Applicants' Family Living Elsewhere. The appellant contends that no members of the applicants' family have lived at the residence for many years (page 2 of appeal), and the "project has been marketed and, I fear, sold to staff planners and the ZAB as the heart-warming story of an extended family reuniting to enhance their property and create a welcoming, nurturing home environment... [and, that] staff planners and the ZAB may have suffered from failures of imagination in regards to picturing what approving this project as it is would actually mean." The

appellant goes on to say that the applicant and her husband, who is the Chief Operating Officer of a large construction company and the project's contractor, live in Dublin and that it is "ludicrous to imagine they will move as alleged...in close quarters with enough other family members to populate 6 more bedrooms" (pages 3 and 4 of appeal).

Response 4: Staff reviewed the proposed project under the requirements of the Zoning Ordinance, determined proper evidence supported the non-detriment finding and consistency with the City's adopted policies, and recommended ZAB approve this project. Consideration of where the property owners currently reside, the number of family members that would be living at the property, and their occupations, are irrelevant to the findings required by the Zoning Ordinance.

At the public hearing, several ZAB members explained that their goal is to balance the needs of the applicant and the needs and concerns of the neighbors and community, and to try to move towards consensus. After hearing the neighbors' concerns, the ZAB acknowledged there would be impacts on neighboring properties, discussed design alternatives, and considered whether the hearing should be continued to require further design changes and mediation, or whether conditions could be added to approve the project and reduce impacts to neighboring properties. After careful consideration, the ZAB determined that the non-detriment finding can be made with design changes and implementation of additional conditions.

Issue 5: Mediation. The appellant contends that the applicants have been "totally dismissive of and antagonistic towards all of our concerns...and not open to any sort of mitigation" (page 1 of appeal).

Response 5: In April 2017, five months prior to submittal of this application, the City received written correspondence from two neighboring property owners expressing concerns about the proposed project. After reviewing the initial Use Permit application (which was submitted in September 2017), and deeming the materials incomplete, staff met with the applicant to discuss the project and incomplete items. During this meeting staff encouraged the applicant to consider mediation through SEEDS, the voluntary City-sponsored mediation service. The applicant expressed feeling hostility when speaking with the neighbors and did not elect to pursue mediation at that time. In October 2017, one month after the application was submitted, the City received a third letter of opposition from a third neighboring property owner (the appellant of this application).

In May 2018, the property owners submitted a letter to the City providing responses to the letters of opposition and concerns raised by neighboring property owners.

After receiving this letter, staff encouraged the property owner to reach out to their neighbors to see if they would be interested in meeting again to discuss their concerns about the project. In July 2018, the property owners of 2325 Sixth Street met with neighboring property owners, including the appellant. All neighbors who submitted correspondence expressing opposition were in attendance. No compromises or agreements between parties were reached, and the applicants did not wish to revise their project.

The appellant and other neighbors who oppose the project presented the same information to the ZAB prior to and at the public hearing that is now being presented to the City Council in this appeal, which the Board considered as part of its deliberations. ZAB's substitute motion to continue the item, require mediation, and give the applicant specific direction about how to revise the project failed; the main motion to approve the project with additional conditions carried.

#### ALTERNATIVE ACTIONS CONSIDERED

Pursuant to BMC Section 23B.32.060.D, the Council may (1) continue the public hearing, (2) reverse, affirm, or modify the ZAB's decision, or (3) remand the matter to the ZAB.

#### Action Deadline:

Pursuant to BMC Section 23B.32.060.G if the disposition of the appeal has not been determined within 30 days from the date the public hearing was closed by the Council (not including Council recess), then the decision of the Board shall be deemed affirmed and the appeal shall be deemed denied.

#### CONTACT PERSONS

Timothy Burroughs, Director, Department of Planning & Development, (510) 981-7437  
Steven Buckley, Planning Manager, Land Use Planning Division, (510) 981-7411  
Alison Lenci, Project Planner, Land Use Planning Division, (510) 981-7544

#### Attachments:

- 1: Draft Resolution
  - Exhibit A: Findings and Conditions
  - Exhibit B: Project Plans, dated August 21, 2019
- 2: Appeal Letter, dated June 17, 2019
- 3: ZAB Staff Report, dated May 9, 2019
- 4: Index to Administrative Record
- 5: Administrative Record



ZAB Appeal: 2325 Sixth Street  
Use Permit #ZP2017-0146

PUBLIC HEARING  
September 24, 2019

6: Public Hearing Notice

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

AFFIRMING THE ZONING ADJUSTMENTS BOARD'S APPROVAL OF ADMINISTRATIVE USE PERMIT #ZP2017-0146 TO ALTER A 6,000 SQ. FT. PARCEL AT 2325 SIXTH STREET BY 1) RAISING THE EXISTING ONE-STORY, 1,348 SQ. FT. SINGLE-FAMILY RESIDENCE WITH AN AVERAGE HEIGHT OF 12'7", TO CREATE A NEW, 3,330 SQ. FT. TWO-STORY DUPLEX, WITH AN AVERAGE HEIGHT OF 22', 2) INCREASING THE TOTAL NUMBER OF BEDROOMS ON THE PARCEL FROM THREE TO SEVEN, AND 3) CONSTRUCTING A TWO-STORY, 944 SQ. FT. ACCESSORY BUILDING WITH AN AVERAGE HEIGHT OF 19'3", LOCATED 1'6" FROM THE REAR AND SIDE YARD PROPERTY LINE TO THE SOUTH, THAT WOULD CONSIST OF A TWO-CAR GARAGE ON THE GROUND FLOOR AND A WORKSHOP ON THE SECOND FLOOR, IN THE LIMITED TWO-FAMILY (R-1A) ZONING DISTRICT, AND DISMISSING THE APPEAL.

WHEREAS, on September 13, 2017, Bacilia Macias ("applicant") filed an application for a Use Permit to expand an existing one-story, 1,348 sq. ft. single-family residence and alter an existing 6,000 sq. ft. parcel by: 1) raising the existing one-story dwelling 9'2" to create a new 1,676 sq. ft. sq. ft. ground floor dwelling, 2) increasing the total number of bedrooms on the parcel from three to eight, and 3) constructing a two-story, 472 sq. ft. accessory building with an average height of 19'3", located 1'6" from the rear and side yard property line to the south at 2325 Sixth Street; and

WHEREAS, on October 31, 2018, staff deemed this application complete and determined that the project is categorically exempt from the California Environmental Quality Act ("CEQA") under Section 15301 and 15303 of the CEQA Guidelines ("Existing Facilities" and "New Construction or Conversion of Small Structures"); and

WHEREAS, on April 25, 2019, staff posted the ZAB Notice of Public Hearing at the site in three locations and mailed 205 notices to property owners and occupants within 300 feet of the project site, and to interested neighborhood organizations; and

WHEREAS, on May 9, 2019, the ZAB held a public hearing in accordance with BMC Section 23B.28.030, and approved the application with modifications to the conditions of approval; and

WHEREAS, on May 22, 2019, staff issued the notice of the ZAB decision; and

WHEREAS, on June 3, 2019, staff issued a revised notice of the ZAB decision; and

WHEREAS, on June 17, 2019, Mary Beth Thomsen filed an appeal of the ZAB decision with the City Clerk; and

WHEREAS, on August 21, 2019, the applicant submitted revised floor plans and elevations to reflect the additional Condition of Approval imposed by the ZAB and revised shadow studies; and

WHEREAS, on September 10, 2019, staff posted the public hearing notice at the site in three locations and mailed notices to property owners and occupants within 300 feet of the project site, and to interested neighborhood organizations; and

WHEREAS, on September 24, 2019, the Council held a public hearing to consider the ZAB's decision, and, in the opinion of this Council, the facts stated in, or ascertainable from the public record, including the staff report and comments made at the public hearing, warrant approving the project.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Berkeley that the City Council hereby adopts the findings made by the ZAB in Exhibit A to affirm the decision of the ZAB to approve Use Permit #ZP2017-0146, adopts the conditions of approval in Exhibit A and the project plans in Exhibit B, and dismisses the appeal.

Exhibits

A: Findings and Conditions

B: Project Plans, dated August 21, 2019

# ATTACHMENT 1, EXHIBIT A

## FINDINGS AND CONDITIONS

MAY 9, 2019

### 2325 Sixth Street

Use Permit #ZP2017-0146 to alter a 6,000 sq. ft. parcel by 1) raising the existing one-story, 1,348 sq. ft. single-family residence with an average height of 12'7", to create a new, 3,330sq. ft. two-story duplex, with an average height of 22', 3) increasing the total number of bedrooms on the parcel from three to eight, and 4) constructing a two-story, 944 sq. ft. accessory building with an average height of 19'3", located 1'6" from the rear and side yard property line to the south, that would consist of a two-car garage on the ground floor and a workshop on the second floor.

#### PERMITS REQUIRED

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- Use Permit, under BMC Section 23D.20.030, to add a second dwelling unit;
- Use Permit, under BMC Section 23D.20.050.A, for the addition of any bedroom beyond a fifth to the parcel;
- Administrative Use Permit, under BMC Section 23D.20.070.C, to construct a residential addition over 14 ft. in average height;
- Administrative Use Permit, under BMC Section 23D.20.030, to construct a major (>600 sq. ft.) residential addition;
- Administrative Use Permit, under BMC Section 23C.04.070.B to vertically extend the non-conforming front yard;
- Administrative Use Permit, under BMC Section 23D.08.005.A.1, to construct a new accessory building; and
- Administrative Use Permit, under BMC Section 23D.08.010.B, to construct an accessory building which does not comply with the height limits.

#### I. 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 15301 and 15303 of the CEQA Guidelines ("Existing Facilities" and "New Construction or Conversion of Small Structures").
2. 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 would not affect any historical resource.

#### II. FINDINGS FOR APPROVAL

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1. As required by Section 23B.32.040.A of the Zoning Ordinance, the project, under the circumstances of this particular case existing at the time at which the application is granted, would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons

residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:

- A. The project has been designed to conform with the applicable zoning requirements and development standards that apply to the R-1A Zoning District.
  - B. The project is consistent with, and supports implementation of, relevant policies set out in the adopted Berkeley General Plan and West Berkeley Plan in that it, a) will provide infill development that is compatible with neighboring land uses in terms of use and scale and b) it will add a residential dwelling unit to an existing single-family residence.
  - C. The project will not be detrimental to the general welfare of persons residing or working in the area, or neighborhood, nor be detrimental to or injurious to the property and improvements of the adjacent properties or existing properties on the site because the project will raise the existing one-story single family residence to create a new, two-story duplex, and construct a detached two-story accessory building. The project is consistent with zoning standards and would retain the location and general footprint of the existing single-family residence, thereby minimizing the potential impacts on adjacent buildings.
2. Pursuant to Berkeley Municipal Code Section 23D.20.030, the Zoning Adjustments Board finds that the construction of a new dwelling unit on the site would not be detrimental to the general welfare of persons residing or working in the area, or neighborhood. The proposed design would result in a project that would meet the R-1A development standards with respect to the height, number of stories, lot coverage, useable open space, and parking, and therefore would not be detrimental to or injurious to the property and improvements of the adjacent properties or existing properties on the site.
  3. Pursuant to Berkeley Municipal Code Section 23D.20.090.B, the Zoning Adjustments Board finds that the proposed major residential addition would not unreasonably obstruct sunlight, air, or views for the following reasons:
    - A. Sunlight: shadow studies submitted by the applicant document the addition's projected shadow angles and lengths at three times throughout the day during the summer and winter solstice. The studies show that the addition will create an incremental increase to shadows on one neighboring property to the north at 2321-2323 Sixth Street, that is occupied by two dwellings (one single-family residence and one ADU), as follows:
      - During morning hours on the winter solstice, two living room windows and one kitchen window on the south façade of 2321 Sixth Street that are partially shaded by the existing one-story building and will be completely shaded by the addition during winter mornings. Two bedroom windows on the south façade that are unshaded will be partially shaded by the addition and one bedroom and one bathroom window on the south façade that are unshaded, will be fully shaded by the addition. In addition, two kitchen windows on the east façade that are unshaded, will be fully shaded by the addition.
      - During afternoon hours on the winter solstice, two living room windows and one kitchen window that are unshaded will be fully shaded, and two bedroom windows will be partially shaded by the addition. In addition, one living room door on the ADU at 2323 Sixth Street will be fully shaded by the addition.

- During evening hours on the winter solstice, one living room door on the ADU at 2323 Sixth Street that is partially shaded, will be fully shaded by the addition.

Because the impacts to neighboring dwellings would occur on limited areas, and would be limited to one property with two dwellings, for a limited time during the year, and only for a few hours of the day, the major residential addition would not result in a significant loss of direct sunlight on abutting residences, and these shading impacts are not deemed detrimental.

- B. Air: The addition is found to be consistent with the existing development and building-to-building separation pattern – or air – in this R-1A neighborhood because the addition would retain two stories, where as many as three are allowed, would be less than the average height allowed in this district (22', where up to 35' is allowed with a Use Permit), would not further reduce the non-conforming front yard, and would exceed all other minimum required yards.
- C. Views: Significant views as defined in BMC Chapter 23F.04 (Definitions) are not available to neighboring dwellings because the area is flat, at a low elevation (in relation to sea level) and has mature trees. Therefore, the addition would not result in additional obstruction of significant views in the neighborhood.
4. Pursuant to BMC Section 23C.04.070.B, the Zoning Adjustments Board finds that the vertical extension of the non-conforming yard is permissible because the use of the property is conforming the extension would not further reduce the existing non-conforming front yard, and would not exceed the maximum height limits of this district.
5. Pursuant to BMC Section 23D.08.010.B, the Zoning Adjustments Board finds that the new accessory building that would exceed the height requirement as set forth in BMC Section 23D.08.020.A, would not unreasonably obstruct sunlight, air, privacy, or views for the following reasons:
- A. Sunlight: shadow studies submitted by the applicant document the accessory building's projected shadow angles and lengths at three times throughout the day during the summer and winter solstice. The studies show that the accessory building would create an incremental increase in shadows on neighboring dwellings, as follows:
- During evening hours on the summer solstice, portions of the north and west façades of the multi-unit apartment building at 2328 Seventh Street would be partially shaded, but no window openings would be affected.
  - During morning hours on the winter solstice one living room door on the south façade of the ADU at 2323 Sixth Street would be fully shaded by the accessory building.
  - During afternoon hours on the winter solstice, a portion of the south façade of the ADU at 2323 Sixth Street would be partially shaded by the accessory building, but no openings would be affected.

Because the impacts to neighboring dwellings would occur on limited areas, and would only partially shade neighboring dwellings for a limited time during the year, and only for a few hours of the day, the accessory building would not result in a significant loss of direct sunlight on abutting residences, and these shading impacts are not deemed detrimental.

- B. Air: While the accessory building would be two-stories, and would be 19'3" in average height, the accessory building is found to be consistent with the existing development and building-to-building separation pattern – or air – in this R-1A neighborhood because the new building would be more than 20' from the edge of the neighboring ADU to the north, at 2321 Sixth Street, more than 95' from the front yard property line, and more than 30' from one of the neighboring buildings to the east, at 2324 Seventh Street. The new accessory building would be closest to the neighboring building to the southeast at 2328 Seventh Street, a 6-unit apartment building, however the wall of the 6-unit apartment building that the accessory building would face has no openings, and no windows are proposed along the rear of the new accessory building facing east.
- C. Privacy: The project proposes new openings on the side and front façades of the second floor of the accessory building and a new second story deck on the north façade, however these openings and deck area are not expected to be detrimental to the privacy of abutting neighbors for the following reasons:
- Four windows are proposed on the front (west) façade of the accessory building would face the rear of the main building on the subject property and therefore would not face directly into any neighboring dwellings;
  - One window, one door, and a 62 sq. ft. deck (with an average height of 12'6" measured to the top of the deck's railing) are proposed on the left (north) façade. The distance measured from the edge of the accessory building to the side yard property line to the north (shared with 2321-2323 Sixth Street) is approximately 23' and the edge of the deck, stairs and landing is approximately 15'5" from this side yard property line.
  - One small bathroom window is proposed along the right (south) façade of the accessory building. While the distance measured from the edge of the accessory building to the side yard property line to the south (shared with 2329 Sixth Street) is 1'6", the new opening is relatively small and located high up on the building's wall, thereby minimizing potential impacts to privacy of neighboring dwellings.
  - No windows are proposed on the rear of the accessory building, facing east, and therefore there will be no impacts to privacy of the abutting neighbors to the rear, at 2324 Seventh Street.
- D. Views: As described in Section V.D.3 above, significant views as defined in BMC Chapter 23F.04 (Definitions) are not available to neighboring dwellings because the area is flat, at a low elevation (in relation to sea level) and has mature trees. Therefore, the accessory building would not result in additional obstruction of significant views in the neighborhood.
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**III. STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS**

The following conditions, as well as all other applicable provisions of the Zoning 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 Use Permit, under the title 'Use 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. Applicant Responsible for Compliance with Conditions**

The applicant shall ensure compliance with all of the following conditions, including submittal to the project planner of required approval signatures at the times specified. Failure to comply with any condition may result in construction being stopped, issuance of a citation, and/or modification or revocation of the Use Permit.

**3. Uses Approved Deemed to Exclude Other Uses (Section 23B.56.010)**

- A. This Permit authorizes only those uses and activities actually proposed in the application, and excludes other uses and activities.
- B. Except as expressly specified herein, this Permit terminates all other uses at the location subject to it.

**4. Modification of Permits (Section 23B.56.020)**

No change in the use or structure for which this Permit is issued is permitted unless the Permit is modified by the Board, except that the Zoning Officer may approve changes that do not expand, intensify, or substantially change the use or building.

Changes in the plans for the construction of a building or structure, may be modified prior to the completion of construction, in accordance with Section 23B.56.030.D. The Zoning Officer may approve changes to plans approved by the Board, consistent with the Board's policy adopted on May 24, 1978, which reduce the size of the project.

**5. Plans and Representations Become Conditions (Section 23B.56.030)**

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.

**6. Subject to All Applicable Laws and Regulations (Section 23B.56.040)**

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.

**7. Exercised Permit for Use Survives Vacancy of Property (Section 23B.56.080)**

Once a Permit for a use is exercised and the use is established, that use is legally recognized, even if the property becomes vacant, except as set forth in Standard Condition #8, below.



**Prior to Issuance of Any Building Permit:**

12. Geotechnical Plan Review. The applicant's geotechnical consultant shall review and approve all geotechnical aspects of the project building and grading plans (i.e. site preparation and grading, site drainage improvements and design parameters for foundations and hardscape) to ensure that their recommendations have been properly incorporated. The results of the plan review shall be summarized by the geotechnical consultant in a letter and submitted to the City Engineer for review and approval prior to issuance of any building permit.
13. Accessory Building. All owners of record of the subject property shall sign and record with the Alameda County Clerk-Recorder a "Notice of Limitation on Use of Property" (available from Land Use Planning Division) and provide a recorded copy thereof to the project planner. This Notice of Limitation shall stipulate that no part of this accessory building shall be used or converted to use as a dwelling unit unless and until permission is requested of the City of Berkeley and authorized a Use Permit, Administrative Use Permit, or Zoning Certificate, whichever is applicable. This limitation shall include the explicit acknowledgment that a full bathroom and cooking facilities may be installed, as long as the cooking facilities do not constitute a Kitchen per BMC 23F.04. This limitation may not be revised or removed from this property without the prior written permission of the Zoning Officer of the City of Berkeley.
14. Bedroom and Bathroom #4 on Second Floor of Main Building. Plans submitted for building permit shall show that the 203 sq. ft. area at the northeast corner of the second story of the main building, where bedroom and bathroom #4 was proposed, has been removed from the project.
15. Bedroom Windows. Plans submitted for building permit shall show clerestory windows for all second story bedroom windows along the north façade of the main building.
16. Bedroom and Bathroom Windows. Plans submitted for building permit shall show that the lower panes of all second story bedroom and bathroom windows along the north façade of the main building are obscured at all times.
17. Address Assignment. The applicant shall file an "Address Assignment Request Application" with the Permit Service Center (1947 Center Street) for any address change or new address associated with this Use Permit. The new address(es) shall be assigned and entered into the City's database prior issuance of a building permit.
18. Construction and Demolition. Applicant shall submit a Waste Diversion Form and Waste Diversion Plan that meet the diversion requirements of BMC Chapters 19.24 and 19.37.
19. Public Works ADA. Plans submitted for building permit shall include replacement of sidewalk, curb, gutter, and other streetscape improvements, as necessary to comply with current City of Berkeley standards for accessibility.
20. Toxics. The applicant shall contact the Toxics Management Division (TMD) at 1947 Center Street or (510) 981-7470 to determine which of the following documents are required and timing for their submittal:
  - A. Environmental Site Assessments:
    - 1) Phase I & Phase II Environmental Site Assessments (latest ASTM 1527-13). A recent Phase I ESA (less than 6 months old\*) shall be submitted to TMD for developments for:

- All new commercial, industrial and mixed use developments and all large improvement projects.
  - All new residential buildings with 5 or more dwelling units located in the Environmental Management Area (or EMA).
  - EMA is available online at:  
[http://www.cityofberkeley.info/uploadedFiles/IT/Level\\_3\\_-\\_General/ema.pdf](http://www.cityofberkeley.info/uploadedFiles/IT/Level_3_-_General/ema.pdf)
- 2) Phase II ESA is required to evaluate Recognized Environmental Conditions (REC) identified in the Phase I or other RECs identified by TMD staff. The TMD may require a third party toxicologist to review human or ecological health risks that may be identified. The applicant may apply to the appropriate state, regional or county cleanup agency to evaluate the risks.
  - 3) If the Phase I is over 6 months old, it will require a new site reconnaissance and interviews. If the facility was subject to regulation under Title 15 of the Berkeley Municipal Code since the last Phase I was conducted, a new records review must be performed.
- B. Soil and Groundwater Management Plan:
- 1) A Soil and Groundwater Management Plan (SGMP) shall be submitted to TMD for all non-residential projects, and residential or mixed-use projects with five or more dwelling units, that: (1) are in the Environmental Management Area (EMA) and (2) propose any excavations deeper than 5 feet below grade. The SGMP shall be site specific and identify procedures for soil and groundwater management including identification of pollutants and disposal methods. The SGMP will identify permits required and comply with all applicable local, state and regional requirements.
  - 2) The SGMP shall require notification to TMD of any hazardous materials found in soils and groundwater during development. The SGMP will provide guidance on managing odors during excavation. The SGMP will provide the name and phone number of the individual responsible for implementing the SGMP and post the name and phone number for the person responding to community questions and complaints.
  - 3) TMD may impose additional conditions as deemed necessary. All requirements of the approved SGMP shall be deemed conditions of approval of this Use Permit.
- C. Building Materials Survey:
- 1) Prior to approving any permit for partial or complete demolition and renovation activities involving the removal of 20 square or lineal feet of interior or exterior walls, a building materials survey shall be conducted by a qualified professional. The survey shall include, but not be limited to, identification of any lead-based paint, asbestos, polychlorinated biphenyl (PBC) containing equipment, hydraulic fluids in elevators or lifts, refrigeration systems, treated wood and mercury containing devices (including fluorescent light bulbs and mercury switches). The Survey shall include plans on hazardous waste or hazardous materials removal, reuse or disposal procedures to be implemented that fully comply state hazardous waste generator requirements (22 California Code of Regulations 66260 et seq). The Survey becomes a condition of any building or demolition permit for the project. Documentation evidencing disposal of hazardous waste in compliance with the survey shall be submitted to TMD within 30 days of the completion of the demolition. If asbestos is identified, Bay Area Air Quality Management District Regulation 11-2-401.3 a notification must be made and the J number must be made available to the City of Berkeley Permit Service Center.
- D. Hazardous Materials Business Plan:
- 1) A Hazardous Materials Business Plan (HMBP) in compliance with BMC Section 15.12.040 shall be submitted electronically at <http://cers.calepa.ca.gov/> within 30 days if on-site hazardous materials exceed BMC 15.20.040. HMBP requirement can be found at <http://ci.berkeley.ca.us/hmr/>

**During Construction:**

- 21. Construction Hours.** Construction activity shall be limited to between the hours of 8:00 AM and 6:00 PM on Monday through Friday, and between 9:00 AM and Noon on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.
- 22. Transportation Construction Plan.** The applicant and all persons associated with the project are hereby notified that a Transportation Construction Plan (TCP) is required for all phases of construction, particularly for the following activities:
- Alterations, closures, or blockages to sidewalks, pedestrian paths or vehicle travel lanes (including bicycle lanes);
  - Storage of building materials, dumpsters, debris anywhere in the public ROW;
  - Provision of exclusive contractor parking on-street; or
  - Significant truck activity.

The applicant shall secure the City Traffic Engineer's approval of a TCP. Please contact the Office of Transportation at 981-7010, or 1947 Center Street, and ask to speak to a traffic engineer. In addition to other requirements of the Traffic Engineer, this plan shall include the locations of material and equipment storage, trailers, worker parking, a schedule of site operations that may block traffic, and provisions for traffic control. The TCP shall be consistent with any other requirements of the construction phase.

Contact the Permit Service Center (PSC) at 1947 Center Street or 981-7500 for details on obtaining Construction/No Parking Permits (and associated signs and accompanying dashboard permits). Please note that the Zoning Officer and/or Traffic Engineer may limit off-site parking of construction-related vehicles if necessary to protect the health, safety or convenience of the surrounding neighborhood. A current copy of this Plan shall be available at all times at the construction site for review by City Staff.

- 23. Halt Work/Unanticipated Discovery of Tribal Cultural Resources.** In the event that cultural resources of Native American origin are identified during construction, all work within 50 feet of the discovery shall be redirected. The project applicant and project construction contractor shall notify the City Planning Department within 24 hours. The City will again contact any tribes who have requested consultation under AB 52, as well as contact a qualified archaeologist, to evaluate the resources and situation and provide recommendations. If it is determined that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with State guidelines and in consultation with Native American groups. If the resource cannot be avoided, additional measures to avoid or reduce impacts to the resource and to address tribal concerns may be required.
- 24. Avoid Disturbance of Nesting Birds.** Initial site disturbance activities, including vegetation and concrete removal, shall be prohibited during the general avian nesting season (February 1 to August 30), if feasible. If nesting season avoidance is not feasible, the applicant shall retain a qualified biologist to conduct a preconstruction nesting bird survey to determine the presence/absence, location, and activity status of any active nests on or adjacent to the project site. The extent of the survey buffer area surrounding the site shall be established by the qualified biologist to ensure that direct and indirect effects to nesting birds are avoided. To avoid the destruction of active nests and to protect the reproductive success of birds protected by the MBTA and CFGC, nesting bird surveys shall be performed not more than 14 days prior to scheduled vegetation and concrete removal. In the event that active nests are discovered, a suitable buffer

(typically a minimum buffer of 50 feet for passerines and a minimum buffer of 250 feet for raptors) shall be established around such active nests and no construction shall be allowed inside the buffer areas until a qualified biologist has determined that the nest is no longer active (e.g., the nestlings have fledged and are no longer reliant on the nest). No ground-disturbing activities shall occur within this buffer until the qualified biologist has confirmed that breeding/nesting is completed and the young have fledged the nest. Nesting bird surveys are not required for construction activities occurring between August 31 and January 31.

- 25. Archaeological Resources (Ongoing throughout demolition, grading, and/or construction).** Pursuant to CEQA Guidelines section 15064.5(f), "provisions for historical or unique archaeological resources accidentally discovered during construction" should be instituted. Therefore:
- A. In the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant and/or lead agency shall consult with a qualified archaeologist, historian or paleontologist to assess the significance of the find.
  - B. If any find is determined to be significant, representatives of the project proponent and/or lead agency and the qualified professional would meet to determine the appropriate avoidance measures or other appropriate measure, with the ultimate determination to be made by the City of Berkeley. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and/or a report prepared by the qualified professional according to current professional standards.
  - C. In considering any suggested measure proposed by the qualified professional, the project applicant shall determine whether avoidance is necessary or feasible in light of factors such as the uniqueness of the find, project design, costs, and other considerations.
  - D. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while mitigation measures for cultural resources is carried out.
  - E. If significant materials are recovered, the qualified professional shall prepare a report on the findings for submittal to the Northwest Information Center.
- 26. Human Remains (Ongoing throughout demolition, grading, and/or construction).** In the event that human skeletal remains are uncovered at the project site during ground-disturbing activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to Section 15064.5 (e)(1) of the CEQA Guidelines. If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.
- 27. Paleontological Resources (Ongoing throughout demolition, grading, and/or construction).** In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards [SVP 1995,1996]). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find. The paleontologist shall notify the appropriate

agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.

28. Stormwater Requirements. The applicant shall demonstrate compliance with the requirements of the City's National Pollution Discharge Elimination System (NPDES) permit as described in BMC Section 17.20. The following conditions apply:
- A. The project plans shall identify and show site-specific Best Management Practices (BMPs) appropriate to activities conducted on-site to limit to the maximum extent practicable the discharge of pollutants to the City's storm drainage system, regardless of season or weather conditions.
  - B. Trash enclosures and/or recycling area(s) shall be covered; no other area shall drain onto this area. Drains in any wash or process area shall not discharge to the storm drain system; these drains should connect to the sanitary sewer. Applicant shall contact the City of Berkeley and EBMUD for specific connection and discharge requirements. Discharges to the sanitary sewer are subject to the review, approval and conditions of the City of Berkeley and EBMUD.
  - C. Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration and minimize the use of fertilizers and pesticides that contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat runoff. When and where possible, xeriscape and drought tolerant plants shall be incorporated into new development plans.
  - D. Design, location and maintenance requirements and schedules for any stormwater quality treatment structural controls shall be submitted to the Department of Public Works for review with respect to reasonable adequacy of the controls. The review does not relieve the property owner of the responsibility for complying with BMC Chapter 17.20 and future revisions to the City's overall stormwater quality ordinances. This review shall be conducted prior to the issuance of a Building Permit.
  - E. All paved outdoor storage areas must be designed to reduce/limit the potential for runoff to contact pollutants.
  - F. All on-site storm drain inlets/catch basins must be cleaned at least once a year immediately prior to the rainy season. The property owner shall be responsible for all costs associated with proper operation and maintenance of all storm drainage facilities (pipelines, inlets, catch basins, outlets, etc.) associated with the project, unless the City accepts such facilities by Council action. Additional cleaning may be required by City of Berkeley Public Works Engineering Dept.
  - G. All on-site storm drain inlets must be labeled "No Dumping – Drains to Bay" or equivalent using methods approved by the City.
  - H. Most washing and/or steam cleaning must be done at an appropriately equipped facility that drains to the sanitary sewer. Any outdoor washing or pressure washing must be managed in such a way that there is no discharge or soaps or other pollutants to the storm drain. Sanitary connections are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
  - I. Sidewalks and parking lots shall be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry to the storm drain system. If any cleaning agent or degreaser is used, wash water shall not discharge to the storm drains; wash waters should be collected and discharged to the sanitary sewer. Discharges to the sanitary sewer are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.



- J. The applicant is responsible for ensuring that all contractors and sub-contractors are aware of and implement all stormwater quality control measures. Failure to comply with the approved construction BMPs shall result in the issuance of correction notices, citations, or a project stop work order.
- 29. Public Works - Implement BAAQMD-Recommended Measures during Construction.** For all proposed projects, BAAQMD recommends implementing all the Basic Construction Mitigation Measures, listed below to meet the best management practices threshold for fugitive dust:
- A. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
  - B. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
  - C. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
  - D. All vehicle speeds on unpaved roads shall be limited to 15 mph.
  - E. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
  - F. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
  - G. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
  - H. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.
- 30. Public Works.** All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter thick and secured to the ground.
- 31. Public Works.** The applicant shall ensure that all excavation takes into account surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.
- 32. Public Works.** The project sponsor shall maintain sandbags or other devices around the site perimeter during the rainy season to prevent on-site soils from being washed off-site and into the storm drain system. The project sponsor shall comply with all City ordinances regarding construction and grading.
- 33. Public Works.** Prior to any excavation, grading, clearing, or other activities involving soil disturbance during the rainy season the applicant shall obtain approval of an erosion prevention plan by the Building and Safety Division and the Public Works Department. The applicant shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.
- 34. Public Works.** The removal or obstruction of any fire hydrant shall require the submission of a plan to the City's Public Works Department for the relocation of the fire hydrant during construction.

- 35. Public Works.** If underground utilities leading to adjacent properties are uncovered and/or broken, the contractor involved shall immediately notify the Public Works Department and the Building & Safety Division, and carry out any necessary corrective action to their satisfaction.

**Prior to Final Inspection or Issuance of Occupancy Permit:**

- 36. Compliance with Conditions.** The project shall conform to the plans and statements in the Use Permit. The developer is responsible for providing sufficient evidence to demonstrate compliance with the requirements throughout the implementation of this Use Permit.
- 37. Compliance with Approved Plan.** The project shall conform to the plans and statements in the Use Permit. All landscape, site and architectural improvements shall be completed per the attached approved drawings received **September 19, 2018 and April 23, 2019**, except as modified by conditions of approval.
- 38. Construction and Demolition Diversion.** A Waste Diversion Report, with receipts or weigh slips documenting debris disposal or recycling during all phases of the project, must be completed and submitted for approval to the City's Building and Safety Division. The Zoning Officer may request summary reports at more frequent intervals, as necessary to ensure compliance with this requirement. A copy of the Waste Diversion Plan shall be available at all times at the construction site for review by City Staff.

**At All Times:**

- 39. Exterior Lighting.** All exterior lighting shall be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
- 40. Drainage Patterns.** The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.
- 41. Electrical Meter.** Only one electrical meter fixture may be installed per dwelling unit.
- 42. Bedroom and Bathroom Windows.** The lower panes of all second story bedroom and bathroom windows along the north façade of the main building shall contain obscured glass at all times.

### CODES

2016 CA FIRE CODE  
 2016 CA BUILDING CODE  
 2016 CA MECHANICAL CODE  
 2016 CA PLUMBING CODE  
 2016 CA ELECTRICAL CODE  
 2016 ENERGY CODE  
 2016 CA GREEN CODE  
 2016 CA RESIDENTIAL CODE

### PROJECT SCOPE

RAISING OF (E) RESIDENCE TO CREATE A TWO STORY DUPLEX . NEW 2 STORY ACCESSORY BLDG. IN REAR, GARAGE ON THE GROUND FLOOR AND WORKSHOP ON TOP FLOOR.

### PROJECT DATA

TITLE RESIDENTIAL ADDITION  
 2325 6TH STREET  
 BERKELEY, CALIFORNIA

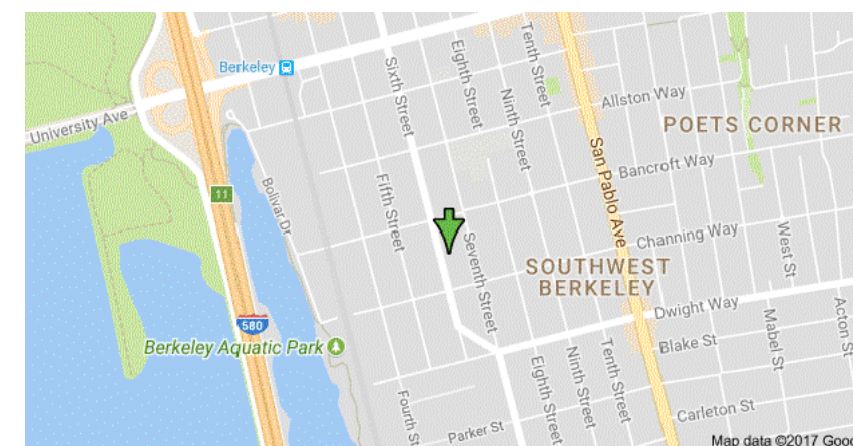
ZONING: RI-A  
 OCCUPANCY: R-3  
 CONSTRUCTION TYPE: V-BN  
 SPRINKLERS: NO  
 LOT SIZE: = 6000 SF

SETBACKS  
 FRONT = 20'  
 REAR = 20'  
 SIDE = 4'

### AREA TABULATIONS

| STRUCTURE INFORMATION (EXISTING) |                      |                |           |                      |                    |   |
|----------------------------------|----------------------|----------------|-----------|----------------------|--------------------|---|
| AREA                             | TYPE OF CONSTRUCTION | NO. OF STORIES | OCCUPANCY | NO. OF DWELING UNITS | OFF STREET PARKING |   |
| <b>MAIN BLDG.</b>                |                      |                |           |                      |                    |   |
| 1ST FL                           | 1348                 | V-B            | 1         | R-3                  | 1                  |   |
| TOTAL                            | 1348                 |                |           |                      |                    | 2 |
| STRUCTURE INFORMATION (PROPOSED) |                      |                |           |                      |                    |   |
| AREA                             | TYPE OF CONSTRUCTION | NO. OF STORIES | OCCUPANCY | NO. OF DWELING UNITS | OFF STREET PARKING |   |
| <b>MAIN BLDG.</b>                |                      |                |           |                      |                    |   |
| 1ST FL                           | 1443                 | V-B            |           | R-3                  | 1                  |   |
| 2ND                              | 1439                 | V-B            |           | R-3                  | 1                  |   |
| TOTAL                            | 2882                 |                |           |                      |                    | 2 |
| <b>ACCESSORY</b>                 |                      |                |           |                      |                    |   |
| TOTAL                            | 944                  | V-B            | 2         |                      | 0                  | 2 |
| TOTAL                            | 3826                 |                |           |                      |                    |   |
| FOOTPRINTS                       |                      |                |           |                      |                    |   |
| HOUSE                            | 3807 SF              |                |           |                      |                    |   |
| COVERED DECKS                    | 77 SF                |                |           |                      |                    |   |
| PORCH (FRONT)                    | 33 SF                |                |           |                      |                    |   |
| ACCESS. STRUCTURE                | 473 SF               |                |           |                      |                    |   |
| TOTAL                            | 2390 SF              |                |           |                      |                    |   |
| PERCENTAGE                       | 39.8%                |                |           |                      |                    |   |

### VICINITY MAP



**LAND USE PLANNING  
 RECEIVED AUGUST 21, 2019**

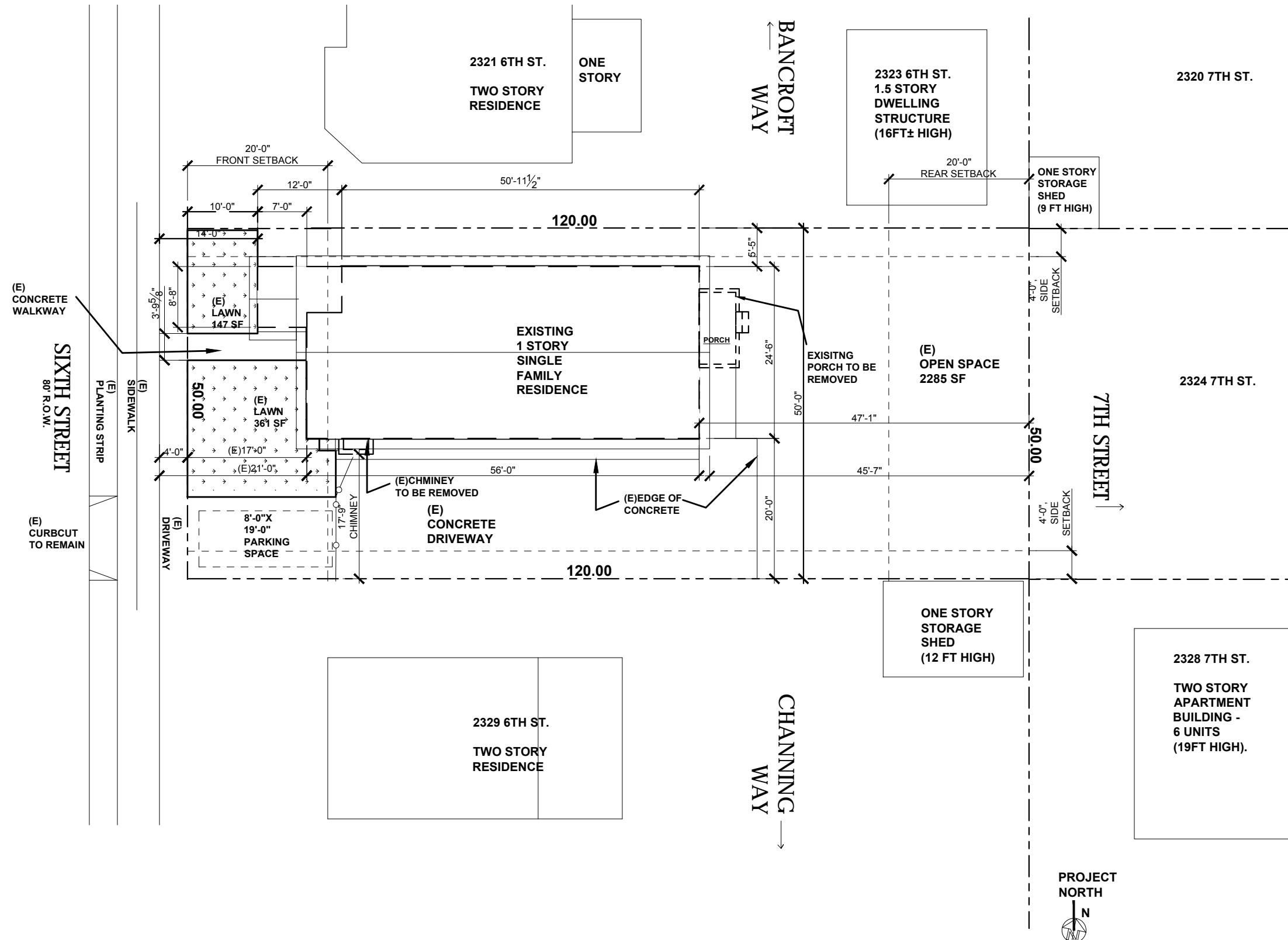
**BACILIA MACIAS  
 ARCHITECTURE**  
 732 gilman street berkeley ca 94710  
 510.691.7910 ph bacilia@bmarcch.net

**RESIDENTIAL ADDITION TO  
 CREATE DUPLEX AND NEW  
 GARAGE/WORKSHOP**

2325 6TH STREET  
 BERKELEY, CA  
 APN # 056-194-19

REVISED AUG. 22, 2019  
 Date SEPT. 18, 2018  
 Drawn by BM  
 Scale AS NOTED

**TITLE SHEET  
 A0.0**



**RESIDENTIAL ADDITION TO  
CREATE DUPLEX AND NEW  
GARAGE/WORKSHOP**

**BACILIA MACIAS  
ARCHITECTURE**

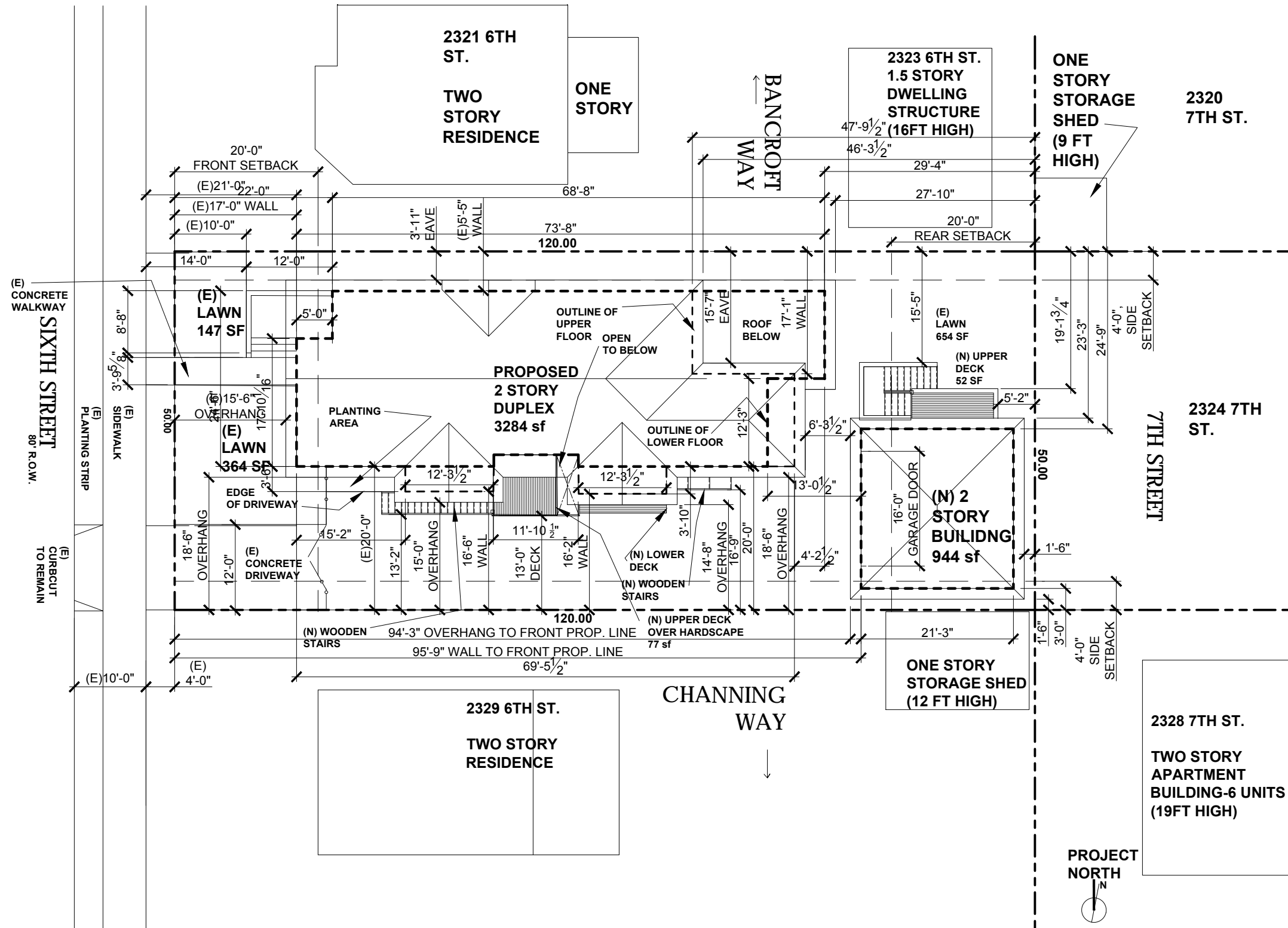
732 gilman street berkeley ca 94710  
510.691.7910 ph bacilia@bmarcch.net

2325 6TH STREET  
BERKELEY, CA  
APN # 056-194-19

Date SEPT. 18, 2018  
Drawn by  
Scale: AS NOTED

EXISTING  
SITE PLAN  
PLAN

1 EXISTING SITE PLAN  
1/16" = 1'-0"



**BACILIA MACIAS**  
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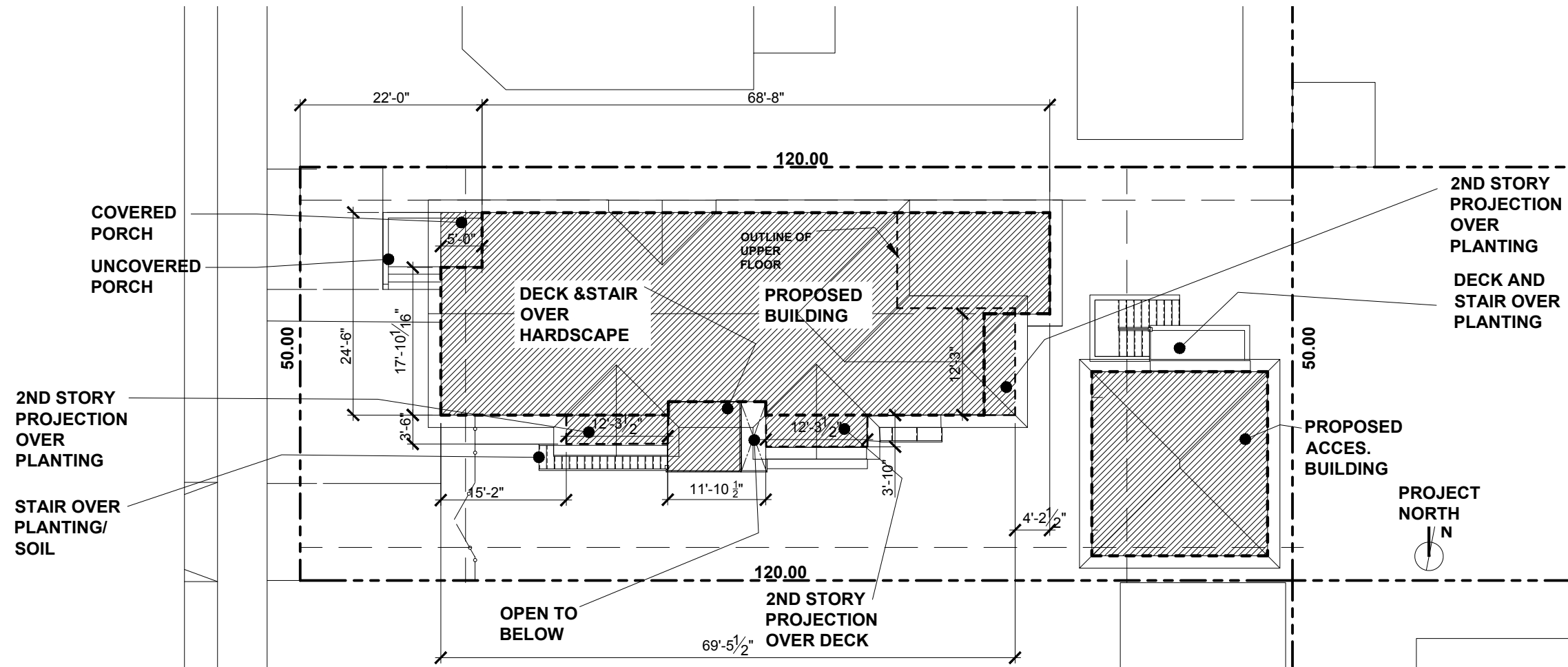
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 Date APRIL 19, 2019  
 Drawn by BM  
 Scale AS NOTED

**PROPOSED  
 SITE PLAN**

1 PROPOSED SITE PLAN  
 1/16" = 1'-0"

**LAND USE PLANNING**  
**RECEIVED AUGUST 21, 2019**

**A0.2**  
 353



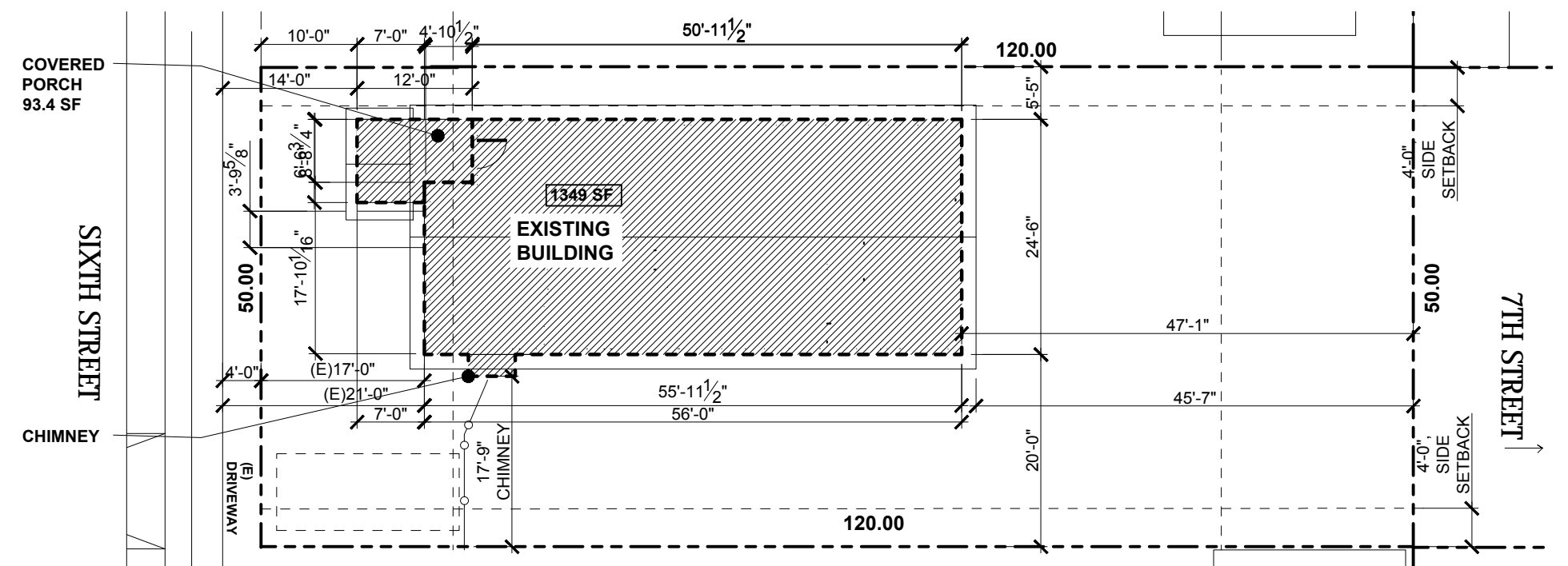
2 PROPOSED LOT COVERAGE  
1/16" = 1'-0"

| EXISTING LOT COVERAGE |              |           |
|-----------------------|--------------|-----------|
| EXISTING              | HOUSE        | 1349 SF   |
|                       | PORCH(FRONT) | 93.4 SF   |
| TOTAL                 |              | 1442.4 SF |
| PERCENTAGE            |              | 24.0%     |

| PROPOSED   |                         |         |
|------------|-------------------------|---------|
| PROPOSED   | HOUSE                   | 1789 SF |
|            | COVERED DECKS OR STAIRS | 77 SF   |
|            | PORCH(FRONT)            | 33 SF   |
|            | ACCESS. STRUCTURE       | 473 SF  |
| TOTAL      |                         | 2372 SF |
| PERCENTAGE |                         | 39.5%   |

HATCH LEGEND



1 EXISTING LOT COVERAGE  
1/16" = 1'-0"

**RESIDENTIAL ADDITION TO  
CREATE DUPLEX AND NEW  
GARAG / WORKSHOP**

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ARCHITECTURE  
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2325 6TH STREET  
BERKELEY, CA  
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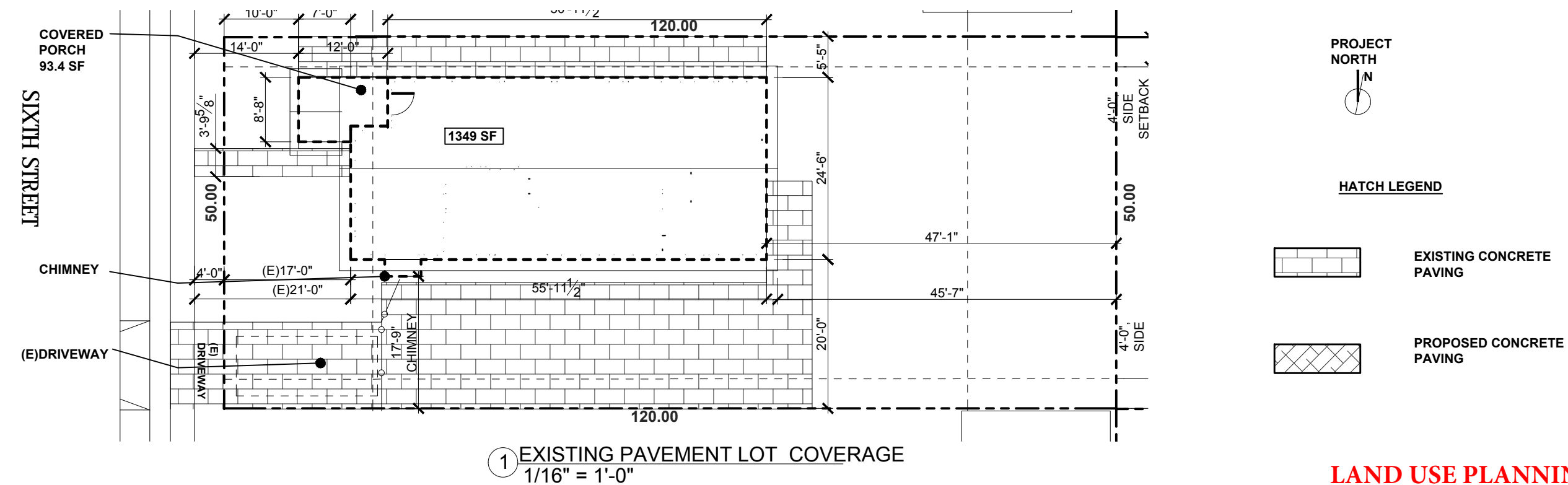
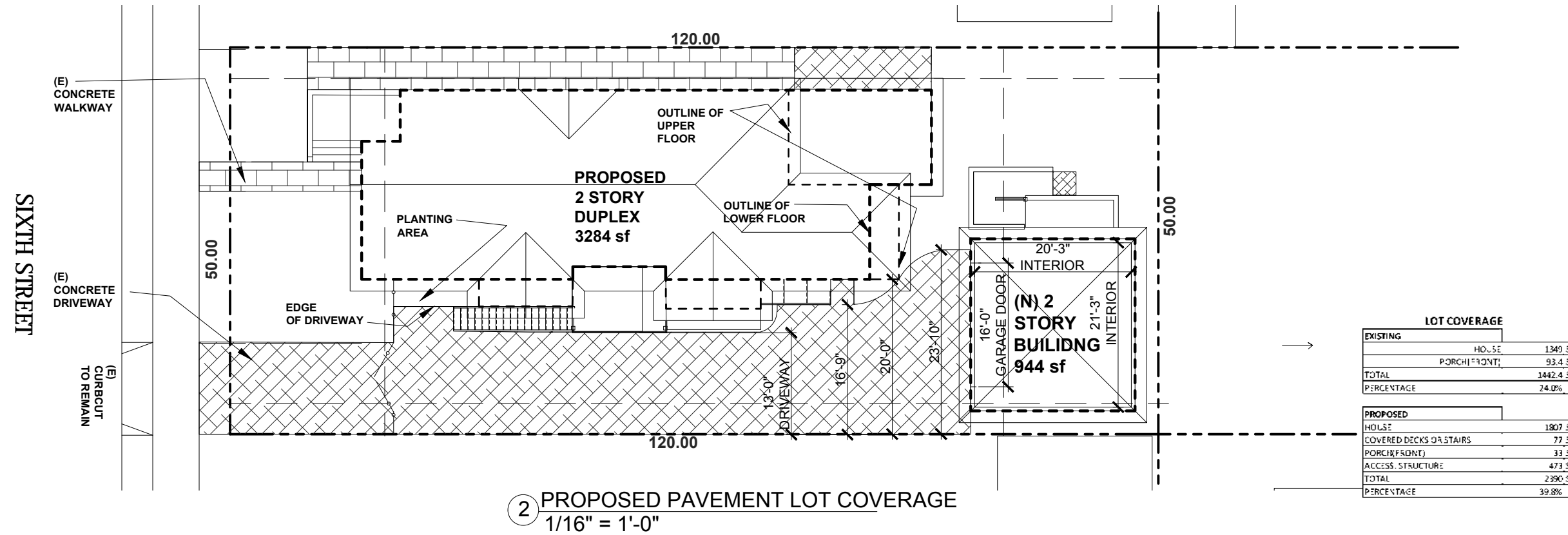
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Date APRIL 19, 2019  
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Scale AS NOTED

EXISTING AND  
PROPOSED  
LOT COVERAGE

**LAND USE PLANNING**  
**RECEIVED AUGUST 21, 2019**

**A0.3**  
354





**RESIDENTIAL ADDITION TO  
CREATE DUPLEX AND NEW  
GARAG / WORKSHOP**

**BACILIA MACIAS**  
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2325 6TH STREET  
BERKELEY, CA  
APN # 056-194-19

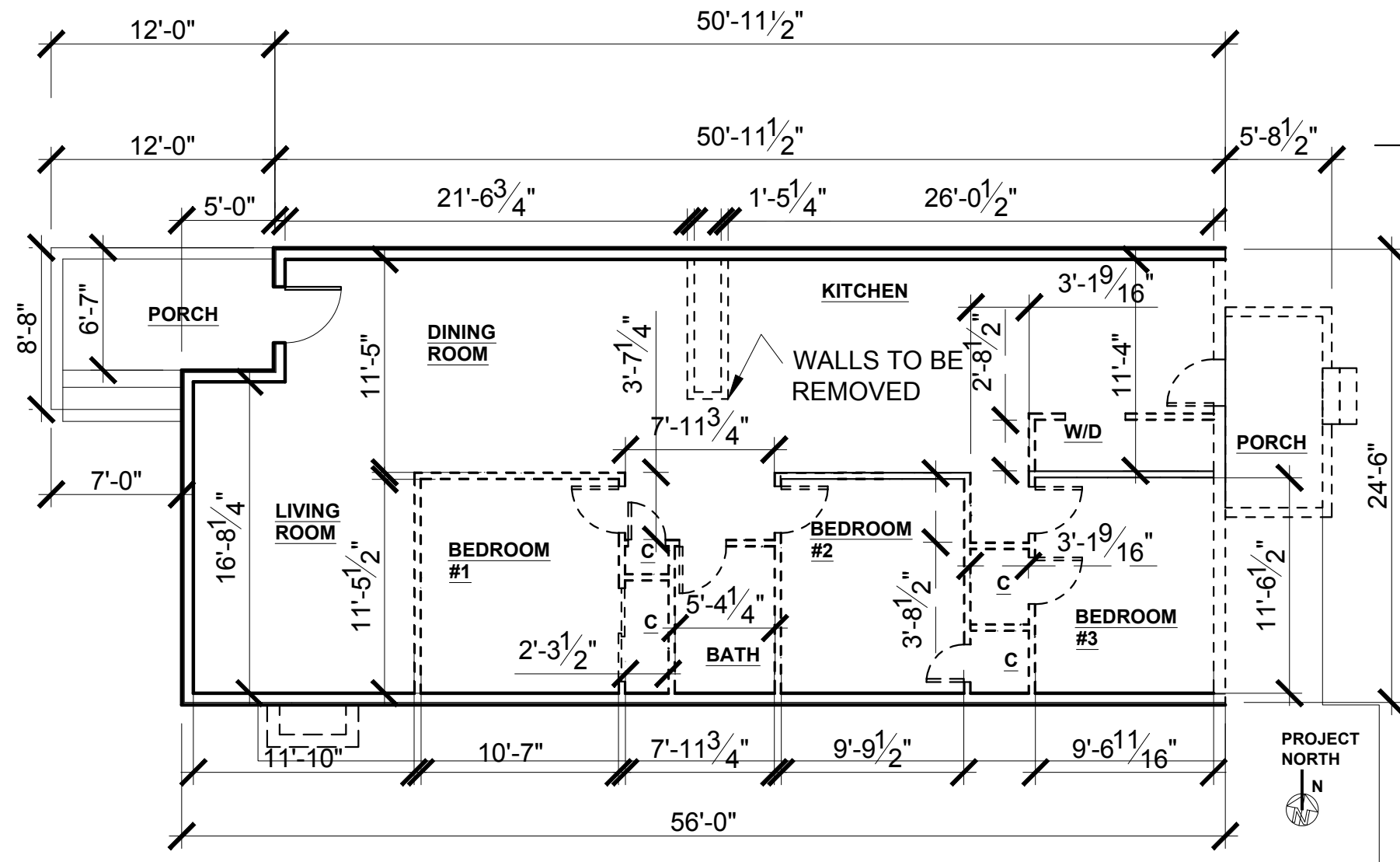
REVISED: AUG. 22, 2019  
Date APRIL 19, 2019  
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Scale AS NOTED

EXISTING AND  
PROPOSED  
PAVEMENT  
COVERAGE

**LAND USE PLANNING**  
**RECEIVED AUGUST 21, 2019**

**A0.31**  
355





1 DEMOLITION FLOOR PLAN  
1/8" = 1'-0"

RESIDENTIAL ADDITION TO  
CREATE DUPLEX AND NEW  
GARAGE/WORKSHOP

2325 6TH STREET  
BERKELEY, CA  
APN # 056-194-19

Date SEPT. 18, 2018  
Drawn by  
Scale: AS NOTED

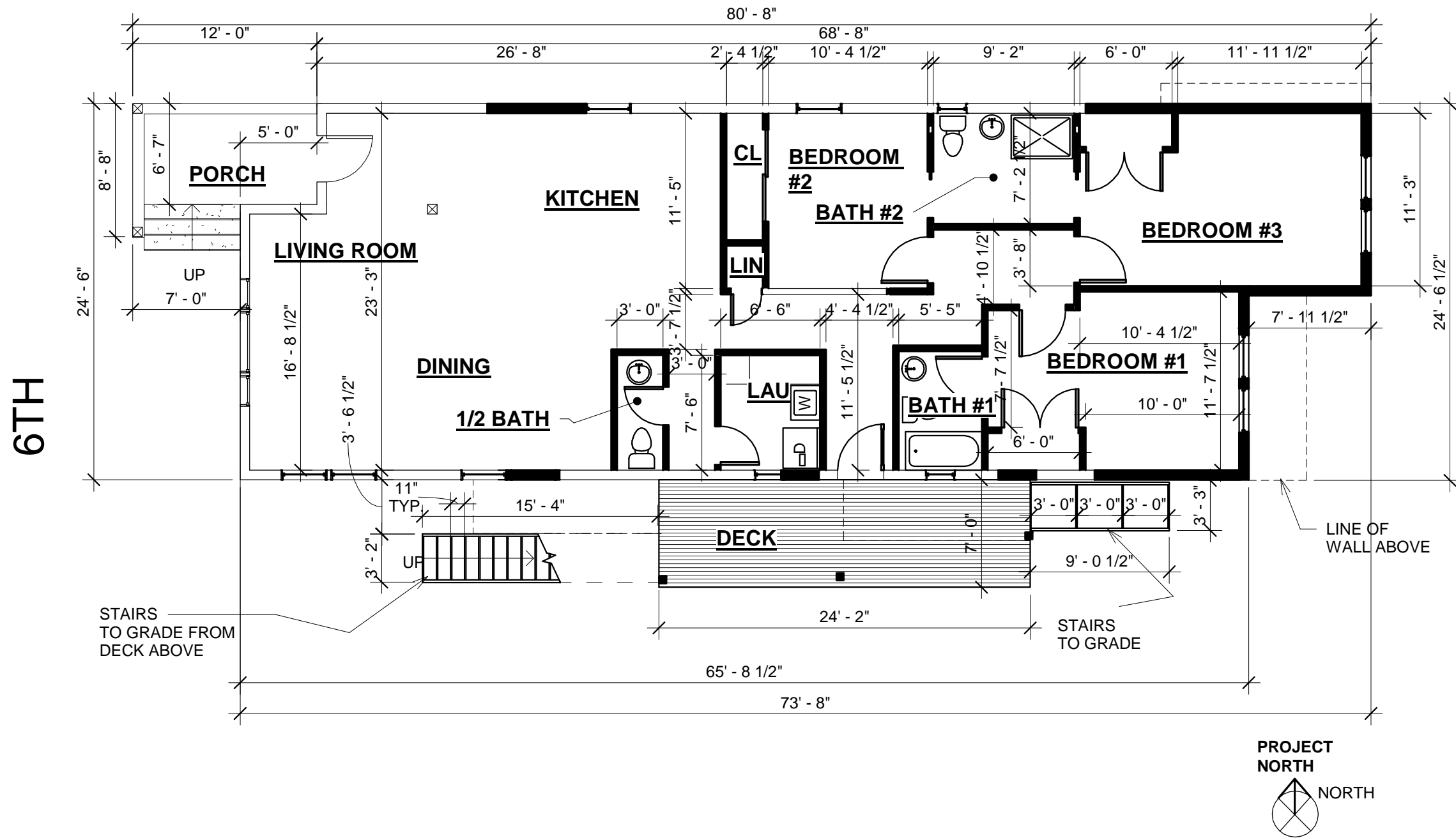
DEMOLITION  
PLAN

A1.0  
356

BACILIA MACIAS  
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LAND USE PLANNING  
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6TH

RESIDENTIAL ADDITION TO  
CREATE DUPLEX AND NEW  
GARAGE / WORKSHOP

2325 SIXTH ST  
BERKELEY, CA  
APN # 056-194-10190

BACILIA MACIAS  
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PROPOSED FIRST  
FLOOR PLAN

REVISION: AUG. 22, 2019

Date SEPT. 18, 2018

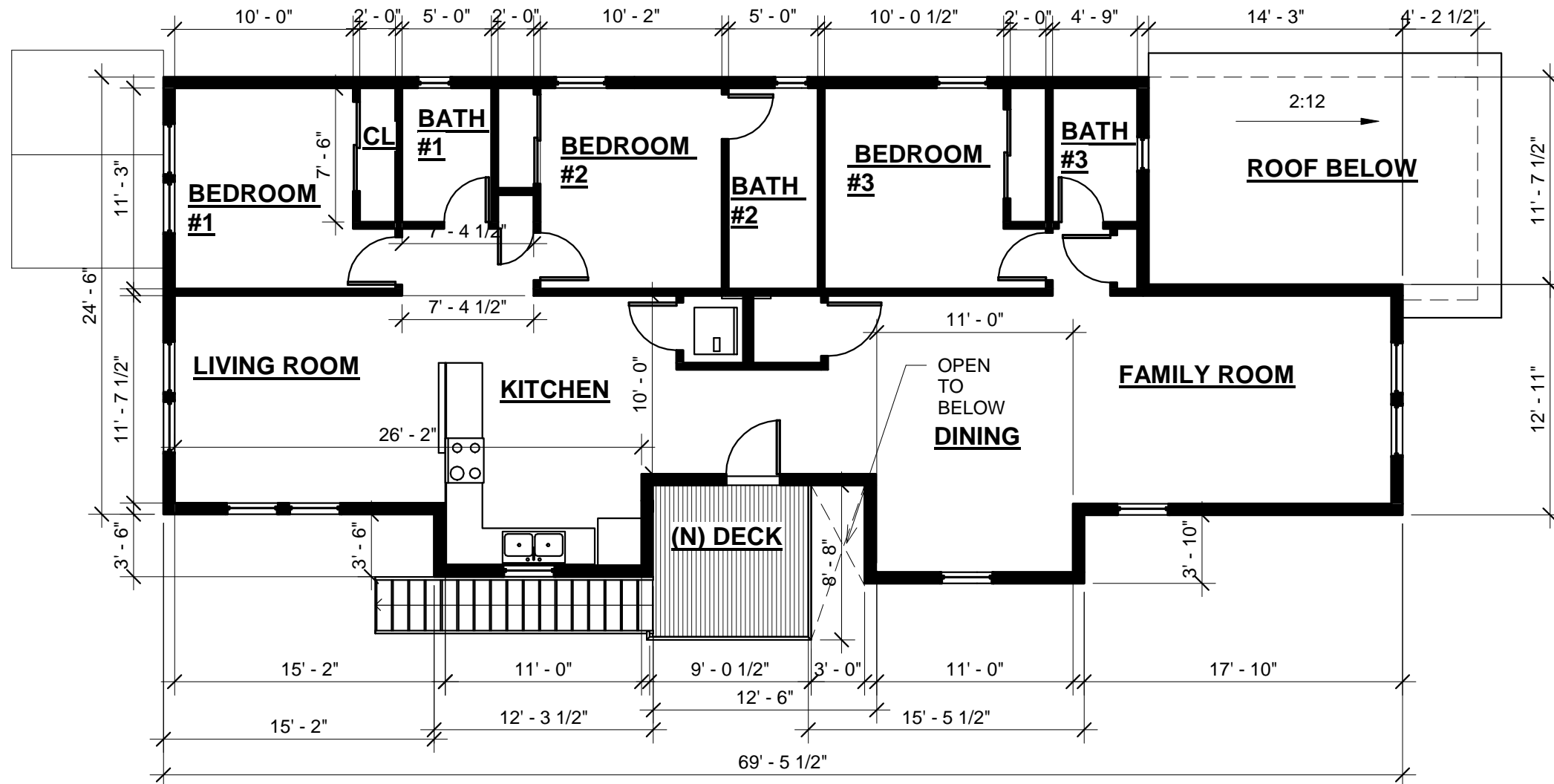
Drawn by BM

Scale 1/8" = 1'-0"

1 PROPOSED LOWER FLOOR  
1/8" = 1'-0"

LAND USE PLANNING  
RECEIVED AUGUST 21, 2019

A2.0



① (N) SECOND FLOOR  
 1/8" = 1'-0"



RESIDENTIAL ADDITION TO  
 CREATE DUPLEX AND NEW  
 GARAGE / WORKSHOP

2325 SIXTH ST  
 BERKELEY, CA  
 APN # 056-194-10190

BACILIA MACIAS  
 ARCHITECTURE

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PROPOSED SECOND  
 FLOOR PLAN

REVISION: AUG. 22, 2019

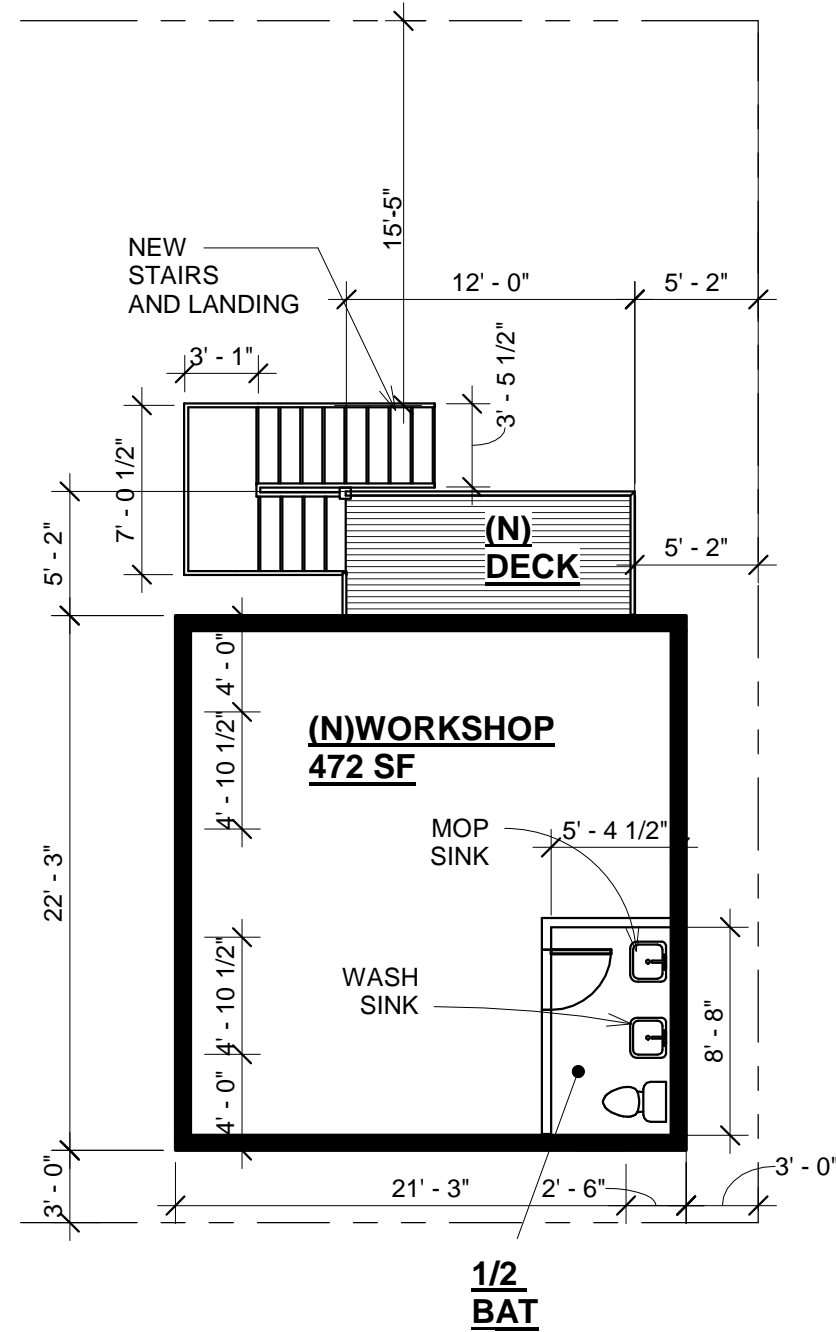
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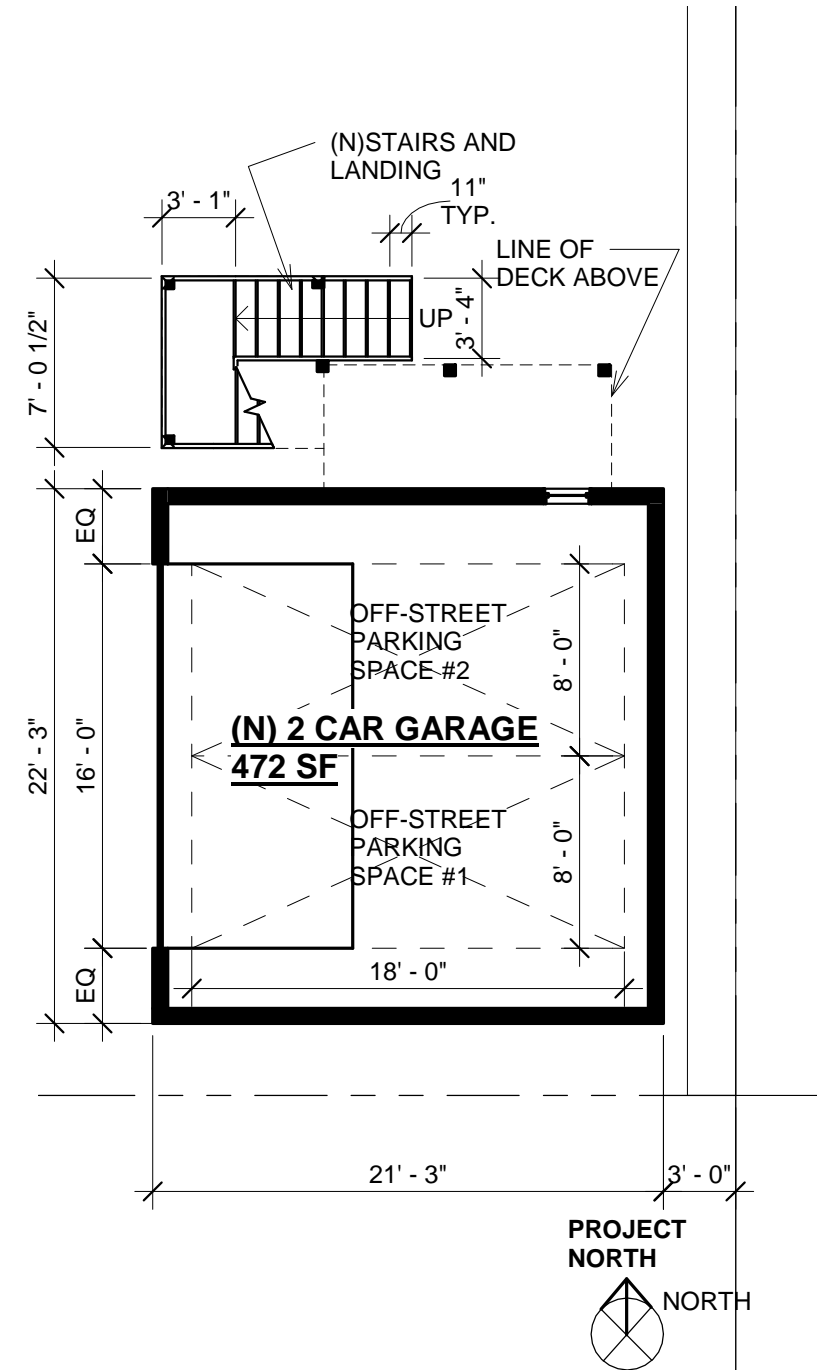
Scale 1/8" = 1'-0"

LAND USE PLANNING  
 RECEIVED AUGUST 21, 2019

A2.1



2 PROPOSED SECOND FLOOR-NEW REAR STRUCTURE  
1/8" = 1'-0"



1 PROPOSED LOWER FLOOR -NEW REAR STRUCTURE  
1/8" = 1'-0"

PROJECT NORTH  
NORTH  
**LAND USE PLANNING  
RECEIVED AUGUST 21, 2019**

RESIDENTIAL ADDITON TO  
CREATE DUPLEX AND NEW  
GARAGE / WORKSHOP

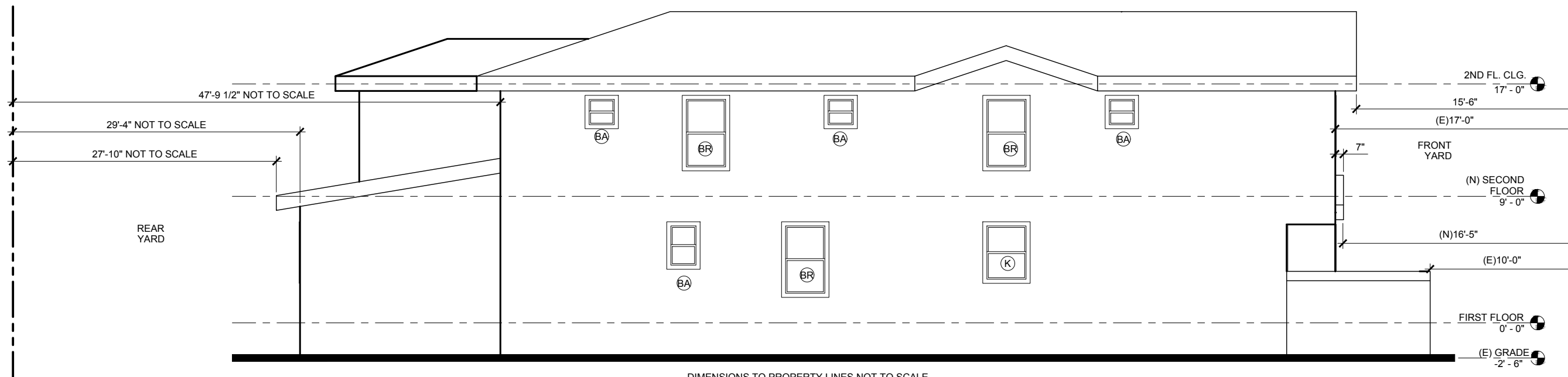
2325 SIXTH ST  
BERKELEY, CA  
APN # 056-194-10190

BACILIA MACIAS  
ARCHITECTURE

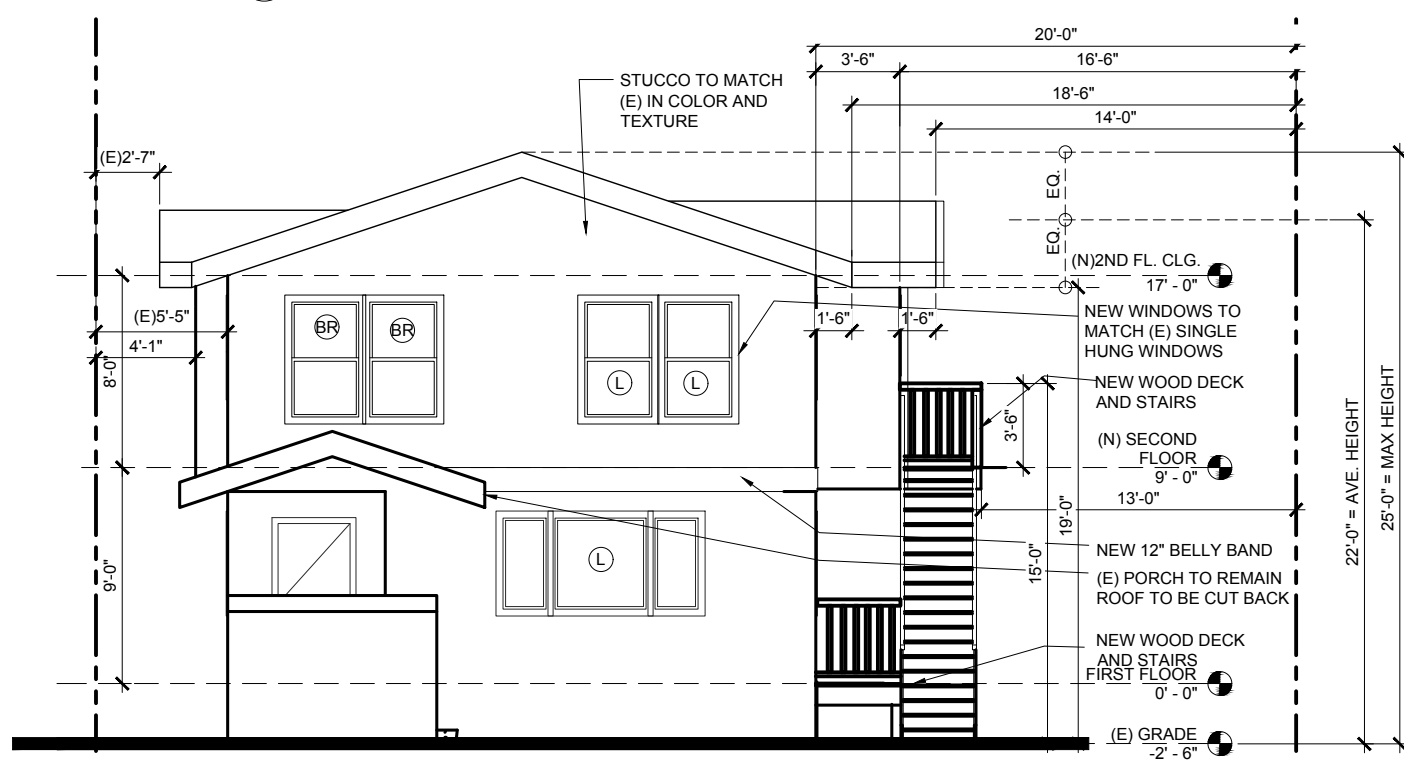
732 gilman street berkeley ca 94710  
510.691.7910 ph bacilia@bmarsh.net

PROPOSED ACCESSORY  
STRUCTURE  
REVISION: AUG. 22, 2019  
Date: SEPT. 18, 2018  
Drawn by: Author  
Scale: 1/8" = 1'-0"

**A2.2**



2 PROPOSED NORTH (LEFT) SIDE ELEVATION  
1/8" = 1'-0"



1 PROPOSED WEST (FRONT) ELEVATION  
1/8" = 1'-0"

**OPENINGS LEGEND**

- BR BEDROOM
- BA BATHROOM
- L LIVING
- K KITCHEN
- D DINING
- F FAMILY RM.
- LY LAUNDRY
- W WORKSHOP
- G GARAGE

**RESIDENTIAL ADDITION TO  
CREATE DUPLEX AND NEW  
GARAGE/WORKSHOP**

2325 6TH STREET  
BERKELEY, CA  
APN # 056-194-19

**BACILIA MACIAS  
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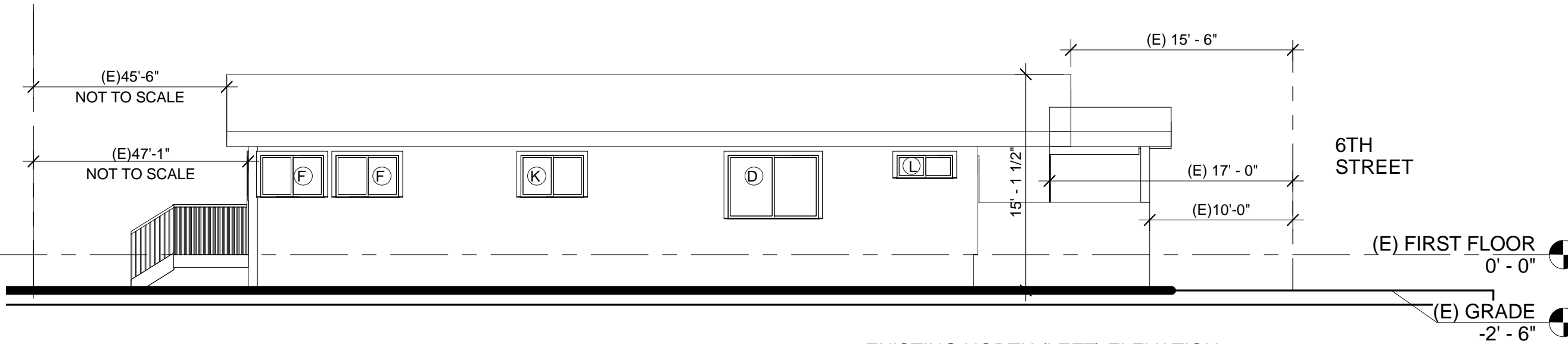
REVISED AUG. 22, 2019  
Date SEPT. 18, 2018  
Drawn by BM  
Scale AS NOTED

**PROPOSED  
EXTERIOR  
ELEVATIONS**

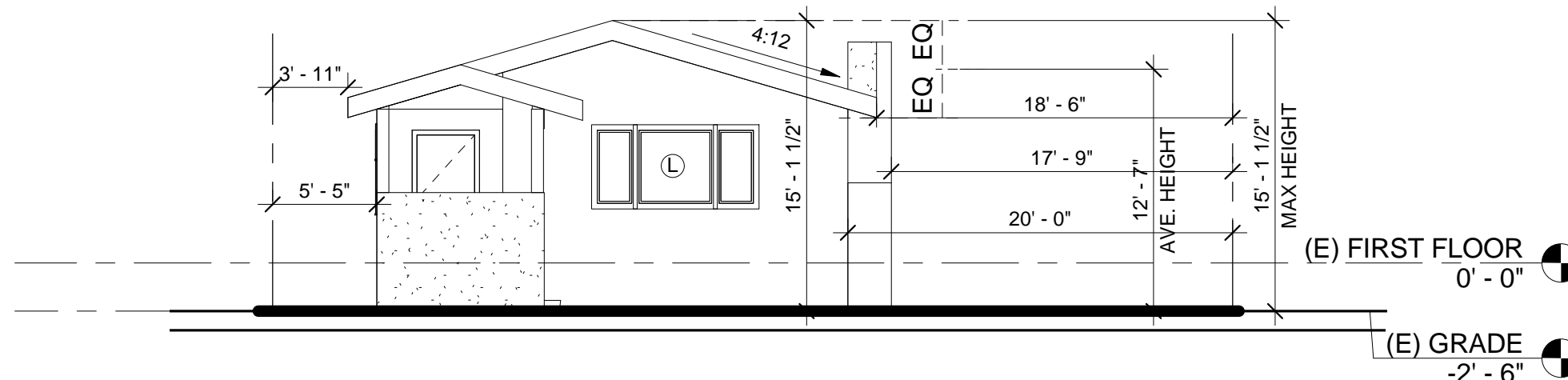
**LAND USE PLANNING  
RECEIVED AUGUST 21, 2019**

**A3.2**

BACILIA MACIAS  
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510.691.7910 ph bacilia@bmarcch.net



2 EXISTING NORTH (LEFT) ELEVATION  
1/8" = 1'-0"



1 EXISTING WEST (FRONT) ELEVATION  
1/8" = 1'-0"

RESIDENTIAL ADDITION TO  
CREATE DUPLEX AND NEW  
GARAGE / WORKSHOP  
2325 SIXTH ST  
BERKELEY, CA  
APN # 056-194-10190

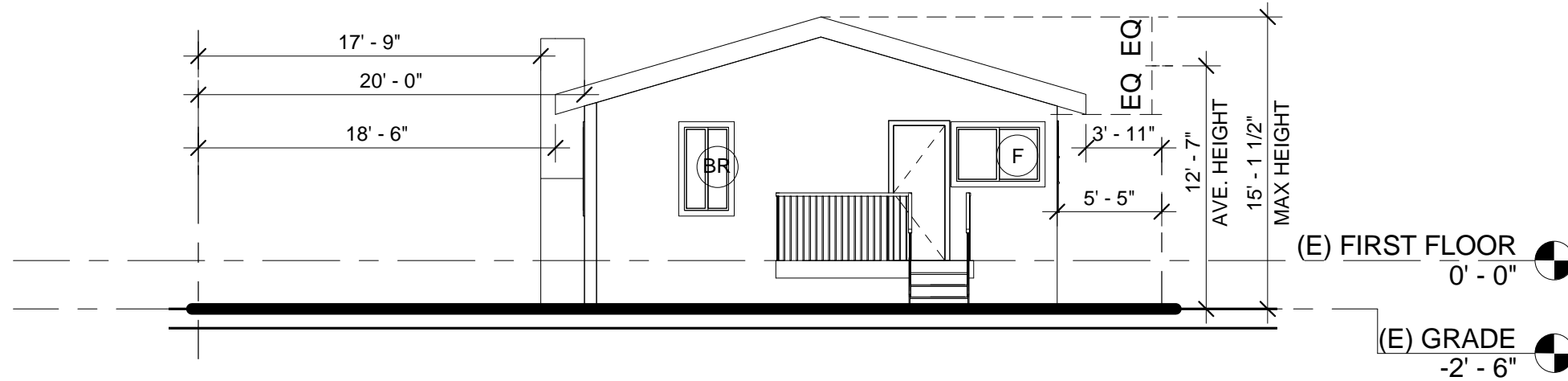
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|-----------|----------------|
| REVISION: | AUG. 22, 2019  |
| Date      | SEPT. 18, 2018 |
| Drawn by  | Author         |
| Scale     | 1/8" = 1'-0"   |

LAND USE PLANNING **A3.1**  
RECEIVED AUGUST 21, 2019

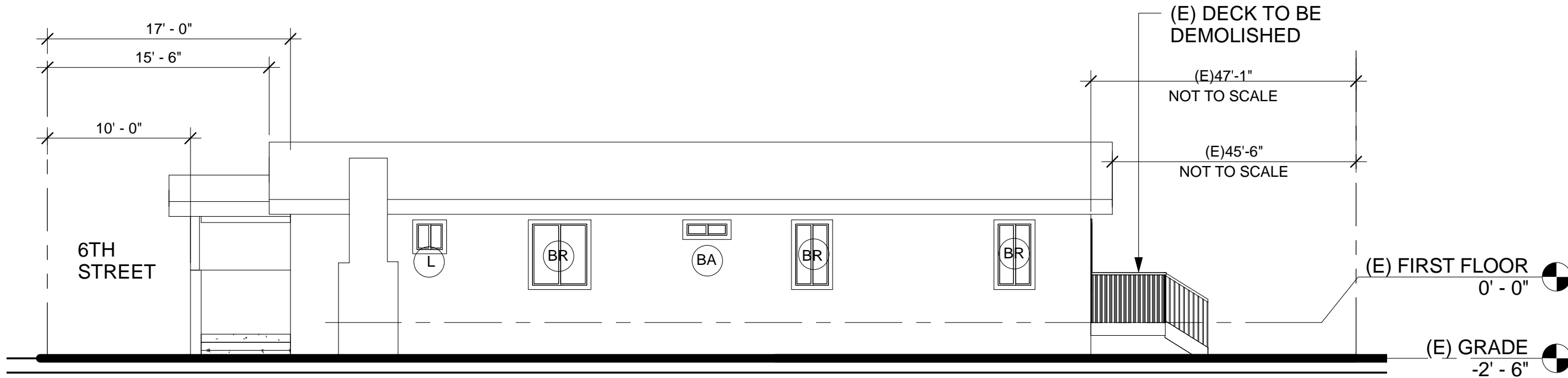
**BACILIA MACIAS**  
 ARCHITECTURE  
 732 gilman street berkeley ca 94710  
 510.691.7910 ph bacilia@bmarcch.net

**OPENINGS LEGEND**

- (BD) BEDROOM
- (BA) BATHROOM
- (L) LIVING
- (K) KITCHEN
- (D) DINING
- (F) FAMILY RM.



② **EXISTING EAST (REAR) ELEVATION**  
 1/8" = 1'-0"



① **EXISTING SOUTH (RIGHT) SIDE ELEVATION**  
 1/8" = 1'-0"

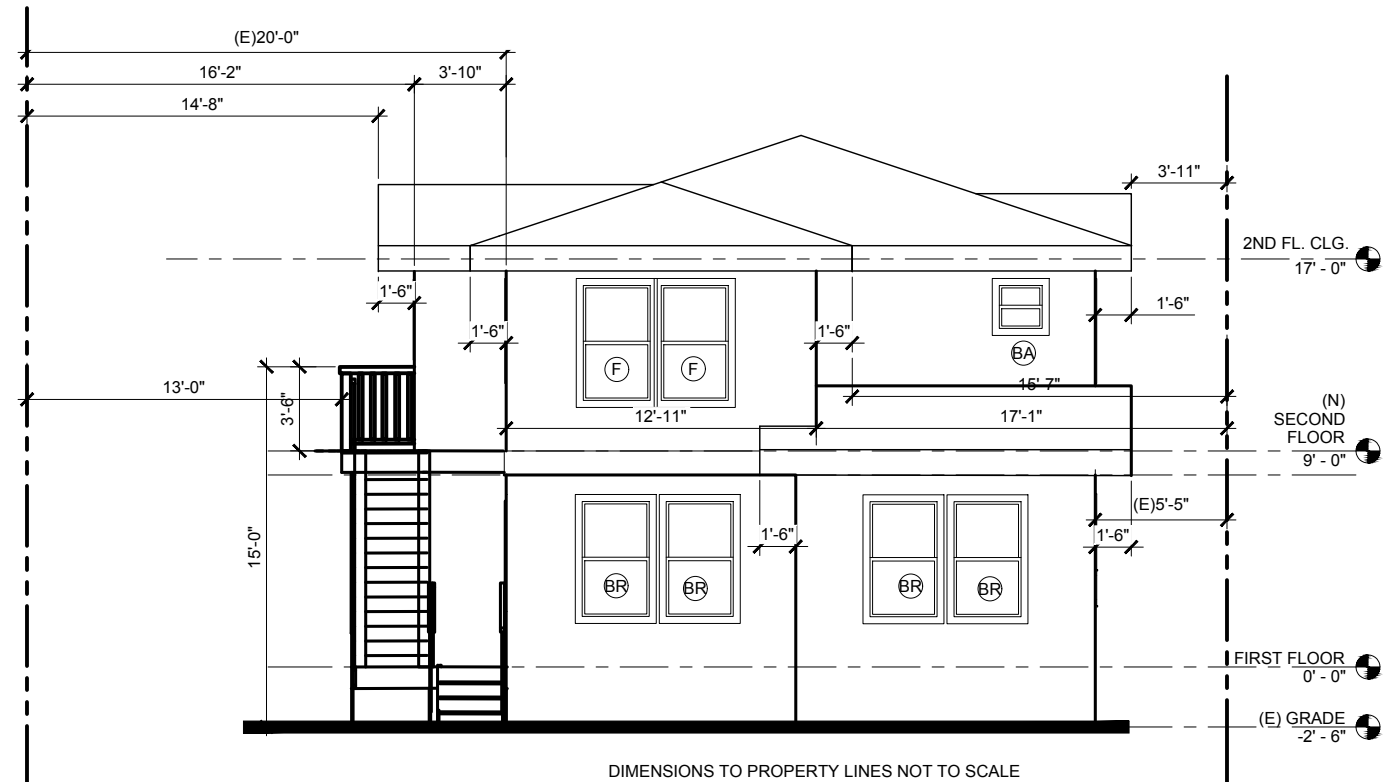
**RESIDENTIAL ADDITION TO  
 CREATE DUPLEX AND NEW  
 GARAGE / WORKSHOP**  
 2325 SIXTH ST  
 BERKELEY, CA  
 APN # 056-194-10190

**EXISTING EXTERIOR  
 ELEVATIONS**  
 REVISION: AUG. 22, 2019  
 Date SEPT. 18, 2018  
 Drawn by Author  
 Scale 1/8" = 1'-0"

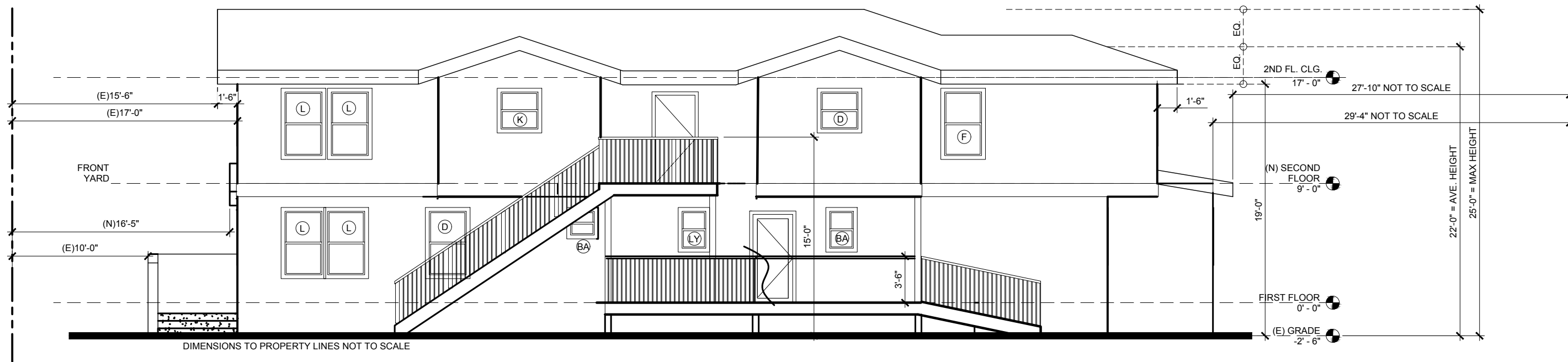
**LAND USE PLANNING**  
**RECEIVED AUGUST 21, 2019**

**A3.0**





2 PROPOSED EAST (REAR) ELEVATION  
 1/8" = 1'-0"



1 PROPOSED SOUTH (RIGHT) SIDE ELEVATION  
 1/8" = 1'-0"

**BACILIA MACIAS**  
 ARCHITECTURE  
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 510.691.7910 ph bacilia@bmarcch.net

**RESIDENTIAL ADDITION TO  
 CREATE DUPLEX AND NEW  
 GARAGE/WORKSHOP**

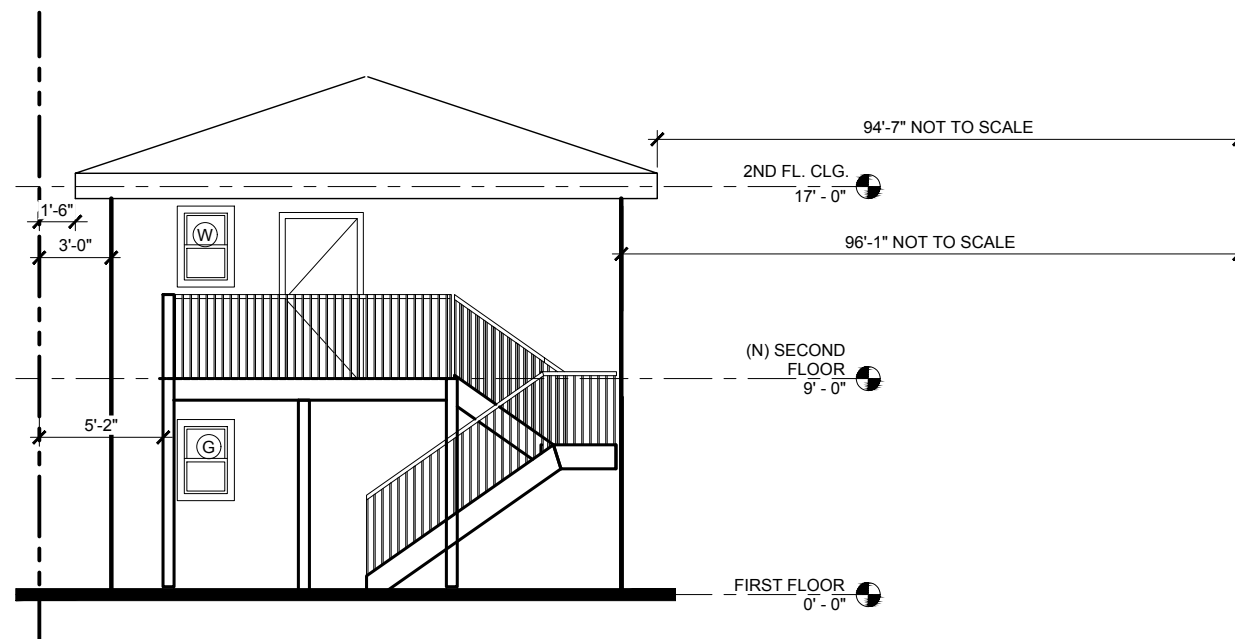
2325 6TH STREET  
 BERKELEY, CA  
 APN # 056-194-19

REVISED AUG. 22, 2019  
 Date SEPT. 18, 2018  
 Drawn by BM  
 Scale AS NOTED

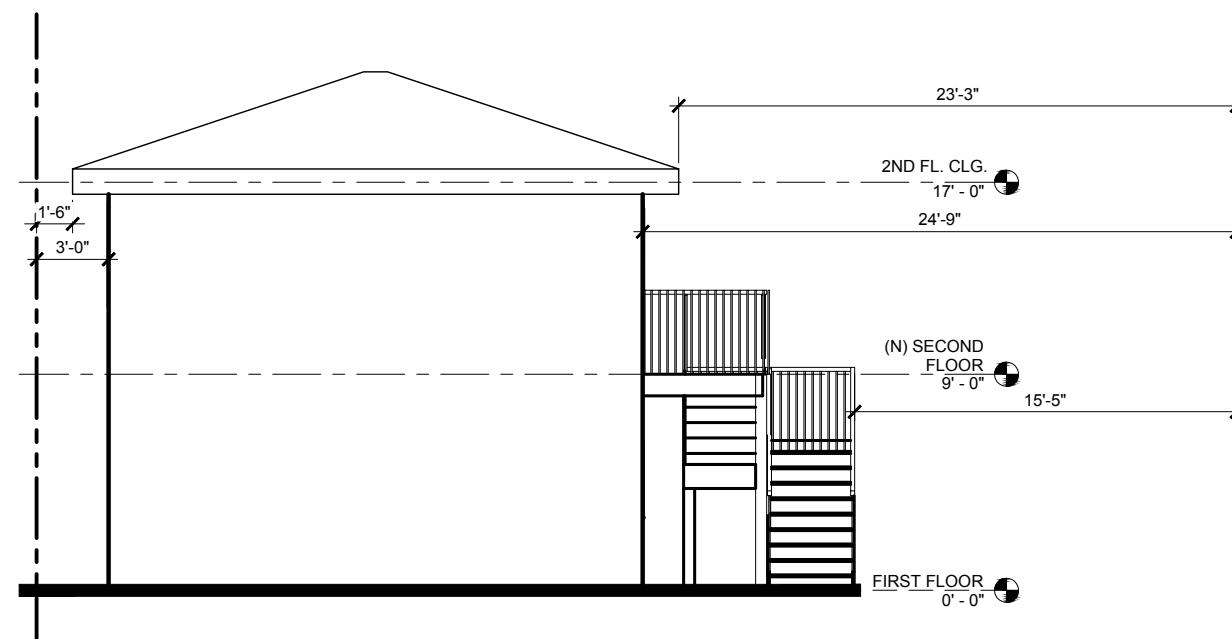
PROPOSED  
 EXTERIOR  
 ELEVATIONS

**A3.3**

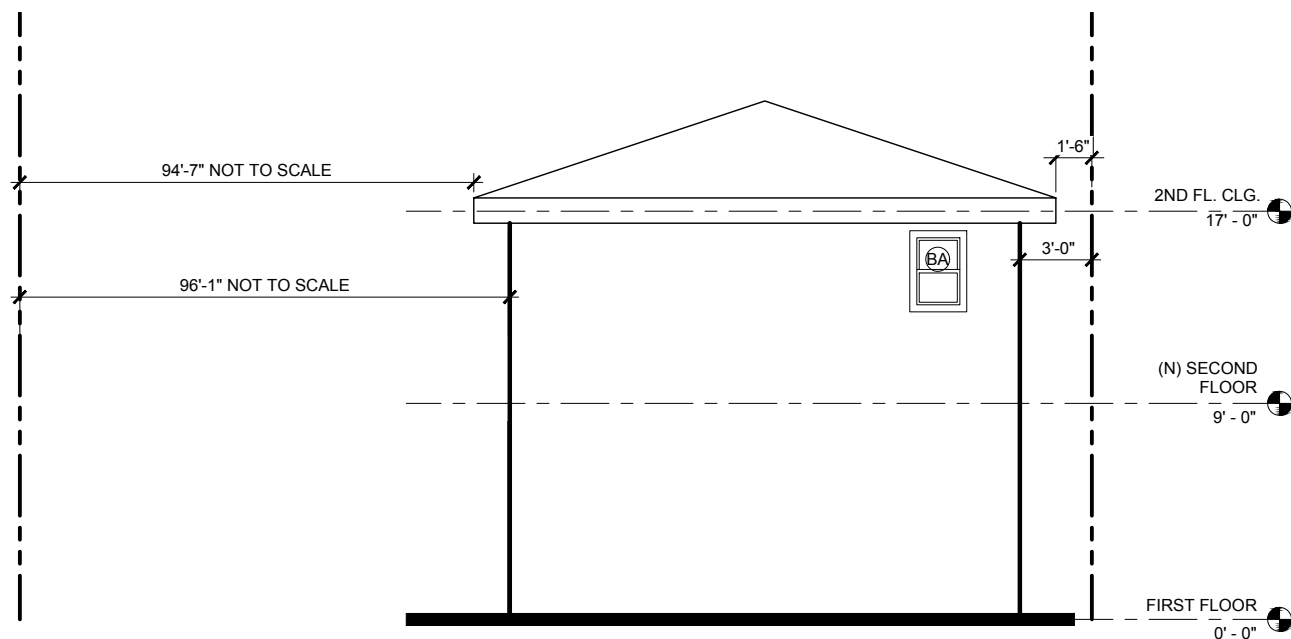
**LAND USE PLANNING**  
**RECEIVED AUGUST 21, 2019**



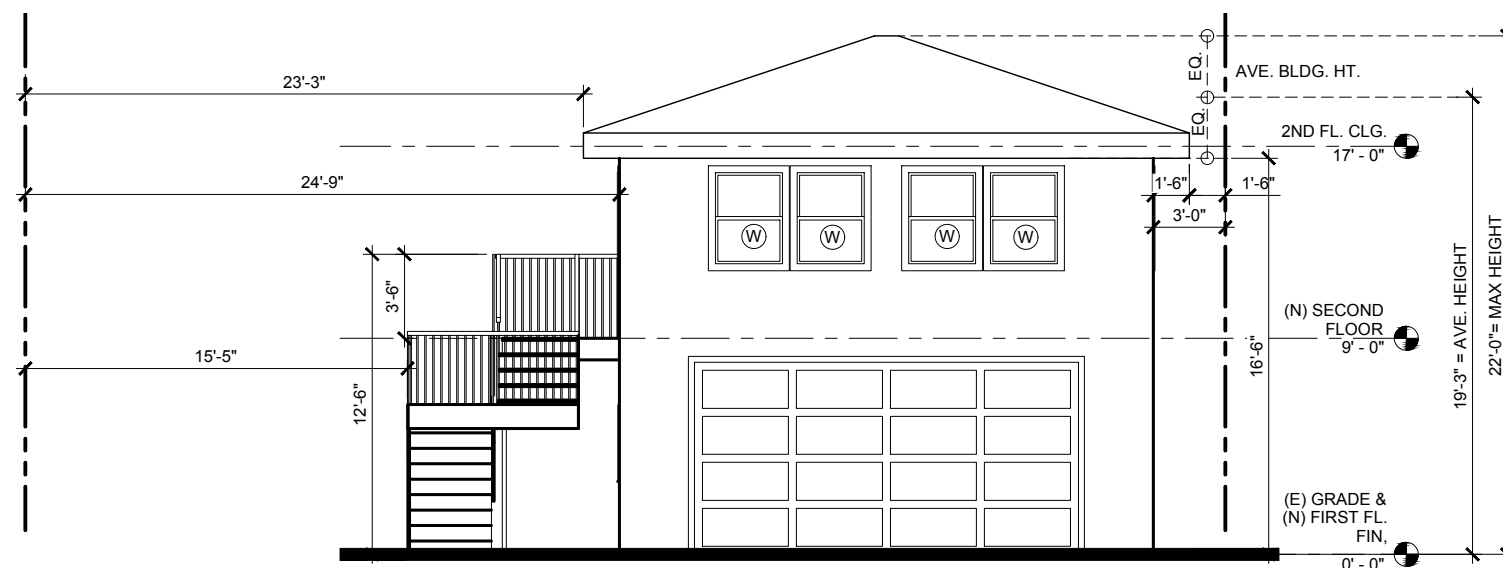
4 PROPOSED NORTH (LEFT) SIDE ELEVATION  
1/8" = 1'-0"



2 PROPOSED EAST (REAR) ELEVATION  
1/8" = 1'-0"



3 PROPOSED SOUTH (RIGHT) SIDE ELEVATION  
1/8" = 1'-0"



1 PROPOSED WEST (FRONT) ELEVATION  
1/8" = 1'-0"

BACILIA MACIAS  
ARCHITECTURE

732 gilman street berkeley ca 94710  
510.691.7910 ph bacilia@bmararch.net

RESIDENTIAL ADDITION TO  
CREATE DUPLEX AND NEW  
GARAGE/WORKSHOP

2325 6TH STREET  
BERKELEY, CA  
APN # 056-194-19

REVISED AUG. 22, 2019  
Date SEPT. 18, 2018  
Drawn by BM  
Scale AS NOTED

PROPOSED  
EXTERIOR  
ELEVATIONS  
NEW REAR  
STRUCTURE

A3.4

LAND USE PLANNING  
RECEIVED AUGUST 21, 2019 364

2019 JUN 17 AM 8:45

June 14, 2019

Berkeley City Council  
City Clerk Department  
City Hall  
2180 Milvia Street, 1<sup>st</sup> floor  
Berkeley, CA 94704

Dear Council Members,

I am writing on behalf of myself and the under-signed neighbors to appeal the Zoning Adjustments Board's decision of May 9, 2019, to approve the proposed project at 2325 Sixth Street, Berkeley, Use Permit #ZP2017-0145.

This development is strikingly more massive than, and out of keeping with, anything else on our block. Its excessive scope and scale are reflected in the fact that two Use Permits and five Administrative Use Permits are required. This reality was highlighted at the ZAB hearing by Patrick Sheahan, for example, (1:15; time stamps are taken from video of the ZAB meeting, as posted on the City of Berkeley's web site) who stated that the project was, in his professional opinion, "excessive considering the pattern of the neighborhood . . . this is pushing it too far," and later (1:39) added that it was "overbuilt (and) extremely crowded." He went on to say that there was "a lot that could be improved in this design . . . it (will) take rework . . . to end up with a better project that better suits the neighborhood."

All of us near neighbors are opposed to this project as currently designed, as we've expressed in our many letters and public comments (see our collective 12 letters, which have all been uploaded as part of the official record). Its impact would be extremely destructive to our quality of life, in terms of severe shadowing and the accompanying loss of light, air, warmth, and open views; invasion of privacy; major elimination of green space; significant overcrowding and concomitant noise and parking issues; the introduction of an apartment-like structure into a block of family homes; design incompatibility with a neighborhood of historical wooden Victorians and Craftsman-like bungalows; and callous disregard for all of us already living in this established neighborhood.

During this project's nearly two years in the permitting process, the applicants have been unwilling to consider the detrimental effects on us, their neighbors, and have refused any mediation or mitigation. The Planning Department staff recommended early on (September 2017), that the applicants pursue mediation, given our significant opposition; they elected not to. In mid-2018, the Planning staff again encouraged them to meet with neighbors (Alison Lenci, 0:18.) An informal meeting did occur on July 7, 2018, between four members of the applicants' extended family, along with their architect, and David Greenstone (backyard neighbor at 2324 7<sup>th</sup> Street), April Schirmer (south-side neighbor at 2329 6<sup>th</sup> Street) and me (north-side neighbor at 2321 6<sup>th</sup> Street). This get-together was strikingly unproductive. In my view, the applicants seemed offended by the idea that we opposed their goals and ambitions, totally dismissive of and antagonistic towards all of our concerns, dishonest in their

characterization of facts, and not open to any sort of mitigation. (See, for example, our respective letters – theirs dated May 21, 2018, and, in response, mine of July 2, 2018, and David and Althaea Greenstone’s of April 30, 2019 – as illustrative of these dynamics and our Impasse.) No members of the applicants’ family have lived at this residence for many years; their disconnection from and lack of regard for the community is apparent.

As a result, there had been no compromises considered by applicants by the time of the ZAB meeting on May 9, 2019. Happily, the central purpose and task of the ZAB, as articulated at that meeting, is to balance the needs of the applicant and the needs and concerns of the neighbors and community (Igor Tregub, 0:52; Charles Kahn, 0:55 and 0:58; Mr. Sheahan, 1:34) and to be “fair to everybody” (Denise Pinkston, 1:04).

Mr. Tregub raised this issue early on in the meeting (0:26), asking the applicants whether there had been “any attempts to mitigate”? Speaking for the applicants, and in contradiction of clear physical facts, Denise Seymour explained that this project was “not bringing anything different” in terms of square footage, shading, or privacy, and therefore warranted no modifications (0:27). A little later on, Lance Turner, Ms. Seymour’s husband and the project contractor, reiterated this point of view when he was asked if they had addressed neighbors’ concerns, promptly stating that my property to the north had been shadowing theirs “all the time” (0:50). Although the realities of solar orientation make such shadowing impossible, the implication seemed to be that I had harmed them and thus deserved no consideration.

In spite of these protestations by the applicants, there was broad agreement among Board members that mitigation was needed. For example, Charles Kahn (0:55) focused on the mass of both the main and accessory buildings; Ms. Pinkston (1:04) on how to reduce the height of the accessory building and how to preserve sunlight; Carrie Olson (1:08) wished to increase the setback of the accessory building, ensure privacy by strategic placement of windows, and increase sunlight; Mr. Selawsky (1:12) was concerned about light, massing, and setback; Mr. Sheahan (1:13, 1:15) emphasized the need to reduce the buildings’ height and bulk and the fact that the garage was “too tight;” Teresa Clarke (1:18, 1:23) underlined the need to create more sunlight; Mr. Tregub (1:28) felt strongly about finding workable compromises and achieving a more finished project; Shoshana O’Keefe (1:42) wanted the impact on neighbors to be acknowledged and for mitigation to occur.

The ZAB was divided as to how to achieve the compromise and mitigation they desired, and eventually entertained two competing motions, one to continue the matter with required mediation and one to approve the measure as it ultimately prevailed. Four council members supported a continuation (Ms. Olson, Mr. Selawsky, Mr. Sheahan, and Mr. Tregub). Their reasoning was as follows: Mr. Tregub (1:28), “I feel uncomfortable re-designing projects on the floor of ZAB at almost 9:00pm when we have another really important project coming up right after this.” He wanted to have a continuance, to require a “forced mediation, to engage dialogue,” so that when it “comes back before us it will look like a more finished project.” Mr. Sheahan (1:34) stated that he “supports a continuance because the design problems are too complex for us to solve on the fly,” and because he believed that it is “important to the

applicant and to neighbors to give it the time and effort (needed) to make it the best project we can." Mr. Tregub (1:40) reiterated, "When doing major design changes at this late hour (there's the) possibility that we're missing something, and I don't feel comfortable doing that." And he returned, again, to the ZAB "goal of trying to move towards consensus" between applicants and neighbors.

For Chairperson O'Keefe (1:42), who cast the deciding vote and who stated that both the motion to continue and the motion to revise were "within the spirit" of what she wanted (i.e., "to approve this with some acknowledgement of the impact on neighbors and mitigation"), the "deciding factor (was) what the applicant thinks." When the vote to continue was called, she voted (1:47), "No, as per the applicants' wishes." The motion to continue thus failed, 4 to 5.

I have to say, this was a profoundly surreal and upsetting moment for me. A decision was being made that would affect me and my family and all of our neighbors for many, many years to come, and we were essentially being reduced to bystanders and spectators. Where was the Chairperson's equal concern for "what the neighbors think"? Absent, apparently. No one asked that question. There was no reciprocal platform from which we could speak.

So, although the ZAB recognized that neighbors' concerns were legitimate and rather valiantly tried to provide the missing mediation themselves, this was an inherently flawed and impossible task, given time constraints and the lack of any opportunity for all parties to really work together. The revisions they were able to make, to reduce the height of the proposed addition to the main structure and to require that second-story windows be obscured, were a significant and welcomed start and also demonstrated that applicants would agree to mitigations if the issuance of the use permits was at stake.

Our appeal now is that you re-open and continue this matter with required mediation, so that adequate time and thought can be devoted to truly achieving a project that all of us can live with.

While you are considering the matter, I would like to remind you, as we were cautioned and reminded during the ZAB meeting, that building projects must be assessed and evaluated not just in terms of applicants' immediate stated plans, but in terms of other eventual longer-term potential uses and consequences. This project has been marketed and, I fear, sold to staff planners and the ZAB as the heart-warming story of an extended family reuniting to enhance their property and create a welcoming, nurturing home environment. This vision is strikingly contradicted by several realities. Mr. Turner is the COO of Turner Group Construction, a large construction company in Oakland. He joined the applicants' family in late 2017, when he and Denise Seymour were married. Prior to that time, the applicants were planning to sell 2325 6<sup>th</sup> Street to their then-tenants, a young family with an infant daughter. I believe that it has been under his auspices that the applicants, in Ms. Seymour's words (0:23), decided to "leverage the land." The couple currently lives in a 4-bedroom home in Dublin; it is ludicrous to imagine they will move as alleged into this over-crowded and unappealing project, in close quarters with enough other family members to populate 6 more bedrooms, who, except for Gladys Jenkins

and her daughter Barbara Jenkins-Jacobs, haven't been seen or heard from during these proceedings.

I feel that staff planners and the ZAB may have suffered from failures of imagination in regards to picturing what approving this project as it is would actually mean. Luckily (and also, sadly), I don't need imagination to know what could go wrong with this plan; I have already experienced versions of it. Last year the applicants rented this home to a group of four to six young people; between them they had five cars (including a pick-up truck for one person's gardening business) which were almost always parked on the street. If a 3-bedroom residence can house that many people and vehicles, think of how many an 8-bedroom could accommodate.

After standing empty for some months, just this week the house has been rented again, this time to a group of six to eight young people. While they mainly don't have cars (they are a group of international students), they do have night life. Although Ms. Seymour (0:27) assured us that it is "not in our interest to create a party house," they seem to have done just that. During the first three nights of the current residency, I was awoken each night at around 11:00pm and again at 2:00am by loud, boisterous and extensive shouting, seemingly leading up to and then returning from a night out. With this level of disturbance occurring within the relatively narrow confines of a 3-bedroom structure, the prospect of adding five more bedrooms is appalling; given this track record, and city guidelines for short-term rentals, that could mean 16 tenants living there.

So, please, when considering this project, don't be swayed by a sentimental desire to give applicants "the bedrooms they desire," as Mr. Kahn (1:31) put it. These bedrooms, once built, don't have anyone's name permanently on the door.

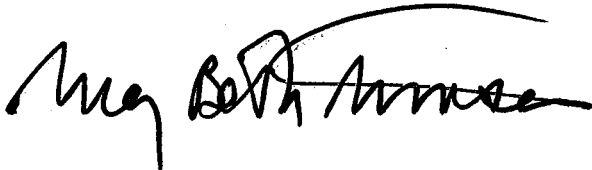
I do want to also add a personal note. My son and his wife and their two small boys are currently in the process of moving into my house at 2321 6<sup>th</sup> Street, while I move into the rear cottage. Should the quality of their lives be degraded and our futures here pawned to the applicants' ambitions? Surely our respective needs and desires can be better reconciled than would be possible with this current development.

In ending, I want to make it very clear that we do not blindly oppose the applicants' wishes to create more value and utility for their property. Most of us own our properties here and treasure the space and opportunity to create home lives that nourish and support us. However, given the magnitude of this project and the importance of its impact on us, we respectfully request the opportunity to engage in an honest, comprehensive mediation process. We believe that we all deserve a chance to set aside any potentially emotion-driven us vs them tensions and collaboratively develop a plan we can all live with. On May 9<sup>th</sup>, a significant portion of the ZAB agreed that this project shouldn't continue until some actual time and conversation had been dedicated to mediation and mitigation, beyond the bare two minutes allowed to each neighbor and the three-plus minutes allowed to applicants. Now that the pressure and rush of the ZAB meeting is behind us, and there's time to more broadly and carefully reflect, we are hoping that you, too, will appreciate the importance of making sure

that adequate time for mediation is established, to ensure that the covenants of our communal civic processes are maintained with integrity, accountability, and fairness. We are asking for a chance to be heard and to work together with the applicants on a matter of great importance to us.

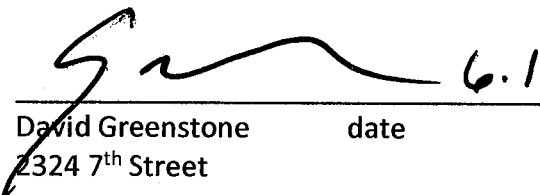
Thank you for your time and attention.

Sincerely,




6.17.2019

Mary Beth Thomsen  
2321 6<sup>th</sup> Street  
510-295-8491  
[marybeth.thomsen@gmail.com](mailto:marybeth.thomsen@gmail.com)



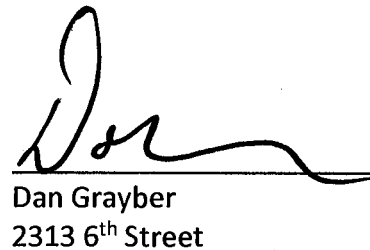
6.16.19  
\_\_\_\_\_  
David Greenstone                      date  
2324 7<sup>th</sup> Street




6/16/19  
\_\_\_\_\_  
Althaea Greenstone                      date  
2324 7<sup>th</sup> Street



6.16.19  
\_\_\_\_\_  
Roseanne Botha                      date  
2313 6<sup>th</sup> Street



6/16/19  
\_\_\_\_\_  
Dan Grayber                      date  
2313 6<sup>th</sup> Street



6/16/19  
\_\_\_\_\_  
Nate Agrin                      date  
2317 6<sup>th</sup> Street



6/16/19  
\_\_\_\_\_  
Lauren Pappone                      date  
2317 6<sup>th</sup> Street



April Schirmer 6/17/19

April Schirmer date  
2339 6<sup>th</sup> Street

Dusan Supica 6-17-19

Dusan Supica date  
2339 6<sup>th</sup> Street

Joel Mark 6/16/19

Joel Mark date  
2312 6<sup>th</sup> Street

Robert Ballard 6/16/19

Robert Ballard date  
2316 6<sup>th</sup> Street

Marc Gantz 6/16/19

Marc Gantz date  
2320 6<sup>th</sup> Street

(Away on vacation;  
verbal consent)

Andrea Bramwell date  
2333 6<sup>th</sup> Street

6.15.2019



# Z O N I N G A D J U S T M E N T S B O A R D S T A F F R E P O R T

FOR BOARD ACTION  
MAY 9, 2019

## 2325 Sixth Street

Use Permit #ZP2017-0146 to expand an existing one-story, 1,348 sq. ft. single-family residence and alter an existing 6,000 sq. ft. parcel by: 1) raising the existing one-story dwelling 9'2" to create a new 1,676 sq. ft. sq. ft. ground floor dwelling, 2) increasing the total number of bedrooms on the parcel from three to eight, and 3) constructing a two-story, 472 sq. ft. accessory building with an average height of 19'3", located 1'6" from the rear and side yard property line to the south.

### I. Background

#### A. Land Use Designations:

- General Plan: LMDR - Low Medium Residential Density
- Zoning: R-1A - Limited Two-Family Residential District

#### B. Zoning Permits Required:

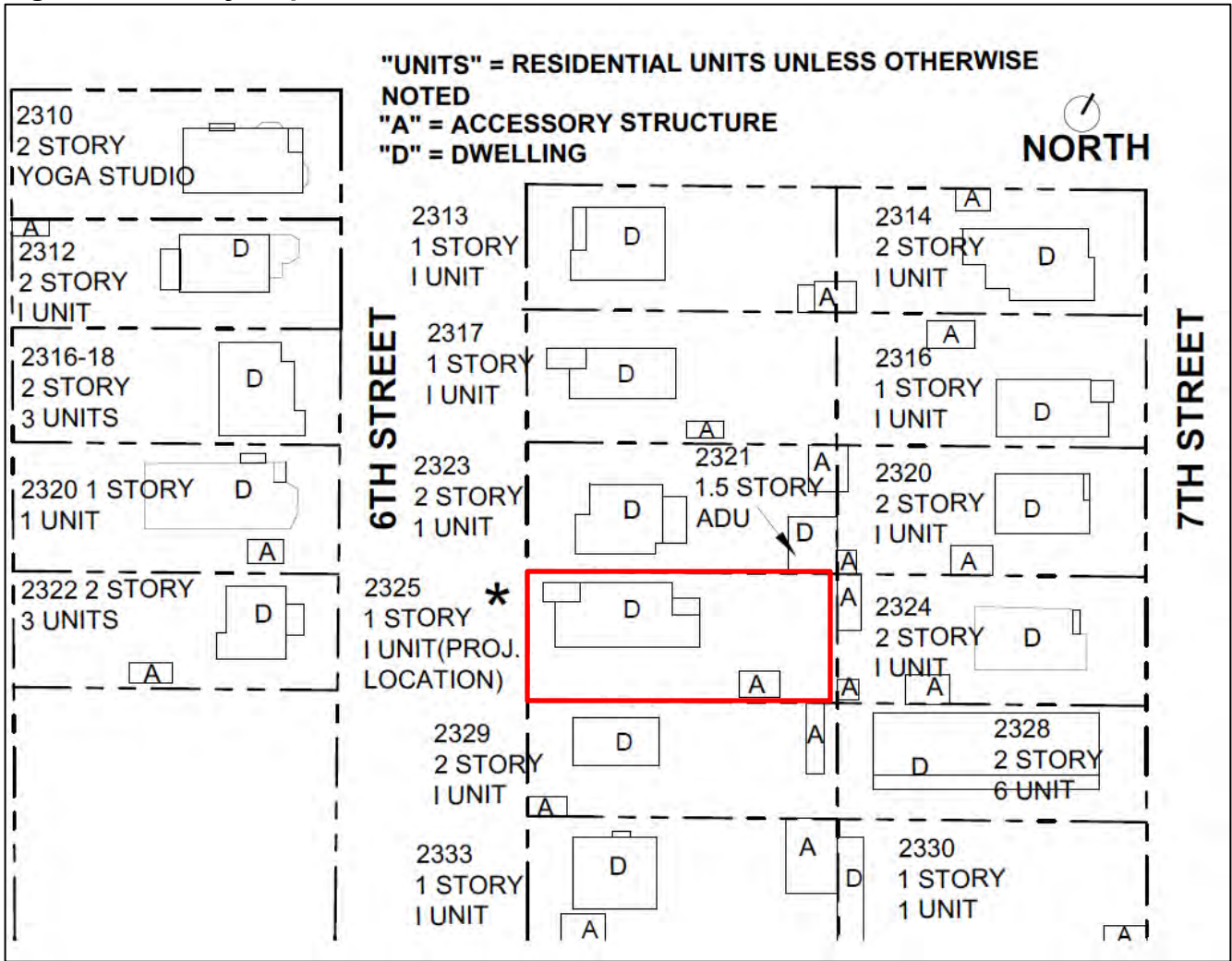
- Use Permit, under BMC Section 23D.20.030, to add a second dwelling unit;
- Administrative Use Permit, under BMC Section 23D.20.070.C, to construct a residential addition over 14 ft. in average height;
- Administrative Use Permit, under BMC Section 23D.20.030, to construct a major (>600 sq. ft.) residential addition;
- Administrative Use Permit, under BMC Section 23C.04.070.B to vertically extend the non-conforming front yard;
- Administrative Use Permit, under BMC Section 23D.08.005.A.1, to construct a new accessory building; and
- Administrative Use Permit, under BMC Section 23D.08.010.B, to construct an accessory building which does not comply with the height limits.

#### C. CEQA Determination: Categorically exempt pursuant to Section 15301 and 15303 of the CEQA Guidelines ("Existing Facilities" and "New Construction or Conversion of Small Structures").

**D. Parties Involved:**

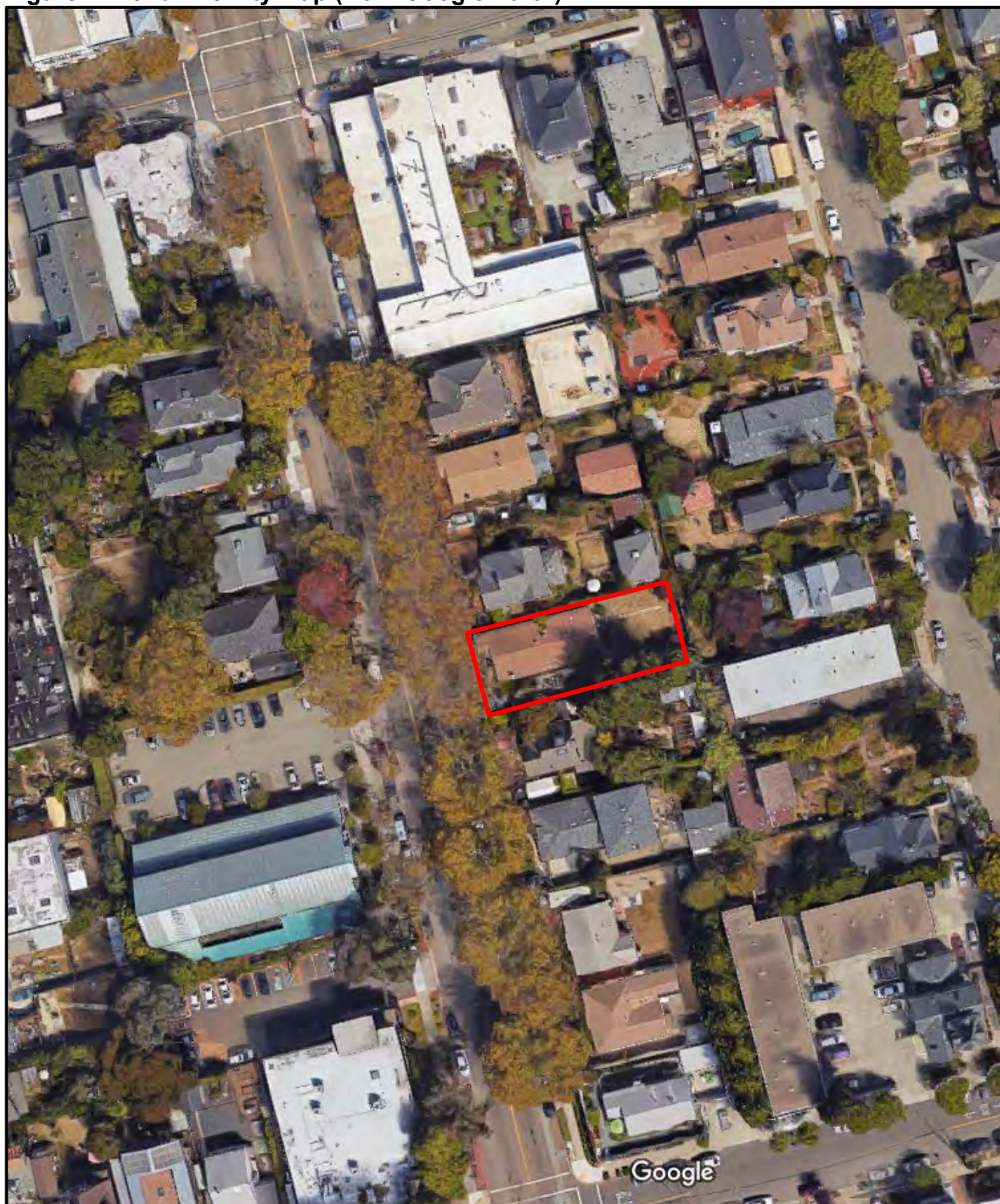
- Applicant                      Bacilia Macias  
                                         732 Gilman Street  
                                         Berkeley, CA 94710
  
- Property Owners              Tafia M. Jenkins  
                                         3722 Northridge Drive  
                                         Richmond, CA 94806
  
- Lashan M. Jenkins  
                                         1569 Solano Avenue #655  
                                         Berkeley, CA 94707

Figure 1: Vicinity Map





**Figure 2: Aerial Vicinity Map (from Google Earth)**





**Figure 3: Site and Adjacent properties looking east from Sixth Street**



Figure 4: Existing Site Plan

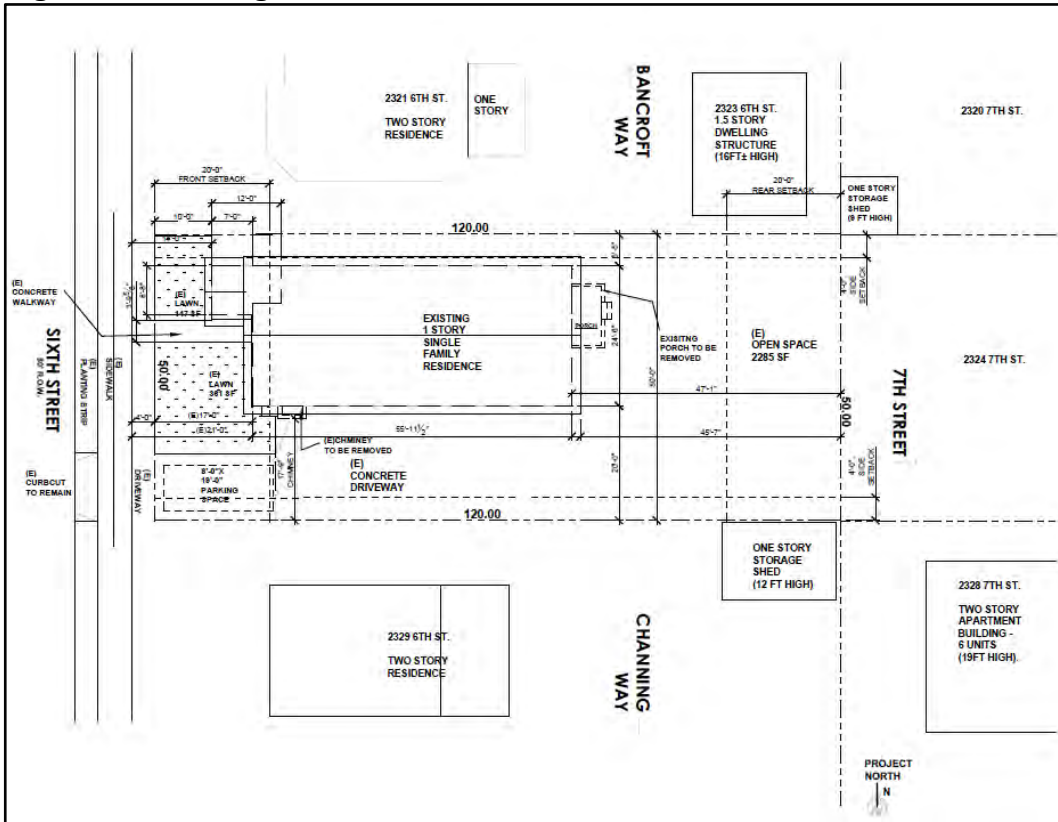
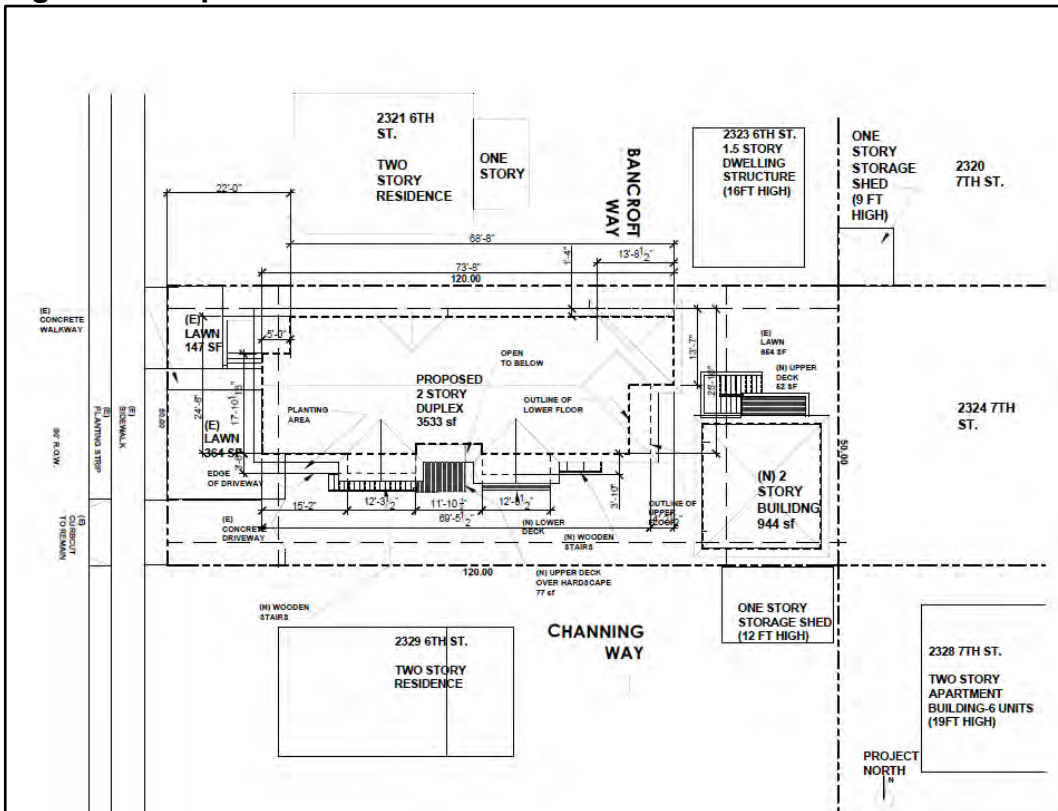


Figure 5: Proposed Site Plan





**Table 1: Land Use Information**

| Location               |       | Existing Use                              | Zoning District | General Plan Designation              |
|------------------------|-------|-------------------------------------------|-----------------|---------------------------------------|
| Subject Property       |       | Single-family residence                   | R-1A            | LMDR – Low Medium Residential Density |
| Surrounding Properties | North | Single-family residence with detached ADU |                 |                                       |
|                        | South | Single-family residence                   |                 |                                       |
|                        | East  | Single-family residence                   |                 |                                       |
|                        | West  | Commercial Offices                        | MU-R            | MU – Manufacturing Mixed Use          |

**Table 2: Special Characteristics**

| Characteristic                                                                                 | Applies to Project? | Explanation                                                                                                                                                                                                                                                                                                                              |
|------------------------------------------------------------------------------------------------|---------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Affordable Child Care Fee for qualifying non-residential projects (Per Resolution 66,618-N.S.) | No                  | The project is below the minimum threshold of 7,500 sq. ft. net new non-residential gross floor area.                                                                                                                                                                                                                                    |
| Affordable Housing Fee for qualifying non-residential projects (Per Resolution 66,617-N.S.)    |                     |                                                                                                                                                                                                                                                                                                                                          |
| Affordable Housing Mitigations for rental housing projects (Per BMC 22.20.065)                 | No                  | The project is not creating four or more dwellings.                                                                                                                                                                                                                                                                                      |
| Housing Accountability Act (Gov't Code Section 65589.5(j))                                     | Yes                 | The project proposes to add a dwelling and therefore, is considered a "Housing Development Project" <sup>1</sup> as defined by Government Code. However, the ZAB is not required to make special findings because the project proposes to vertically extend the existing non-conforming front yard (see Section V.A for analysis below). |
| Coast Live Oak Trees (Per BMC §6.52.010)                                                       |                     | The site does not contain Coast Live Oaks.                                                                                                                                                                                                                                                                                               |
| Creeks (BMC Chapter 17.08)                                                                     | No                  | The proposed development is not located within 30 feet of an open creek or creek culvert.                                                                                                                                                                                                                                                |
| Density Bonus (Per Gov't Code Chapter 65915)                                                   | No                  | The proposed development includes only two dwelling units and is not eligible for consideration under Gov't Code Section 65915.                                                                                                                                                                                                          |
| Green Building Score                                                                           | Yes                 | The applicant submitted a GreenPoint Rated checklist for the project. The minimum score required is 50 points, and the checklist indicates a score of 77 out of a possible 374 for the two dwellings.                                                                                                                                    |

<sup>1</sup> Per Government Code Section 65589.5(H)(2) "Housing development project" means a use consisting of any of the following: (A) Residential units only; (B) Mixed-use developments consisting of residential and nonresidential uses in which nonresidential uses are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories. As used in this paragraph, "neighborhood commercial" means small-scale general or specialty stores that furnish goods and services primarily to residents of the neighborhood; and (C) Transitional housing or supportive housing.

| Characteristic                                                       | Applies to Project? | Explanation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|----------------------------------------------------------------------|---------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Historic Resources<br>(Per Gov't Code §15064.5 and BMC Chapter 3.24) | No                  | The subject property is not listed on the local, state or National Register listings as a historic resource. However, because the project proposes a major residential addition to the existing structure, the applicant was required to prepare a Historic Resources Evaluation (HRE). The HRE, prepared by Architectural Historian Stacy Farr in February 2019, concluded that while the building was designed in the California Bungalow style, it has undergone a series of alterations and no longer conveys its modest historic appearance. The property is not historically significant under any of the California Register criteria and therefore, is not eligible for listing on the California Register. |
| Rent Controlled Units<br>(Per BMC Chapter 13.76)                     | No                  | There is one existing and one proposed dwelling unit at this site, however there are no rent controlled units, and, therefore, Berkeley's Rent Control Ordinance, BMC Chapter 13.76. does not apply to this project.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Residential Preferred Parking (RPP)<br>(Per BMC Chapter 14.72)       | No                  | The project area is not included in a RPP area.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| Soil/Groundwater Contamination                                       | No                  | The project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| State Hazards Mapping Act (Liquefaction, Fault-rupture, Landslide)   | No                  | The project site is located within an area susceptible to liquefaction as shown on the State Seismic Hazard Zones map. Per Condition of Approval (COA) #11, a geotechnical report will need to be prepared and submitted for peer review, prior to building permit submittal.                                                                                                                                                                                                                                                                                                                                                                                                                                       |

**Table 3: Project Chronology**

| Date               | Action                                   |
|--------------------|------------------------------------------|
| September 13, 2017 | Application submitted                    |
| October 12, 2017   | Application deemed incomplete            |
| February 26, 2018  | Revised application materials submitted  |
| March 26, 2018     | Application deemed incomplete            |
| May 14, 2018       | Revised application materials submitted  |
| May 25, 2018       | Application deemed incomplete            |
| June 15, 2018      | Revised application materials submitted  |
| July 11, 2018      | Application deemed incomplete            |
| August 6, 2018     | Revised application materials submitted  |
| September 6, 2018  | Application deemed incomplete            |
| September 19, 2018 | Revised application materials submitted  |
| October 19, 2018   | Application deemed incomplete            |
| October 31, 2018   | Revised application materials submitted  |
| October 31, 2018   | Application deemed complete              |
| April 25, 2019     | Public Hearing notices mailed and posted |
| May 9, 2019        | ZAB Hearing                              |

**Table 4: Development Standards**

| Standard                                                            |            | Existing     | Proposed Total | Permitted/<br>Required    |
|---------------------------------------------------------------------|------------|--------------|----------------|---------------------------|
| BMC Sections 23D.20.070-080<br>& 23D.08.020-030                     |            |              |                |                           |
| Lot Area (sq. ft.)                                                  |            | 6,000        | No Change      | 5,000 min                 |
| Gross Floor Area (sq. ft.)<br>-Main Building<br>-Accessory Building |            | 1,348<br>N/A | 3,533<br>472   | N/A                       |
| Dwelling Units                                                      |            | 1            | 2              | 2 max                     |
| Bedrooms                                                            |            | 3            | 8              | N/A                       |
| Main Building<br>Height                                             | Average    | 12' - 7"     | 22'            | 28'<br>35' w/Use Permit   |
|                                                                     | Maximum    | 15'-1 ½"     | 25'            | N/A                       |
|                                                                     | Stories    | 1            | 2              | 3 max                     |
| Main Building<br>Setbacks                                           | Front      | 17'          | 17'            | 20' min                   |
|                                                                     | Rear       | 47'-1"       | 29'4"          | 20' min                   |
|                                                                     | Left Side  | 5'-5"        | 4'-1"          | 4' min                    |
|                                                                     | Right Side | 20'          | 16'-2"         | 4' min                    |
| Accessory<br>Building<br>Height                                     | Average    | -            | 19'-3"         | 24' max                   |
|                                                                     | Maximum    | -            | 22'            | N/A                       |
|                                                                     | Stories    | -            | 2              | N/A                       |
| Accessory<br>Building<br>Setbacks                                   | Front      | -            | 94'-3"         | 75' min                   |
|                                                                     | Rear       | -            | 1'-6"          | 10' min                   |
|                                                                     | Left Side  | -            | 15'5"          | 10' min                   |
|                                                                     | Right Side | -            | 1'-6"          | 10' min                   |
| Lot Coverage (%)                                                    |            | 23           | 39.98          | 40 max                    |
| Usable Open Space (sq. ft.)                                         |            | 2,807        | 922            | 800 min<br>(400/dwelling) |
| Automobile Parking                                                  |            | 1            | 2              | 2 min (1/dwelling)        |

## II. Project Setting

**A. Neighborhood/Area Description:** The subject property is located in a neighborhood area which consists of a variety of uses, building heights, and architectural styles. A mixture of single- and multi-family residences abut the subject property to the north, east, and south, and a variety of office/warehousing and light industrial uses confront the subject property to the west. According to a Historic Resource Evaluation (HRE) prepared for the property in February 2019 by Architectural Historian Stacy Farr, there are two Queen Anne residences, located directly north (at 2321 Sixth Street) and south (at 2329 Sixth Street) of the subject property, that were owned by Matilde Niehaus, wife of Edward F. Niehaus, a prominent West Berkeley businessman who constructed the Stick-Eastlake mansion at 839 Channing Way, a City of Berkeley landmark, located on the same block as the subject site. While Niehaus built seven other houses

on this block, including the two Queen Anne residences at 2321 Sixth Street and 2329 Sixth Street, and owned the subject property until 1923, the subject property was developed in 1923 as a modest California Bungalow style single-family residence, after Matilde sold the property. The site directly north of the subject property (2321 Sixth Street, developed with a Queen Anne) is a two-story single family residence and includes a two-story detached Accessory Dwelling Unit (ADU) at the rear of the property. The three abutting properties to the east consist of a two-story, 6-unit apartment building, and two, 2-story single-family residences, and the site directly south of the subject property (2329 Sixth Street, developed with a Queen Anne) is a two-story single-family residence and includes a one-story detached accessory building at the rear. A two story office/warehouse building in the MU-R district confronts the subject property to the west along Sixth Street.

- B. Site Conditions:** The subject lot is located on the east side of Sixth Street, mid-block between Bancroft Way and Channing Way and is currently occupied by a one-story single family residence. According to City records and the HRE, the subject building has undergone a series of alterations since the time of its construction in 1923. The existing dwelling is setback from the street and is sited on the north side of the fairly flat lot. A concrete paved driveway occupies the south side of the lot, while the front and rear yards are covered by a mix of vegetation and cement paving. Additional site features include an aluminum shed in the rear yard which sits atop a concrete pad, historically the site of a garage. The rear yard is divided from the front yard by a board fence at both sides of the main building, and the rear yard is enclosed by a variety of vertical board fencing types, topped in some areas by wood lattice.

### III. Project Description

The project would raise the existing one-story single-family dwelling to create a new two-story building that would contain two dwellings. The new dwelling unit on the ground floor would have three bedrooms and the dwelling unit on the second floor would have four bedrooms. The average height of the existing one-story building would increase and the total number of bedrooms on the parcel would increase from three to eight (the second floor of the accessory building would be considered the eighth bedroom on the parcel). Two decks are proposed along the south side of the building, a 168 sq. ft. one-story deck for the ground floor dwelling and a 78 sq. ft. second-floor deck for the dwelling on the second floor.

The project would also construct a new two-story, accessory building that would comply with the height limits, subject to approval of an Administrative Use Permit. The accessory building would consist of a two-car garage on the ground floor, providing one off-street parking space for each dwelling, and a workshop on the second floor with a 62 sq. ft. second-story deck along the north side of the accessory building.

### IV. Community Discussion

- A. Public Notice:** Prior to submitting this application to the city, the applicant erected a pre-application poster and contacted abutting and confronting neighboring property

owners and occupants to show them a copy of the proposed project plans and obtain their signature on the proposed plans. Two neighboring owners and two neighboring tenants could not be reached in person, so the applicant sent a certified letter explaining the project and included a copy of the plans, and submitted to staff a copy of the certified receipt. On April 25, 2019, the City mailed 205 public hearing notices to property owners and occupants, and to interested neighborhood organizations and the City posted notices within the neighborhood in three locations.

**B. Neighbor/Community Concerns/Applicants' Response to Neighbor Concerns:** In April 2017, five months prior to submittal of this application, the City received written correspondence from two neighboring property owners expressing concerns about the proposed project: one letter from the property owners of 2324 Seventh Street (received April 6, 2017) and one letter from the property owners of 2329 Sixth Street (received April 20, 2017). Since the application was submitted to the City on September 13, 2017, the City has received additional written correspondence from the neighboring property owner of 2321 Sixth Street (received October 30, 2017) expressing concerns about the project. In addition to submitting these letters to the City, the three neighboring property owners mentioned above also submitted a copy of their correspondence to the applicant of this Use Permit.

On May 21, 2018, the property owners of the subject property submitted a letter to the City, in response to the opposition and concerns raised by neighboring property owners. In June 2018, the property owners reached out to their neighbors and asked if they would be interested in meeting again to discuss their concerns about the project. On July 7, 2018, the property owners of 2325 Sixth Street met with the neighboring property owners. All neighbors who submitted correspondence expressing opposition were in attendance. No compromises or agreements between parties were reached.

On July 5, 2018, two days before the second neighborhood meeting was held, the neighboring property owners of 2321 Sixth Street submitted another letter to the City in response to the correspondence submitted by the owners of the subject property on May 21, 2018. On May 1, 2019, the property owners of 2324 Seventh Street submitted additional correspondence.

The land use issues from the letters are summarized in Table 5 below, and copies of letters received by the City, as of writing of this report, are provided in Attachment #4.

**Table 5: Neighbor Concerns**

| Concern                                                 | Staff Report Discussion                                                                                                                                                          |
|---------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Addition to Main Building</b>                        |                                                                                                                                                                                  |
| Design                                                  | Table 2, III. Project Description, and IV.C. Committee Review                                                                                                                    |
| Compatibility with Neighboring Buildings                | II. Neighborhood/Area Description, V.G. General Plan Consistency, Policies LU-7, UD-16, UD-24                                                                                    |
| Privacy                                                 | V.B. Compatibility with District Purposes                                                                                                                                        |
| Loss of light/shadows                                   | V.C. Use Permit to construct a second dwelling unit, and V.D.1. Administrative Use Permit to construct a major (>600 sq. ft.) residential addition over 14 ft. in average height |
| <b>New Accessory Building</b>                           |                                                                                                                                                                                  |
| Privacy                                                 | V.F. Administrative Use Permits to 1) construct a new Accessory Building that 2) does not conform to the height limits                                                           |
| Site Location/setbacks                                  | V.F. Administrative Use Permits to 1) construct a new Accessory Building that 2) does not conform to the height limits                                                           |
| Privacy                                                 | V.F. Administrative Use Permits to 1) construct a new Accessory Building that 2) does not conform to the height limits                                                           |
| Loss of light/shadows                                   | V.F. Administrative Use Permits to 1) construct a new Accessory Building that 2) does not conform to the height limits                                                           |
| Accessory Building becoming 3 <sup>rd</sup> rental unit | V.F. Administrative Use Permits to 1) construct a new Accessory Building that 2) does not conform to the height limits, and Attachment 1, Findings & Conditions, COA #13         |
| Maximum Building Length                                 | V.F. Administrative Use Permits to 1) construct a new Accessory Building that 2) does not conform to the height limits                                                           |

**C. Committee Review:** This Use Permit application is not subject to review by the Landmarks Preservation Committee or Design Review Committee.

## V. Issues and Analysis

**A. The Housing Accountability Act:** The Housing Accountability Act requires that when a proposed housing development complies with the applicable, objective General Plan and Zoning standards, but a local agency proposes to deny the project or approve it only if the density is reduced, the agency must base its decision on written findings supported by substantial evidence that:

- (1) The development would have a specific adverse impact on public health or safety unless disapproved, or approved at a lower density; and
- (2) There is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, other than the disapproval, or approval at a lower density.

As used in the Act, a “specific, adverse impact” means a “significant, quantifiable, direct and unavoidable impact, based on objective, identified written public health or safety standards, polices, or conditions as they existed on the date the application was complete.”

The project proposes to vertically extend the existing non-conforming front yard, and therefore does not comply with all applicable, objective general plan and zoning standards in the zoning ordinance.

Therefore, the findings required by Section 65589.5(j) **do not apply** to this project as currently proposed. Thus, the Act does not require the Board to approve this project.

**B. Compatibility with District Purposes:** Staff reviewed the purposes of the Limited Two-Family Residential District (R-1A) District and found the project to be compatible with the purposes as described below:

1. Purpose A: Recognize and protect the existing pattern of low medium density residential areas characterized by reasonable open and spacious type of development in accordance with Master Plan.

Staff Analysis: The project is consistent with this purpose because it would maintain the existing pattern of this low medium density residential area, by providing additional housing on the lot while exceeding the usable open space requirements of the district (see Table 4 above).

2. Purpose B: Protect adjacent properties from unreasonable obstruction of light and air.

Staff Analysis: As discussed further in Section V.D below, although the proposed project would increase the average and maximum building height and vertically extend the non-conforming front yard, the project would comply with height, setback, lot coverage and usable open space requirements of the R-1A District. Additionally, the proposed project would not be unreasonably detrimental to the abutting neighbors because new shadows would occur only during a few hours of the day during few days of the year, and would be limited to two neighboring dwellings.

3. Purpose C: Allow flexibility in the use of property for residential purposes by permitting two Dwelling Units on one lot under limited conditions.

Staff Analysis: The project proposes to raise the existing one-story single-family residence to create a two-story, two dwelling building. The property is in a neighborhood developed with one- and two-story building with a mixture of uses, including single- and multi-family residences and office/warehousing and light industrial uses. In addition, the property meets the development standards of the district (as described in Table 4 above) and therefore, is consistent with this purpose.

4. Purpose D: In those portions of the District west of San Pablo Avenue, appropriately regulate the rear and side yards for the construction of a Dwelling Unit.

Staff Analysis: As demonstrated in Table 4, the proposed two-story main building would comply with the setbacks, and therefore is consistent with this purpose.



- C. Use Permit to construct a second dwelling unit:** Two dwellings are permitted in the R-1A zoning district with a Use Permit (Public Hearing) per BMC 23D.20.030, provided the design meets the applicable R-1A development standards, and the ZAB can make the required non-detriment finding.

As demonstrated in Table 4, the proposed design would meet the R-1A development standards with respect to the height, number of stories, lot coverage, useable open space, and parking. And, as described in Section V.B above, the proposed project would be compatible with this broader neighborhood area that is characterized by a mixture of one- to two-story buildings with a variety of uses, including single- and multi-family residences and office/warehousing and light industrial.

The windows within the second story could potentially allow views to adjacent northern and southern properties. However, staff believes the project will not unreasonably impact the privacy of neighboring dwellings because while windows would now face second floor windows on the properties to the north and south, they would be approximately 10' from the neighboring dwelling to the north at 2321 Sixth Street and would not directly overlap with second story windows on the south façade of the neighboring dwelling, thereby minimizing privacy impacts. While the south façade would include two living room windows, one dining, one kitchen, and one family room window that would face the neighboring building to the south at 2329 Sixth Street, they would be more than 16' from this neighboring dwelling, and there are no windows on the second story north-facing façade of this neighboring dwelling. In addition, there are existing driveways on both sides of the subject property, resulting in additional separation between the subject property and adjacent dwellings. Therefore, staff believes the project will achieve appropriate building-to-building separations for this low-medium density residential neighborhood, and the proposed dwelling would not be detrimental to privacy of neighboring dwellings.

- D. Administrative Use Permit to construct a major (>600 sq. ft.) residential addition over 14 ft. in average height:** Pursuant to BMC Section 23D.20.090.B, staff believes the proposed major residential addition would not unreasonably obstruct sunlight, air, or views for the following reasons:

1. Sunlight: Shadow studies submitted by the applicant document the existing and proposed shading caused by buildings on and off site in the close vicinity, and document that the addition will create an incremental increase to shadows on one neighboring property to the north at 2321-2323 Sixth Street, that is occupied by two dwellings (one two-story, single-family residence and one ADU), as follows:
  - During morning hours on the winter solstice, two living room windows and one kitchen window on the south façade of 2321 Sixth Street that are partially shaded by the existing one-story building will be completely shaded by the addition. Also, two bedroom windows on the south façade that are unshaded today will be partially shaded by the addition, and one bedroom and one bathroom window on the south façade and two kitchen windows on the east façade of 2321 Sixth Street that are unshaded, will be fully shaded by the addition.

- During afternoon hours on the winter solstice, two living room windows and one kitchen window on the south façade of 2321 Sixth Street that are unshaded will be fully shaded by the addition, and two bedroom windows will be partially shaded by the addition. In addition, one living room door on the ADU at 2323 Sixth Street will be fully shaded by the addition.
- During evening hours on the winter solstice, one living room door on the ADU at 2323 Sixth Street that is partially shaded, will be fully shaded by the addition.

Because the impacts would be limited to one property and would occur on limited areas for a limited time during the year, and only for a few hours of the day, the major residential addition would not result in a significant loss of direct sunlight on abutting residences, and these shading impacts are not deemed detrimental.

2. Air: The addition is found to be consistent with the existing development and building-to-building separation pattern – or air – in this R-1A neighborhood because the addition would add a second story, where as many as three are allowed, would be less than the average height allowed in this district (22', where up to 35' is allowed with a Use Permit), would not further reduce the non-conforming front yard, and would exceed all other minimum required yards.
3. Views: Significant views as defined in BMC Chapter 23F.04 (Definitions) are not available to neighboring dwellings because the area is flat, at a low elevation (in relation to sea level) and the neighborhood area has mature, existing trees along the street. Therefore, the addition would not result in additional obstruction of significant views in the neighborhood.

**E. Administrative Use Permit to extend a portion of a building within the required front yard:** BMC Section 23C.04.070.B allows additions or enlargements which horizontally or vertically extend a non-conforming yard, or alter a portion of a building that encroaches into a non-conforming yard to be authorized with an AUP if the existing use of the property is conforming and the addition would not further reduce the existing non-conforming yards or exceed the maximum height limits.

The proposed project would raise the existing single-story building, which was built 17' from the front property line, where 20' is required under today's zoning standards, and retain the footprint of the existing non-conforming covered front porch. As noted in Table 4, the new, two-story building would exceed all other minimum required yards, would not further reduce the existing non-conforming front yard, and would not exceed the maximum height limits of this district.

Staff believes that this vertical extension of the existing building, 17' from the front property line, is permissible under BMC Section 23C.04.070.B, and that the Board can approve the Administrative Use Permit request for this vertical extension.

**F. Administrative Use Permits to 1) construct a new Accessory Building that 2) does not conform to the height limits:** BMC Section 23D.08.005.A.1 requires an Administrative Use Permit for the construction of a new accessory building of any size

and in any location, and BMC Section 23D.08.010.B requires an Administrative Use Permit for any accessory building that does not comply with the height limit and/or setback, subject to a finding that the proposed accessory building will not be detrimental to the light, air, privacy and views of adjacent properties.

The proposed two-story accessory building would be 19'3" in average height and would be setback 1'6" from the east and south property line, where a 10' setback is required. While the accessory building would have a setback of less than 10', staff believes the two-story accessory building would not be detrimental to the light, air, privacy and views of adjacent properties as described below:

1. Sunlight: Shadow studies submitted by the applicant document the accessory building's projected shadow angles and lengths at three times throughout the day during the summer and winter solstice. The studies show that the accessory building would create an incremental increase in shadows on neighboring dwellings, as follows:
  - During evening hours on the summer solstice, portions of the north and west façades of the multi-unit apartment building at 2328 Seventh Street would be partially shaded, but no window openings would be affected.
  - During morning hours on the winter solstice, one living room door on the south façade of the ADU at 2323 Sixth Street would be fully shaded.
  - During afternoon hours on the winter solstice, a portion of the south façade of the ADU at 2323 Sixth Street would be partially shaded, but no openings would be affected.

Because the impacts to neighboring dwellings would occur on limited areas, and would only partially shade neighboring dwellings for a limited time during the year, and only for a few hours of the day, the two-story accessory building would not result in a significant loss of direct sunlight on abutting residences, and these shading impacts are not deemed detrimental.

2. Air: The accessory building is found to be consistent with the existing development and building-to-building separation pattern – or air – in this R-1A neighborhood because the new building would be more than 20' from the edge of the neighboring ADU to the north, at 2323 Sixth Street, more than 95' from the front yard property line, and more than 30' from the neighboring building to the east, at 2324 Seventh Street. The new accessory building would be closest to the neighboring building to the southeast at 2328 Seventh Street, a 6-unit apartment building, however no windows are proposed along the rear of the new accessory building, and the west façade of the 6-unit apartment building that the accessory building would face, also does not have any openings.
3. Privacy: While the proposed accessory building includes new openings and a second story deck, the accessory building is not anticipated to have significant impacts on privacy of adjacent dwellings because the north façade of the building is approximately 23' from the side yard property line to the north, only one small bathroom window is proposed on the south façade, and there are no windows

proposed on the rear of the accessory building facing east. In addition, the proposed accessory building is designed to be a workshop/studio space and will be secondary to the primary use of the main building on the property, which will serve as two dwellings.

4. Views: As described in Section V.D.3 above, significant views as defined in BMC Chapter 23F.04 (Definitions) are not available to neighboring dwellings because the area is flat, at a low elevation (in relation to sea level) and the neighborhood area has mature, existing trees along the street. Therefore, the accessory building would not result in additional obstruction of significant views in the neighborhood.

As mentioned in Section III, Project Description, the workshop on the second floor of the proposed accessory building would be considered the eighth bedroom on the parcel, because it meets the City's definition of a bedroom, as defined in BMC Section 13.42.020.B. If approved, Condition of Approval (COA) #13 would require that, prior to issuance of any building permit, the owners of the subject property shall sign and record with the Alameda County Clerk-Recorder a "Notice of Limitation on Use of Property" stipulating that the accessory building shall not be rented as a separate dwelling unit.

**G. General Plan Consistency:** The 2002 General Plan contains several policies applicable to the project, including the following:

1. Policy LU-3–Infill Development: Encourage infill development that is architecturally and environmentally sensitive, embodies principles of sustainable planning and construction, and is compatible with neighboring land uses and architectural design and scale.

Staff Analysis: The project will add residential density to a property located in the R-1A district consistent with the district requirements. As described in Key Issues above, the proposed duplex is consistent with other buildings in the neighborhood, which is developed with one- and two-story building with a mixture of uses, including single- and multi-family residences and office/warehousing and light industrial uses.

2. Policy LU-7–Neighborhood Quality of Life, Action A: Require that new development be consistent with zoning standards and compatible with the scale, historic character, and surrounding uses in the area.
3. Policy UD-16–Context: The design and scale of new or remodeled buildings should respect the built environment in the area, particularly where the character of the built environment is largely defined by an aggregation of historically and architecturally significant buildings.
4. Policy UD-24–Area Character: Regulate new construction and alterations to ensure that they are truly compatible with and, where feasible, reinforce the desirable design characteristics of the particular area they are in.

Staff Analysis: The proposed project would raise the existing one-story single family residence to create a new, two-story duplex, and construct a detached, two-story accessory building. The project is consistent with zoning standards and would retain the location and general footprint of the existing single-family residence.

As described in Section II.A and B above, the subject property is in a neighborhood area with a variety of building heights, uses, and architectural styles. The height of the new duplex would be consistent with abutting and confronting neighboring properties along Sixth Street and to the rear, on Seventh Street, and would retain the residential use of the property. While the subject property directly abuts two Queen Anne residences, the existing single family residence was constructed in the California Bungalow style, and has undergone a series of alterations since the time of its construction. The project would retain the existing character of the single-family residence and would be compatible with the scale, character, and surrounding uses in the area.

5. Policy UD-32–Shadows: New buildings should be designed to minimize impacts on solar access and minimize detrimental shadows.

Staff Analysis: As discussed in Key Issues D.1 above, shadows created by the major residential addition will be limited to one property, with two dwellings, and at limited times throughout the year. And, as discussed in Key Issues F.1 above, shadows created by the accessory building will be limited to one opening on one neighboring dwelling, and only for a limited time throughout the year. Therefore, the project would result in negligible shading impacts to neighboring dwellings.

6. Policy H-33–Regional Housing Needs: Encourage adequate housing production to meet City needs and the City’s share of regional housing needs.

Staff Analysis: The proposed project would support the City’s housing production goals by providing one additional dwelling unit on the property.

**H. Plan Consistency:** The West Berkeley Area Plan, adopted in December 1993, also contains several policies applicable to the project, including the following:

1. Physical Form Element - Goal 4: Development in locations where there is a juxtaposition of uses and building scales – particularly when concentrations of residential uses are adjacent to more intense uses – should be sensitive to the character of both the less intense and the more intense uses. This will be particularly important in the Mixed Use/Residential zone and on the “edges” where industrial zones meet residential uses.

Staff Analysis: The project has been designed to support and reflect the scale and character of the surrounding development pattern. It retains a residential use on the site, is sensitive to adjacent residential uses and compliments the non-residential uses across Sixth Street, in the MU-R District.

2. Housing and Social Services Element – Goal 4: Provide appropriately scaled and located housing development.

Staff Analysis: The project retains the existing residential use of the site in a residential zoning district, and would add an additional dwelling unit.

## VI. Recommendation

Because of the project's consistency with the Zoning Ordinance and General Plan, and minimal impact on surrounding properties, staff recommends that the Zoning Adjustments Board **APPROVE Use Permit #ZP2017-0146** pursuant to Section 23B.32.030 and subject to the attached Findings and Conditions (see Attachment 1).

### Attachments:

1. Findings and Conditions
2. Project Plans, received September 19, 2018 and April 23, 2019
3. Notice of Public Hearing
4. Correspondence Received

**Staff Planner:** Alison Lenci, Assistant Planner [alenci@cityofberkeley.info](mailto:alenci@cityofberkeley.info), (510) 981-7544



Administrative Record  
ZAB Appeal:  
2325 Sixth Street

This attachment is on file and available for review at the City Clerk Department, or can be accessed from the City Council Website. Copies of the attachment are available upon request.

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

or from:

**The City of Berkeley, City Council's Web site**  
<http://www.cityofberkeley.info/citycouncil/>



**NOTICE OF PUBLIC HEARING-BERKELEY CITY COUNCIL  
SCHOOL DISTRICT BOARD ROOM, 1231 ADDISON STREET**

**ZAB APPEAL: USE PERMIT #ZP2017-0146**

Notice is hereby given by the City Council of the City of Berkeley that on **TUESDAY, SEPTEMBER 24, 2019 at 6:00 P.M.** a public hearing will be conducted to consider an appeal of a decision by the Zoning Adjustments Board to approve Use Permit #ZP2017-0146, to alter a 6,000 sq. ft. parcel at 2325 Sixth Street by 1) raising the existing one-story, 1,348 sq. ft. single-family residence with an average height of 12'7", to create a new, 3,330 sq. ft. two-story duplex, with an average height of 22', 2) increasing the total number of bedrooms on the parcel from three to seven, and 4) constructing a two-story, 472 sq. ft. accessory building with an average height of 19'3", located 1'6" from the rear and side yard property line to the south, that would consist of a two-car garage on the ground floor and a workshop on the second floor.

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 **September 12, 2019**.

For further information, please contact Alison Lenci, Project Planner, Land Use Planning Division, (510) 981-7544. 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.

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Mark Numainville, CMC, City Clerk

Mailed: September 10, 2019

**NOTICE CONCERNING YOUR LEGAL RIGHTS:** *If you object to a decision by the City Council to approve or deny (Code Civ. Proc. §1094.6(b)) or approve (Gov. Code 65009(c)(5)) an appeal, the following requirements and restrictions apply: 1) Pursuant to Code of Civil Procedure Section 1094.6, no lawsuit challenging a City decision to deny or approve a Zoning Adjustments Board decision may be filed more than 90 days after the City Council action. 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 Zoning Adjustments Board decision, 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.*

*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.*



Office of the City Manager

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ACTION CALENDAR

September 24, 2019

*(Continued from May 14, 2019)*

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Henry Oyekanmi, Director, Finance

Subject: Referral Response: Issue a Request for Information to Explore Grant Writing Services from Specialized Municipal Grant-Writing Firms, and Report Back to Council

INTRODUCTION

This report responds to the referral sponsored by Councilmembers Hahn, Harrison, Davila and Bartlett to issue a Request for Information to explore grant writing services from specialized municipal grant-writing firms, and report back to Council that originally appeared on the agenda of the October 3, 2017 Council meeting.

SUMMARY

Request for Information (RFI), Specification No. 18-11201, Grant Writing and Related Services (Attachment 1), was released to the public in the spring of 2018 with the intent to identify qualified firms or individuals with expertise researching, identifying, applying for and obtaining grants on behalf of municipal entities.

The key points of the RFI were to: 1) communicate to grant writing firms that the City is seeking to expand its ability to initiate and deliver innovative programs by seeking out public and private grant funding; 2) use contracted services to augment existing internal grant application activities; and 3) leverage the resources and successes of firms that have developed specific competencies in providing grant sourcing and proposal development services to municipal clients.

Respondents were asked to provide information to demonstrate their ability to provide the following services:

Funding Needs Analysis  
Grant Funding Research  
On-Call Grant Research  
Grant Proposal Development

Legislative Advocacy  
Presentations and Meeting Attendance  
Monthly Reporting

The RFI requested each respondent to submit standard and preferred fee structures to provide the City with insight into compensation options available in the market.

### CURRENT SITUATION AND ITS EFFECTS

Currently, grant writing and application responsibilities are distributed across departments, which independently seek new grant opportunities and submit applications. While the City does receive awards, the application process can be time consuming for staff. For Berkeley to maximize its potential to gain resources from every possible source, it is imperative that the City apply for as many funding opportunities as possible. Increased revenue obtained through successful grant applications would allow the City to pilot new ideas, serve the community in a more robust fashion, and demonstrate to Berkeley residents the City's commitment to seeking public and private funding that may be available.

Planning for the release of the RFI began with City staff contacting 14 firms with presence in California and a focus on serving municipal clients, as indicated on websites, in other published materials, or by direct conversation. The 14 firms were made aware of the release of RFI #18-11201 and invited to participate. The RFI was posted on the City's website and at the kiosk in front of Old City Hall. Twelve of the 14 firms submitted responses to the RFI. The response pool represented a broad mix, from national corporations to niche players, for example having an environmental focus. Less than half of the responses provided all the information requested in the RFI.

Three of the 12 responses were comprehensive and provided information useful in assessing both the availability of grant-writing firms with a depth of experience and significant track-record (see Attachment 2 for a representative listing of grants secured by the 3 firms – California Consulting, Grant Management Associates and Glen Price Group) obtaining grant dollars in California for a wide variety of city, county and state projects, as well as service delivery methods and typical fee structures.

Fee Structures varied by respondent with 11 out of 12 falling into at least one of the following categories:

- Hourly rate per hour for all work performed by each resource
- Monthly, flat fee retainer with additional work at hourly rate per hour
- Fixed monthly fee when working on a particular grant proposal

Only one response included a Fee Structure that was based on a percentage of dollars awarded.

### BACKGROUND

Currently, grant writing and application responsibilities are distributed across departments, which independently seek new grant opportunities and submit applications. While the City does receive awards, the application process can be time

consuming for Staff. For Berkeley to maximize its potential to gain resources from every possible source, it is imperative that the City apply for as many funding opportunities as possible. Increasing revenues obtained through successful grant applications would allow the City to pilot new ideas, serve the community in a more robust fashion and demonstrate to Berkeley residents the City's commitment to seeking public and private funding that may be available.

ENVIRONMENTAL SUSTAINABILITY

Not applicable.

POSSIBLE FUTURE ACTION

Information contained in the responses to RFI #18-11201 may be used to inform the scope of work, evaluation criteria and pricing arrangement, as well as outreach efforts for a future request for proposals for comprehensive grant research services issued by the City.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Increased revenue obtained through successful grant applications.

CONTACT PERSON

Henry Oyekanmi, Director, Finance, 981-7326

Attachments:

- 1: Request for Information #18-110201 – Grant Writing and Related Services
- 2: Representative Listing of Grants Awarded
- 3: Original Referral Report from October 3, 2017

Attachment 1

Request for Information #18-11201  
Grant Writing and Related Services

(document to follow this page)



Finance Department  
General Services Division

**REQUEST FOR INFORMATION (RFI)**  
Specification No. 18-11201  
**GRANT WRITING AND RELATED SERVICES**  
RESPONSES WILL NOT BE OPENED AND READ PUBLICLY

Dear Interested Party:

The City of Berkeley is issuing this request for information (RFI) to qualified firms or individuals with expertise researching, identifying, applying for and obtaining grants on behalf of municipal entities. This is an RFI, not an invitation to bid. As such, there will be no public opening of information packages and no contract award made pursuant to this process. Potential respondents should review this RFI document in its entirety to gain an understanding of the City's intent, applicable processes and how submitted information will be used.

**Information packages must be received no later than 2:00 pm, on Thursday, March 1, 2018.** As part of the City's commitment to sustainable purchasing, information submission **via email is preferred**. Information packages submitted in hard copy format must be in a sealed envelope and have "**GRANT WRITING AND RELATED SERVICES**" and **Specification No.18-11201** clearly marked on the **outer most mailing envelope**. Submit **one (1) unbound original and five (5) unbound copies** of the proposal as follows:

**Mail or Hand Deliver To:**  
City of Berkeley  
Finance Department/General Services Division  
2180 Milvia Street, 3rd Floor  
Berkeley, CA 94704

Issuance of this RFI does not obligate the City to award a contract, nor is the City liable for any costs incurred by respondents in the preparation and submittal of information packages. Through this RFI process the City desires to gain knowledge of the capability of firms interested in providing the desired services and to assess the feasibility and utility of contracting for such services. This is a REQUEST FOR INFORMATION only and should not be construed as intent, commitment or promise to acquire the goods or services presented by respondents. The City of Berkeley is not obligated to any respondent as a result of this RFI.



**For questions** concerning this RFI and its requirements, **contact Shari Hamilton, Project Manager**, via email at [shamilton@cityofberkeley.info](mailto:shamilton@cityofberkeley.info) no later than 3PM on Friday, February 16, 2018. Answers to questions will **not** be provided by telephone or email. Rather, answers to all questions or any addenda to this RFI will be **posted** on the City of Berkeley's website at <http://www.cityofberkeley.info/ContentDisplay.aspx?id=7128>. It is the respondent's responsibility to check this site for information updates, additions or changes. For general questions concerning the submittal process, contact Purchasing at 510-981-7320.

We look forward to receiving and reviewing your response.

Sincerely,  
Shari Hamilton  
General Services Manager

## **I. SUMMARY**

Berkeley is an innovative city, pursuing ambitious programs and initiatives with the vigor and vision of a much larger city. Implementing innovative initiatives requires a significant investment of City resources and staff time. To support these efforts and increase revenue, the City currently applies for private, federal, state, and county grants.

Currently, grant writing and application responsibilities are distributed across departments, which independently seek new grant opportunities and submit applications. While the City does receive awards, the application process can be time consuming for staff. For Berkeley to maximize its potential to gain resources for every possible source, it is imperative that the City apply for as many funding opportunities as possible. Increased revenue obtained through successful grant applications would allow the City to pilot new ideas, serve the community in a more robust fashion, and demonstrate to Berkeley residents the City's commitment to seeking public and private funding that may be available.

This RFI is issued to explore opportunities to obtain grant writing services from one or more grant-writing firms specializing in service to municipal customers. The City expects to obtain an understanding of this segment of the grant-writing market including, but not limited to available expertise, services, and pricing models. The City may issue a request for proposals (RFP) for grant writing services if it is determined, as a result of this RFI process and other due diligence efforts, that the use of grant writing services will significantly increase its ability to secure grant based resources. All respondents to this RFI process may respond to the RFP, and responses to the RFP will not be limited to respondents to this RFI.

The City requests that all respondents to this RFI submit information packages that are short, concise and complete. It is not necessary to submit a marketing document. Information packages must be limited to a maximum of 15 pages. All information packages will become part of the public record and respondents shall not include confidential or proprietary information.

## **II. OVERVIEW OF SERVICES REQUIRED**

The City is requesting information from qualified individuals and firms capable of providing the following services:

1. *Funding Needs Analysis* – Work with City staff to facilitate meetings with City departments to assess the validity of current funding priority areas, identify changes in funding priority areas, and identify new priority areas for possible funding;

2. *Grant Funding Research* – Conduct research to identify grant resources including, but not limited to, private, Federal, State, foundation, agencies and organizations that support the City’s funding needs and priorities (emphasizing grants which require no “matching” funds), including, but not limited to:
  - a) Infrastructure development and maintenance
  - b) Affordable housing and housing support services
  - c) Public safety, including emergency preparedness
  - d) Community and economic development
  - e) Energy efficiency and environmental sustainability
  - f) Workforce development and retention
  - g) Technology, including digital inclusion
  - h) Social services, including services to the unhoused
3. *On-Call Grant Research* – In addition to the areas defined above, other areas may also be identified through the funding needs analysis process and throughout the duration of the contract. The Scope of Work may also include researching grant opportunities identified by the City.
4. *Grant Proposal Development* – Provide general grant proposal writing services associated with the completion of grant applications on behalf of the City, including the preparation of funding abstracts and production, and submittal of applications to funding sources. A copy of each grant application package submitted for funding, in its entirety, shall be provided to the City.
5. *Legislative Advocacy* – Provide legislative advocacy services on behalf of City by contacting legislators and legislative staff to promote City message and needs.
6. *Presentations and Meeting Attendance* – The successful consultant may be required to make presentations to and attend meetings with City staff, the City Council, commissions and the public to explain grant opportunities, programs targeted for support by grant funds, the City’s competitive position, and other related topics.
7. *Monthly Reports* – The successful consultant shall submit monthly reports to the City summarizing the amount of time expended, describe activities undertaken during the previous month, and status of those activities.

### III. **SUBMISSION REQUIREMENTS**

All information packages shall include the following information, organized as separate sections of the response. The response should be short, concise and to the point.

1. Respondent Identification:  
Provide the company name, principal place of business, tax identification number and website address (if applicable). Include the name, email address and telephone number of the company representative who will serve a contact for this RFI.

2. Service Offerings:  
Provide a short description of the types of services offered, including any areas of specialization. State the percentage of the entire book of business each service type represents.
  
3. Previous Experience:  
Provide a short explanation of company’s recent (past five (5) years) experience working with and securing grant funding for municipal clients. Include areas in which company has been particularly successful, as well as any competitive differentiators.
  
4. Staffing:  
Submit résumés for the staff members company would propose and assign as the management and operational contacts for an engagement with the City. The commitment of key staff is critical to the City of Berkeley. It is expected that assigned staff will remain throughout the term of any awarded contract.
  
5. Sub-consultants/Partners:  
List any sub-consultants or partner entities company would use to complete the work described herein. Provide at least two (2) recent examples of engagements where respondent has worked with sub-consultant/partner.
  
6. Fee Structure/Options:  
Include a summary of company’s standard and preferred fee structures. Any creative or alternative compensation structures should be supported with clear explanatory notes and potential benefits to the City.
  
7. Other Pertinent Information:  
Submit any pertinent information the City should consider, including topics not identified or requested herein.

*Information packages must be limited to a maximum of 15 pages. All information packages will become part of the public record and respondents shall not include confidential or proprietary information.*

**IV. SCHEDULE (dates are subject to change)**

- Issue RFI to public: 02/05/2018
- Respondent questions due to City by 3PM PT: 02/16/2018
- Issue Addendum/Q&A via City website/posting: 02/21/2018
- RFI due to City by 2PM PT: 03/01/2018

Thank you for your interest in working with the City of Berkeley for this service. We look forward to receiving your information package.

## Attachment 2

## Representative Listing of Grants Awarded in California

| <b>FIRM</b>                 | <b>GRANT TITLE</b>                                           | <b>CLIENT</b>                                                     | <b>AWARD</b> |
|-----------------------------|--------------------------------------------------------------|-------------------------------------------------------------------|--------------|
| California Consulting       | USDOJ COPS Hiring Recovery Program (CHRP)                    | City of Salinas                                                   | \$3,837,546  |
|                             | FEMA Staffing for Adequate Fire & Emergency Response (SAFER) | Consumnes CSD Fire Department                                     | \$1,947,191  |
|                             | CalTran Active Transportation Program (ATP) Cycle 2          | City of Rosemead                                                  | \$702,000    |
|                             | HCD Housing Related Parks Program (HCD)                      | City of Lynwood                                                   | \$516,150    |
|                             | DBW Non-Motorized Boat Launching Grant                       | City of Waterford                                                 | \$470,290    |
|                             | OTS Pedestrian/Bicycle Safety Grant                          | City of Lompoc                                                    | \$25,000     |
| Grant Management Associates | Beneficial Reuse of Carbon (Phase 2)                         | Department of Energy - Industrial Capture                         | \$25,000,000 |
|                             | Affordable Housing and Sustainable Communities Program       | City of Redding/Shasta Transportation Authority                   | \$20,000,000 |
|                             | Alternative and Renewable Fuel Infrastructure                | California Energy Commission                                      | \$15,700,000 |
|                             | Prop 84 Stormwater Grant Program (Round 2)                   | California EPA                                                    | \$648,284    |
|                             | Bicycle and Pedestrian Project, Tribal Transportation Safety | Karuk Tribe - Bureau of Indian Affairs                            | \$872,000    |
|                             | HRSA Mobile Dental Health Grant                              | El Dorado County                                                  | \$600,000    |
| Glen Price Group            | CalWorks Stage 1 Child Care Program                          | Child Care Links                                                  | \$36,460,960 |
|                             | Whole Person Care Pilots                                     | Sonoma County, Health Services Department, Behavioral Health Div. | \$16,704,136 |

|  |                                                                                   |                                          |                                        |
|--|-----------------------------------------------------------------------------------|------------------------------------------|----------------------------------------|
|  | Home and Community-Based Alternatives (HCBA) Waiver                               | Sonoma County, Human Services Department | \$2,500,000 (estimated over 57 months) |
|  | Improving Reentry for Adults with Co-Occurring Substance Abuse and Mental Illness | Sonoma County Probation Department       | \$750,000                              |
|  | Community Oriented Policing Services (COPS) Hiring Program                        | City of Richmond                         | \$600,000                              |
|  | Chancellor's Community Partnership Fund                                           | Berkeley Unified School District         | \$15,000                               |



**SOPHIE HAHN**

Berkeley City Council, District 5  
 2180 Milvia Street, 5th Floor  
 Berkeley, CA 94704  
 Phone: (510) 981-7150  
 Email: [shahn@cityofberkeley.info](mailto:shahn@cityofberkeley.info)

CONSENT CALENDAR

October 3, 2017

To: Honorable Mayor and Members of the City Council

From: Councilmember Sophie Hahn, Kate Harrison, Cheryl Davila, and Ben Bartlett

Subject: Request for Information Regarding Grant Writing Services from Specialized Grant Writing Firms

RECOMMENDATION

Refer to the City Manager to issue a request for information to explore grant writing services from specialized municipal grant-writing firms, and report back to Council.

FINANCIAL IMPLICATIONS

Staff time to issue the request, review responses, and report to Council.

BACKGROUND

Berkeley is an innovative City, pursuing ambitious programs and initiatives with the vigor and vision of a much larger City. Implementing innovative initiatives requires a significant investment of City resources and staff time. To support these efforts and increase revenues, the City currently applies for private, federal, state, and county grants.

Currently, grant writing and application responsibilities are distributed across departments, which independently seek new grant opportunities and submit applications. While the City does receive awards, the application process can be time consuming for Staff. For Berkeley to maximize its potential to gain resources from every possible source, it is imperative that the City apply for as many funding opportunities as possible. Increased revenue obtained through successful grant applications would allow the City to pilot new ideas, serve the community in a more robust fashion, and demonstrate to Berkeley residents the City's commitment to seeking public and private funding that may be available.

To help accomplish this goal, this item recommends that the City Manager issue a Request for Information to explore opportunities to obtain grant writing services from a grant-writing firm specializing in municipal grants. A number of specialized firms exist that consolidate information about grant opportunities and can support the writing of grants. An example is included as Attachment 1. Engaging a firm focused on identifying and applying for grant opportunities may yield a higher success rate than the City currently obtains. The purpose of this request for information would be to explore many different firms and gain information about expertise, services, pricing, and other details,

allowing the City Manager and Council to assess the feasibility and utility of contracting for such services.

ENVIRONMENTAL SUSTAINABILITY

This recommendation supports Berkeley's environmental sustainability goals.

CONTACT PERSON

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

ATTACHMENTS

1. Collection of Municipal Grant information, Winter 2017

## MUNICIPAL GRANTS (Current as of January 27, 2017)

Please note that this document contains a selection of federal, state, and private grant and loan funding opportunities organized by funding topic. Funding topic sections are listed in the order as follows:

- Infrastructure Funding
- Water & Energy Funding
- Transportation Funding
- Parks & Recreation Funding
- Housing & Community Development Funding
- Law Enforcement Funding
- Fire Department Funding
- Health & Wellness Funding
- Miscellaneous Funding
- Upcoming Funding (for all categories)

Within each topic section, grants are listed in order by those with hard deadlines, quarterly deadlines, and those which are due continuously. If there are no current opportunities for a given category, it will be indicated. Some funding opportunities are only available in certain geographic regions and these are indicated in their respective sections.

## INFRASTRUCTURE FUNDING

### **California Infrastructure and Economic Development Bank (IBank): Infrastructure State Revolving Fund (ISRF) Program**

Deadline: Continuous

Amount: \$50,000 to \$25 million or more (with IBank Board approval)

Financing Terms:

The interest rate benchmark is Thompson's Municipal Market Data Index. Staff may adjust the interest rate based upon factors that include: Unemployment, Medium Household Income, Environmental, and Other special circumstances. The IBank Board has final approval of the interest rate. Maximum 30 year term Open application process

Eligibility: Any subdivision of a local or state government. Applicant may also be a company, corporation, association, partnership, firm, or other entity or group of entities organized as a public benefit not-for-profit entity engaged in business or operations within the state

[http://ibank.ca.gov/infrastructure\\_loans.htm](http://ibank.ca.gov/infrastructure_loans.htm)

The ISRF Program provides financing for public infrastructure projects such as: environmental mitigation; port facilities; power and communications transmission or distribution facilities; public transit; solid waste collection and disposal; defense conversion; as well as military infrastructure. A project must promote economic development and attracts, creates, and sustains long-term employment opportunities. Eligible uses include, but are not limited to, construction or modification of the following:

- educational, cultural, and social facilities;

- public infrastructure, purchase and install pollution control or noise abatement equipment;
- parks and recreation facilities;
- docks, harbors, piers, marinas;
- facilities for and/or transmission or distribution of electrical energy, natural gas, and telecommunication;
- air and rail transport of goods, including parking facilities;
- transfer stations, recycling centers, sanitary landfills, waste conversion and recycling facilities;
- facilities for successfully converting military bases;
- facilities on or near a military installation that enhance military operations acquire land in conjunction with such project

**California Statewide Communities Development Authority: Statewide Community Infrastructure Program (SCIP)**

Deadline: Continuous

Amount: Varies. Financing is for low interest, tax-exempt bonds.

Eligibility: Public agencies

<http://cscda.org/Apply-Online/Statewide-Community-Infrastructure-Program>

In response to the increasing local agency staff time and budget pressures caused by new commercial, industrial or residential development, CSCDA offers the Statewide Community Infrastructure Program (“SCIP”).

**USDA Rural Development: Community Facilities Grants & Loans**

Deadline: Continuous

Amount: Varies by population & income (typically no larger than \$30,000)

Match: Varies by population & income (60% - 80%)

<http://www.rurdev.usda.gov/CA-CFPrograms.html>

Community Facilities Programs provides grants to assist in the development of essential community facilities in rural areas and towns of up to 20,000 in population. Grants are authorized on a graduated scale. Applicants located in small communities with low populations and low incomes will receive a higher percentage of grants. Grants are available to public entities such as municipalities, counties, parishes, boroughs, and special-purpose districts, as well as non-profit corporations and tribal governments.

## WATER & ENERGY FUNDING

### **DWR/CFDA: Agricultural Water Use Efficiency & State Efficiency and Enhancement Program**

Deadline: April 21, 2017

Amount: \$200,000 maximum award

Match: 50% match of the total project cost

Eligibility: Public agencies, public utilities, federally recognized or state Indian tribes, nonprofit organizations, mutual water companies, and investor-owned utilities regulated by the California PUC.

<http://www.water.ca.gov/wuegrants/AgWUEPilot.cfm>

Through this competitive grant program, DWR and CDFA intend to demonstrate the potential multiple benefits of conveyance enhancements combined with on-farm agricultural water use efficiency improvements and greenhouse gas reductions. The grant funding provided in this joint program is intended to address multiple goals including: 1) water use efficiency, conservation and reduction, 2) greenhouse gas emission reductions, 3) groundwater protection, and 4) sustainability of agricultural operations and food production. It is also anticipated that there will be benefits to water and air quality, groundwater security, surface water conservation, and improved nutrient management and crop health through this program. Excellent proposals will demonstrate the specific regional needs and benefits of their proposals.

### **US Bureau of Reclamation: 2017 WaterSMART - Small Scale Water Efficiency Projects Grant**

Deadline: April 27, 2017

Amount: Up to \$75,000. Applicants will be limited to a \$150,000 cap on project cost.

Match: 50% of the project costs up to \$75,000.

Eligibility: States, Indian tribes, irrigation districts, water districts, or other organizations with water or power delivery authority (may include municipalities)

<http://www.usbr.gov/watersmart/weeg/index.html>

The WaterSMART - Small Scale Water Efficiency Projects Grant is a new program intended to support specific small-scale water efficiency projects that have been prioritized through planning efforts led by the applicant. Larger projects or those with multiple project components, such as a renewable energy component, should be submitted under WaterSMART Water and Energy Efficiency Grants.

### **California Department of Housing and Community Development (HCD): Community Development Block Grant (CDBG) 2016 Drought Lateral Grant**

Deadline: May 31, 2017

Amount: \$150,000 - \$2 Million

Match: None.

Eligibility: Non-entitlement CDBG jurisdictions in California only. See Appendix A - Non-Entitlement CDBG Jurisdictions List by following the link below.

<http://www.hcd.ca.gov/financial-assistance/community-development-block-grant-program/currentnofas.html>

The Department of Housing and Community Development (Department) is pleased to announce the availability of approximately \$5,000,000 in federal Community Development Block Grant

(CDBG) funding for direct relief and mitigation of the effects of the 2014 California Drought Disaster, as declared by Governor Brown. This NOFA applies only to the installation of CDBG-eligible water lateral connections to new or existing public water systems for single- and multi-family residential structures that have no running water as a result of having a dry or contaminated well. Also included are water meters, system connection fees and the abatement of existing dry wells. The CDBG-eligible activity is Housing Rehabilitation.

**State Water Resources Control Board: Water Recycling Funding Program (WFRP)**

Deadline: December 2030 (currently accepting applications via FAAST system)

Amount: \$75,000 (for Planning Grants); \$15-\$20 Million (for Construction Grants)

Match: 50% (for Planning Grants); 35% (for Construction Grants)

Financing: For Construction applications Interest at 1/2 General Obligation Bond Rate; 30 year term; Allowance following the CWSRF Policy

Eligibility: local public agencies

[http://www.waterboards.ca.gov/water\\_issues/programs/grants\\_loans/water\\_recycling/proposition\\_1\\_funding.shtml](http://www.waterboards.ca.gov/water_issues/programs/grants_loans/water_recycling/proposition_1_funding.shtml)

The State Water Resources Control Board (State Water Board) provides funding for the planning, design, and construction of water recycling projects that offset or augment state fresh water supplies. There are two programs within this fund:

- **Planning Grants:** The purpose of the planning grant is to assist agencies or regions with completing feasibility studies for water recycling projects using treated municipal wastewater and/or treated groundwater from sources contaminated by human activities. Only local public agencies are eligible to apply for planning grants.
- **Construction Grants:** The Water Recycling Funding Program provides grants and financing to eligible applicants for the construction of water recycling facilities. Construction projects may be funded with grants and low interest financing from a state bond, a CWSRF financing agreement, or combinations of funding sources. Eligible applicants are local public agencies, nonprofit organizations, public utilities, state & federal recognized Indian tribes, and mutual water companies.

**California Energy Commission (CEC): Interest Rate 1% Loan Financing For Energy Efficiency & Energy Generation Projects**

Deadline: Applications are funded on a first-come, first-served basis until funding is exhausted

Amount: Maximum loan amount of \$3 million per applicant

Financing Terms: Loans must be repaid from energy cost savings or other legally available funds within a maximum term of 20 years (including principal and interest).

Eligibility: Cities, Counties, Specials Districts, Public Colleges or Universities

<http://www.energy.ca.gov/efficiency/financing/>

The CEC is offering loans financing for energy efficiency and energy generation projects for Public Agencies. Projects with proven energy and/or demand cost savings are eligible, provided they meet the ECAA eligibility requirements. Projects already funded with an existing loan or already installed are ineligible. Examples of Qualified Projects include the following:

- Lighting systems
- Heating, ventilation and air conditioning equipment
- Streetlights and LED traffic signals
- Energy management systems and equipment controls

- Pumps and motors
- Building envelope and insulation
- Energy generation including renewable energy and combined heat and power projects
- Water and waste water treatment equipment
- Load shifting projects, such as thermal energy storage

**California Energy Commission: The Energy Partnership Program**

Deadline: Continuous

Amount: \$20,000 of a consultant's costs

Match: Any amount in excess of the \$20,000 provided by CEC

<http://www.energy.ca.gov/efficiency/partnership/index.html>

The Energy Partnership Program can conduct an energy audit of existing facilities identify energy saving projects, including: Conduct energy audits and prepare feasibility studies; Review existing proposals and designs; Develop equipment performance specifications; Review equipment bid specifications; Assist with contractor selection; and Review commissioning plans. The Energy partnership also provides technical assistance early in the design phase of new facility construction, including: Provide design review consultation; Identify cost-effective, energy-saving measures; Compare different technologies; Review schematics and construction plans; Provide equipment specification consultation; Develop computer simulation models of your planned project; Help select experienced professionals with energy efficiency expertise; and Assist with system commissioning.

**State Water Resources Control Board: Clean Water State Revolving Fund (CWSRF) Program**

Deadline: Continuous

Amount/Financing: No maximum funding or disbursement limits. Financing Term up to 30 years or the useful life of the project. Interest Rate is ½ the most recent General Obligation (GO) Bond Rate at time of funding approval.

Eligibility: Any city, town, district, or other public body created under state law, including state agencies

[http://www.waterboards.ca.gov/water\\_issues/programs/grants\\_loans/srf/](http://www.waterboards.ca.gov/water_issues/programs/grants_loans/srf/)

The Clean Water State Revolving Fund (CWSRF) program offers low cost financing for a wide variety of water quality projects. The program has significant financial assets, and is capable of financing projects from <\$1 million to >\$100 million. Eligible projects include, but are not limited to:

1. Construction of publicly-owned treatment facilities: Wastewater treatment; Local sewers; Sewer interceptors; Water reclamation and distribution; Stormwater treatment; Combined sewers; Landfill leachate treatment
2. Implementation of nonpoint source (NPS) projects to address pollution associated with: Agriculture; Forestry; Urban Areas; Marinas; Hydromodification; Wetlands
3. Development and implementation of estuary comprehensive conservation and management plans for: San Francisco Bay; Morro Bay; Santa Monica Bay

**State Water Resources Control Board: Clean Water State Revolving Fund (CWSRF) Green Project Reserve Program**

Deadline: Applications accepted on a continuous basis



Amount: \$2.5 Million maximum; \$30 million allocated to entire program

Match: None

Eligibility: Municipalities

[http://www.waterboards.ca.gov/water\\_issues/programs/grants\\_loans/srf/](http://www.waterboards.ca.gov/water_issues/programs/grants_loans/srf/)

Effective with the Clean Water State Revolving Fund's (CWSRF) 2015 Capitalization Grant from U.S. EPA, the State Water Resources Control Board has \$30 million available to provide CWSRF loan (principal) forgiveness to projects that address water or energy efficiency, mitigate storm water runoff, or encourage sustainable project planning, design, and construction. There are four categories of green projects: green infrastructure, water efficiency, energy efficiency, and environmentally innovative activities.

### **State Water Resources Control Board: Drinking Water State Revolving Fund (DWSRF) Program**

Deadline: Continuous

Amount/Financing: No maximum disbursement limit. Interest rates average 2-3% and 20 year loan. Public water systems that serve small, disadvantaged communities may be eligible for 0% and 30 year loan.

Eligibility: Community water systems and non-profit, non-community water systems.

[http://www.waterboards.ca.gov/drinking\\_water/services/funding/SRF.shtml](http://www.waterboards.ca.gov/drinking_water/services/funding/SRF.shtml)

On October 21, 2014, the State Water Resources Control Board (State Water Board) adopted the *Policy for Implementing the Drinking Water State Revolving Fund (DWSRF Policy)* effective January 1, 2015. The purpose of the DWSRF is to provide financial assistance for the planning/design and construction of drinking water infrastructure projects that are needed to achieve or maintain compliance with federal and state drinking water statutes and regulations.

Funding for the DWSRF comes from federal grants, state sources, and loan repayment.

Applications are offered for the following two categories:

1. Construction Financing - These funds are for applicants with complete final plans, specifications, and environmental documentation.
2. Planning/Design Financing - These funds are for applicants who do not have final plans, specifications, and environmental documentation.

### **State Water Resources Control Board: Proposition 1 Small Community Wastewater Program**

Deadline: Continuous

Amount/Financing: \$260 Million allocated to program. Like CWSRF (see above) there is no maximum funding or disbursement limits. Financing Term up to 30 years or the useful life of the project. Interest Rate is ½ the most recent General Obligation (GO) Bond Rate at time of funding approval.

Eligibility: Most cities, towns, districts, or other public bodies created under state law, including state agencies

[http://www.waterboards.ca.gov/water\\_issues/programs/grants\\_loans/small\\_community\\_wastewater\\_grant/projects.shtml](http://www.waterboards.ca.gov/water_issues/programs/grants_loans/small_community_wastewater_grant/projects.shtml)

Section 79723 of Prop 1 allocates \$260 million to the Clean Water State Revolving Fund (CWSRF) Small Community Grant (SCG) Fund. The State Water Board has an annual SCG appropriation of \$8 million dollars, which is administered consistent with the CWSRF Intended Use Plan (IUP), and the CWSRF Policy. The Prop 1 funds will supplement existing SCG

authority. Eligible projects are similar to the CWSRF program and include, but are not limited to:

1. Construction of publicly-owned treatment facilities: Wastewater treatment; Local sewers; Sewer interceptors; Water reclamation and distribution; Stormwater treatment; Combined sewers; Landfill leachate treatment
2. Implementation of nonpoint source (NPS) projects to address pollution associated with: Agriculture; Forestry; Urban Areas; Marinas; Hydromodification; Wetlands

**State Water Resources Control Board: Safe Drinking Water State Revolving Fund (SDWSRF)**

Deadline: Pre-application, requires annual invitation

Amount: \$ 500,000-\$5,000,000

Match: 20% of eligible project costs

[http://www.waterboards.ca.gov/drinking\\_water/services/funding/SRF.shtml](http://www.waterboards.ca.gov/drinking_water/services/funding/SRF.shtml)

This program provides support to engage in the demonstration of innovative technologies, methods, practices, and techniques in three areas: operational safety, infrastructure or equipment resiliency, and all-hazards emergency response and recovery methods.

**State Water Resources Control Board: Water and/or Energy Audits Program**

Deadline: Continuous

Amount: Up to \$35,000

Match: None

Eligibility: Any municipality, inter-municipal, interstate or state agency with facilities or activities eligible for Clean Water State Revolving Fund (CWSRF) financing may apply.

[http://www.waterboards.ca.gov/water\\_issues/programs/grants\\_loans/srf/](http://www.waterboards.ca.gov/water_issues/programs/grants_loans/srf/)

This program is for CWSRF-eligible agencies that need financial assistance to find out if they can improve water and energy efficiency. The State Water Resource Control Board will provide funding to conduct a Water and/or Energy Audit to assess an agency's current practices and identify potentially inefficient water and/or energy use. The State Water Resources Control Board can fund 100% of audit costs, up to a maximum of \$35,000. Applications are submitted online by submitting a Water or Energy Audit Financial Assistance Application with attachments through FFAST (Financial Assistance Application Submittal Tool).

**USDA Rural Development: Water & Waste Disposal Grant/Loan Program**

Deadline: Continuous

Amount/Financing: Grant amount varies. Loan has up to 40-year payback period, on a fixed interest rate of 3.125% or lower.

Eligibility: state and local government entities, private nonprofits, federally-recognized tribes in rural areas with fewer than 10,000 people.

<http://www.rd.usda.gov/programs-services/water-waste-disposal-loan-grant-program/ca>

This program provides long-term low interest loans for clean and reliable drinking water systems, sanitary sewage disposal, sanitary solid waste disposal, and storm water drainage to households and businesses in eligible rural areas. Funds may be used to finance the acquisition,

construction or improvement of: Drinking water sourcing, treatment, storage and distribution; Sewer collection, transmission, treatment and disposal; Solid waste collection, disposal and closure; and Storm water collection, transmission and disposal. In some cases, funding may also be available for related activities such as: Legal and engineering fees; Land acquisition, water and land rights, permits and equipment; Start-up operations and maintenance; Interest incurred during construction; Purchase of existing facilities to improve service or prevent loss of service; and Other costs determined to be necessary for completion of the project.

## ENVIRONMENT & CONSERVATION FUNDING

### California Farmland Conservancy Program

Deadline: Continuous

Amount: Varies

Match: 5% of grant total

[http://www.consrv.ca.gov/dlrp/cfcp/funding/Pages/request\\_grant\\_app.aspx](http://www.consrv.ca.gov/dlrp/cfcp/funding/Pages/request_grant_app.aspx)

The Department of Conservation's California Farmland Conservancy Program provides grants to local governments and qualified nonprofit organizations for:

- voluntary acquisition of conservation easements on agricultural lands that are under pressure of being converted to non-agricultural uses;
- temporary purchase of agricultural lands that are under pressure of being converted to non-agricultural uses, as a phase in the process of placing an agricultural conservation easement;
- agricultural land conservation planning and policy projects; and,
- restoration of and improvements to agricultural land already under easement

## TRANSPORTATION FUNDING

### California Statewide Communities Development Authority: Total Road Improvement Program (TRIP)

Deadline: Continuous

Amount: Varies. Local governments leverage their State Motor Vehicle Fuel Tax to finance road improvement projects.

Eligibility: Local public agencies (cities and counties)

[http://cscda.org/Public-Agency-Programs/Total-Road-Improvement-Programs-\(TRIP\)](http://cscda.org/Public-Agency-Programs/Total-Road-Improvement-Programs-(TRIP))

CSCDA offers a pooled securitization program to assist local agencies in bonding against future payments to obtain funding for more projects today. As a pooled public offering, program participants will benefit from reduced issuance costs and better interest rates as compared to stand alone issues. The program does not require a pledge of the local agency's General Fund. The Gas Tax Accelerated Street Improvement Program will allow local governments to leverage their State Motor Vehicle Fuel Tax (the "Gas Excise Tax") to finance road improvement projects. The use of proceeds from the Gas Excise Tax, an 18-cent State excise tax collected on fuel sales, is restricted to the maintenance and construction of public streets and highways. The

obligations will be secured solely by a pledge of Gas Excise Tax revenues of the participating agencies.

## PARKS & RECREATION FUNDING

### **US Soccer Foundation: 2017 Innovative & Non-Traditional Soccer Program Grants**

*(formerly Program Grants)*

Deadline: February 10, 2016

Amount: \$30,000 - \$90,000 (dispersed over three years)

Match: None

Eligibility: Organizations with IRS approved tax-exempt status at the time of application that offer soccer-specific programming.

<https://ussoccerfoundation.org/grants/innovative-and-non-traditional-soccer-program-grants>

The U.S. Soccer Foundation recently announced changes to Program Grants. Moving forward, the Foundation will focus on one specific category or theme each year. In 2017, the Foundation, will begin accepting applications from organizations that are implementing innovative and/or non-traditional soccer programs in their communities. Awardees will receive up to a three year-grant of \$10,000-\$30,000 a year. These grants can be used to purchase soccer equipment and/or cover operating expenses. Awardees will be required to send one person to the U.S. Soccer Foundation's Urban Soccer Symposium, held in Washington D.C. The Foundation will cover expenses associated with attending the event.

### **US Soccer Foundation: 2017 Safe Places to Play Grants**

Deadlines:

- Spring Grants Cycle: LOIs due February 3, 2017; Application due February 10, 2017
- Summer Grants Cycle: LOIs due May 26, 2017; Application due June 2, 2017
- Fall Grants Cycle: LOIs due September 29, 2017; Application due October 6, 2017

Amount: \$4,000 - \$50,000 or a percentage of total project amount in form of vendor credit (see details below)

Match: None required officially; applicants must contribute additional funds not covered by the grant award

Eligibility: Tax-exempt organizations including: 501(c)(3) nonprofits, churches, individual schools or school districts, cities or municipalities.

<https://ussoccerfoundation.org/grants/application-process/>

Safe Places to Play grants are available in four categories: Synthetic Turf, Lighting, Irrigation, and Sport Court. Multi-sport field projects are eligible for funding, but such fields must be used most the time for soccer. Multi-field projects are also eligible. All Safe Places to Play grants (except for Irrigation) can be awarded for either indoor or outdoor field projects. Grants are disbursed as in-kind credit with their respective vendor:

- Synthetic Turf Grant Amount: up to 10% of the Hellas project quote.
- Lighting Grant Amount: Typically in the range of 15%-30% of project total, with a maximum of \$25,000 per grant for single fields and \$50,000 for multi-field projects.

- Irrigation Grant Amount: Typically in the range of \$4,000 - \$15,000, with a maximum of \$15,000 per grant.
- Sport Court Grant Amount: Typically in the range of 15% - 50% of project total, with a maximum of \$30,000 per grant.

No cash is disbursed as part of this grant. Grantees must use the specific vendor as the supplier for their field project. Applicants are required to submit an LOI describing basics of the project prior to being approved to submit a full application for funding.

### **California Department of Housing & Community Development (HCD): Housing-Related Parks Program**

Deadline: February 23, 2017

Amount: Minimum grant amount: \$75,000; no set maximum award

Match: None

Eligibility: Cities and counties that, by the date set forth in the applicable NOFA, have adopted housing elements

<http://www.hcd.ca.gov/housing-policy-development/housing-related-parks-program/>

The HRP Program is designed to encourage cities and counties to develop new residential housing by rewarding those jurisdictions that approve housing affordable to lower-income households with grant funds for the costs of Park and Recreation Facility creation, development, or rehabilitation, including, but not limited to, the acquisition of land for the purposes of those activities as well as major maintenance, reconstruction, or demolition for purposes of reconstruction of facilities, and retrofitting work. The grant provides funding on a per-bedroom basis for each residential unit affordable to very low- and low-income households permitted during the Designated Program Year (DPY). Awards will be distributed on the following basis:

- \$500 per bedroom for each unit affordable to Low-Income Households
- \$750 per bedroom for each unit affordable to Very Low-Income Households
- The minimum grant amount based on funding for these units must be \$75,000

### **Major League Baseball Foundation: Baseball Tomorrow Fund**

Deadline: Quarterly (January 1, April 1, July 1, & October 1)

Amount: \$40,000 average award size

Match: 50% or more of total project cost

Eligibility: Tax exempt organizations including municipalities, school districts, and 501(c)(3) nonprofits

[http://web.mlbcommunity.org/index.jsp?content=programs&program=baseball\\_tomorrow\\_fund](http://web.mlbcommunity.org/index.jsp?content=programs&program=baseball_tomorrow_fund)

The Baseball Tomorrow Fund is a joint initiative between Major League Baseball and the Major League Baseball Players Association designed to promote and enhance the growth of youth participation in baseball and softball around the world by funding programs, fields, coaches' training, uniforms, and equipment. Grants are intended to finance a new program, expand or improve an existing program, undertake a new collaborative effort, or obtain facilities or equipment necessary for youth baseball or softball programs. The Baseball Tomorrow Fund supports projects that meet the following evaluation criteria: increase the number of youth participating in baseball and softball programs; improve the quality of youth baseball and softball programs.

## HOUSING & COMMUNITY DEVELOPMENT FUNDING

### **ArtPlace America: National Creative Placemaking Fund**

Deadline: February 14, 2017 (registration deadline); February 22, 2017 (application deadline)

Amount: Varies. \$9.5 million available for entire program

Match: None

Eligibility: Nonprofit organizations, local governing bodies, individual artists/designers, and for-profit organizations

<http://www.artplaceamerica.org/our-work/national-creative-placemaking-fund/introduction>

ArtPlace America is a collaboration of leading national and regional foundations that is working to position art and culture as a core sector of community planning and development. ArtPlace's National Creative Placemaking Fund has \$9.5 million available for projects that work with artists and arts organizations to build stronger, healthier communities anywhere in the United States.

The Fund gives some emphasis to applications from selected localities; however, applications are welcome from all rural and urban regions all across the country, including the U.S. Territories.

Visit the ArtPlace website to learn more about the Fund.

### **Kessler Foundation: Signature Employment Grants**

Deadline: Online grant concepts are due March 17, 2017; invited proposals must be submitted by July 10, 2017

Amount: \$100,000 to \$250,000

Match: None

Eligibility: Nonprofit organizations, public or private schools, and public institutions, such as universities and government agencies based in the United States or any of its territories are eligible to apply.

<http://kesslerfoundation.org/grantprograms/signatureemploymentgrants.php>

The Kessler Foundation's Signature Employment Grants provide support for non-traditional solutions that increase employment outcomes for individuals with disabilities. Grants ranging from \$100,000 to \$250,000 per year for up to two years are awarded nationally to fund pilot initiatives, demonstration projects, or social ventures that lead to the generation of new ideas to solve the high unemployment and underemployment of individuals with disabilities. Preference is given to interventions that overcome specific employment barriers related to long-term dependence on public assistance or advance competitive employment in a cost-effective manner. Although proposals can be submitted from any state, this year the Foundation has prioritized serving Americans with disabilities that live in rural states and other areas with more limited service delivery. Visit the Kessler Foundation's website to review the Signature Employment Grants guidelines.

### **California Department of Housing & Community Development (HCD): 2017 Veterans Housing and Homelessness Prevention (VHHP) Program**

Deadline: February 21, 2017

Amount: The maximum loan per project is \$10 million.

Financing Terms:

Eligibility: The Eligible Project Sponsor is the borrowing entity that HCD relies upon for experience and capacity, and which controls the project during development and occupancy.



<http://www.hcd.ca.gov/financial-assistance/veterans-housing-and-homelessness-prevention-program/>

The purpose of the VHHP program is to provide funding for acquisition, construction, rehabilitation and preservation of affordable multifamily housing for veterans and their families to allow veterans to access and maintain housing stability. Funds must be used to serve veterans and their families. VHHP funds will be provided as post-construction permanent loans. All Program funds shall be used for the development costs in CCR Section 7304 (a) and (b) and to refinance loans used to cover such costs. Program assistance shall have an initial term of fifty-five years or longer to match the period of affordability restrictions under the Low Income Housing Tax Credit Program. "Veteran" means any person who served in the active military, naval or air service of the United States or as a member of the National guard who was called to and released from active duty or active services for a period of not less than 90 consecutive days or was discharged from service due to a service related disability. This includes veterans with other-than-honorable discharges. At least 50 percent of the funds awarded shall serve veteran households with extremely low-incomes. Of those units targeted to extremely low-income veteran housing, 60 percent shall be supportive housing units.

### **Burlington Northern Santa Fe Railway Foundation**

Deadline: Continuous

Amount: \$100 - \$500,000

Match: None

Eligibility: Nonprofit organizations, local government agencies, and educational institutions in communities served by the Burlington Northern Santa Fe Railway

<http://www.bnsffoundation.org/>

The Burlington Northern Santa Fe Railway Foundation provides support in communities in the company's area of operations. The Foundation considers requests falling in the following categories:

- Civic Services: This area includes organizations which are concerned with the environment and local community issues, such as crime prevention, parks and recreation, diversity and community development.
- Cultural Organizations: This area includes performing arts, visual arts, fine arts, and museums and other related activities that offer opportunities for underserved children to experience cultural learning events.
- Educational Institutions: This area includes both public and private education, primarily at the college level. (Grants of an exceptional nature may be made to vocational and non-college schools. Preferably, contributions will be directed toward the improvement of the quality of education.)
- Health and Human Service Organizations: This area includes hospitals, medical programs, and programs that address chemical dependency treatment and prevention, spouse and child abuse, women's and children's aid, and transitional shelters.
- Youth Organizations: This area includes Boys & Girls Clubs, Camp Fire, Scouts, Junior Achievement, and similar groups.

Federated organizations such as United Way and American Red Cross are also supported.

To be considered for a grant, requests should meet at least two of the following criteria:

The organization or project has significant Burlington Northern Santa Fe (BNSF) employee participation; the organization or the services provided are in close proximity to a BNSF main



line or BNSF is the only railroad or major corporation in the applicant's area of the state; the request is related to the railroad industry; or, the request is for direct programming or project support.

**California Statewide Communities Development Authority: Taxable Bonds Program**

Deadline: Continuous

Amount: Varies. Financing is for low interest, tax-exempt bonds.

Eligibility: Public and private entities

<http://cscda.org/Apply-Online/Taxable-Bonds>

This program offers public and private entities taxable bonds for projects that provide public benefit and economic development. Longer term taxable bonds can often provide cost savings and other efficiencies.

*Note: This funding opportunity is being listed on the Municipal Grant List so that cities can offer it to eligible organizations within their community.*

**Economic Development Administration (EDA): FY2016 Public Works and Economic Adjustment Assistance Grant Programs**

Deadline: Continuous until new solicitation published

Amount: \$100,000 - \$3,000,000

Match: 50% of project cost

Eligibility: Cities; Counties; 501(c)(3) nonprofits; Public and State controlled institutions of higher education; Native American tribal governments; Private institutions of higher education; Special district governments

<http://www.eda.gov/funding-opportunities/>

Under this FFO, EDA solicits applications from applicants in rural and urban areas to provide investments that support construction, non-construction, technical assistance, and revolving loan fund projects under EDA's Public Works and EAA programs. Grants and cooperative agreements made under these programs are designed to leverage existing regional assets and support the implementation of economic development strategies that advance new ideas and creative approaches to advance economic prosperity in distressed communities. EDA provides strategic investments on a competitive- merit-basis to support economic development, foster job creation, and attract private investment in economically distressed areas of the United States.

**Union Pacific Foundation Community-Based Grant Program**

Deadline: Preliminary applications: August 14, annually; Final applications: August 15, annually

Amount: \$10,000

Match: None

Eligibility: Nonprofit organizations and local municipalities in communities served by the Union Pacific Railroad

<http://www.up.com/found/index.shtml>

The Union Pacific Foundation's mission is to improve the quality of life in the communities served by Union Pacific, primarily in the Midwestern and western United States. (A map of Union Pacific's service area is available on the [UP website](#).) The Foundation's Community-Based Grant Program provides support in the following areas:

- Community and Civic: The goal is to assist community-based organizations and related activities that improve and enrich the general quality of life. This category includes organizations such as aquariums, botanical gardens, children's museums, history/science museums, public libraries, public television and radio, and zoos.
- Health and Human Services: The goal is to assist organizations dedicated to improving the level of healthcare and providing human services in the community. Local affiliates of national health organizations may apply for local programs only, but not for general operating support.

The Foundation has a strong interest in promoting organizational effectiveness among nonprofits. To that end, the Foundation will dedicate the majority of these grants to help nonprofit organizations build their capacity, increase their impact, and operate more efficiently and effectively.

### **Wells Fargo Charitable Contributions Program**

Deadline: January 3 - September 30, annually

Amount: Varies; typically around \$50,000

Match: None

Eligibility: Nonprofit organizations

<http://www.wellsfargo.com/about/charitable/index.jhtml>

The Wells Fargo Charitable Contributions Program supports nonprofit organizations that address vital community needs and issues in the communities served by the bank.

Guidelines for charitable contributions vary from state to state. However, Wells Fargo generally supports the following areas of interest:

- community development, including affordable housing and homebuyer education, workforce development, financial literacy, and economic development;
- education, including higher education and K-12 education;
- human services, including childcare, healthcare, and basic needs;
- the environment, including green economy and clean technologies, natural resources, and endangered species; and,
- arts and culture, including performing arts and museums; and,
- civic engagement.

Wells Fargo prefers to fund outcome-driven programs versus unrestricted sponsorships and events for nonprofits.

## LAW ENFORCEMENT FUNDING

### **US Department of Justice: Body-Worn Camera Policy and Implementation Program FY 2017 Competitive Grants**

Deadline: February 16, 2016

Amount: Varies by grant type (see description below)

Match: 50% or more of the total project costs

Eligibility: public agencies of state government, units of local government, and federally recognized Indian tribal governments that perform law enforcement functions

<https://www.bja.gov/funding/BWCPIP17.pdf>

The FY 2017 BWC PIP will support the implementation of body-worn camera programs in law enforcement agencies across the country. The intent of the program is to help agencies develop, implement, and evaluate a BWC program as one tool in a law enforcement agency's comprehensive problem-solving approach to enhance officer interactions with the public and build community trust. Successful applicants will develop and implement policies and practices required for effective program adoption, and will address program factors including the purchase, deployment, and maintenance of camera systems and equipment; data storage and access; and privacy considerations. BJA expects the BWC programs to make a positive impact on the quality of policing in these jurisdictions and to inform national efforts to improve the use of BWCs more broadly. While BWC equipment may be purchased under this program, successful applicants must demonstrate a commitment and adherence to a strong BWC policy framework, including comprehensive policy adoption and requisite training. There are 4 applicant categories with specific award amounts as shown below:

- 1) **CATEGORY 1: Implementation or Expansion of BWC Programs for SMALL AGENCIES** (25 or fewer sworn officers) Award Amount: Minimum request of \$10,000; up to 40 awards nationwide
- 2) **CATEGORY 2: Implementation or Expansion of BWC Programs for MID-SIZED AGENCIES** (26-250 sworn officers) Award Amount: Maximum of \$400,000; up to 10 awards nationwide
- 3) **CATEGORY 3: Implementation or Expansion of BWC Programs for LARGE AGENCIES** (251-1000 sworn officers) Award Amount: Maximum of \$750,000; up to 8 awards nationwide
- 4) **CATEGORY 4: Implementation or Expansion of BWC Programs for EXTRA-LARGE AGENCIES** (More than 1000 sworn officers) Award Amount: Maximum of \$1 Million; up to 5 awards nationwide

### **California Board of State & Community Corrections (BSCC): Proposition 47 Grant Program**

Deadline: February 21, 2017

Amount: \$1 Million to \$6 Million

Match: No match required, however, public agency applicants must demonstrate how they will leverage other federal, state, and local funds or other social investments.

Eligibility: Public Agencies (incl. counties, cities, tribes, school districts)

[http://www.bscc.ca.gov/s\\_bsccprop47.php](http://www.bscc.ca.gov/s_bsccprop47.php)

Proposition 47, which reduced to misdemeanors penalties for some low-level crimes, requires the Board of State and Community Corrections (BSCC) to administer grant programs for mental

health and substance abuse treatment using a portion of the annual state savings. Proposition 47 grant funds must be used for mental health services, substance use disorder treatment, diversion programs, or some combination thereof. In addition to these required services and programs, applicants are encouraged to provide supplemental housing-related services and other community-based supportive services, such as job skills training, case management, and civil legal services.

**Open Society Foundations: Police Associations Leading 21st Century Policing**

Deadline: February 24, 2017

Amount: \$25,000 to \$200,000

Match: None

Eligibility: Local fraternal and sororal police associations in the United States

[https://www.opensocietyfoundations.org/grants/police-associations-leading-21st-century-policing-20170112?utm\\_source=Open+Society+Foundations&utm\\_campaign=5174b68b7f-Grants\\_RSS\\_email&utm\\_medium=email&utm\\_term=0\\_d16374add2-5174b68b7f-49765169](https://www.opensocietyfoundations.org/grants/police-associations-leading-21st-century-policing-20170112?utm_source=Open+Society+Foundations&utm_campaign=5174b68b7f-Grants_RSS_email&utm_medium=email&utm_term=0_d16374add2-5174b68b7f-49765169)

The Open Society Foundations recognize that recent events have generated new urgency to seek new solutions and create lasting collaborative relationships between local police and the public. Through the Police Associations Leading 21st Century Policing initiative, the Foundations invite local fraternal and sororal police associations in the United States to submit proposals for projects they wish to work on to increase trust between law enforcement officers and the communities they serve. The aim is to make grants to local police associations to help them to implement projects that relate to the recommendations of the President's Taskforce on 21st Century Policing. Visit the Foundations' website to download the request for proposals.

**US Department of Justice: Adult Drug Court Discretionary Grant Program FY 2017  
Competitive Grant**

Deadline: February 28, 2017

Amounts: Grant Amounts vary by program as follows

- CATEGORY 1: Implementation Grant maximum: \$400,000
- CATEGORY 2: Enhancement Grant maximum: \$400,000

Match: Minimum of 25% matching funds from non-federal sources for each category

Eligibility: states, state and local courts, counties, units of local government, and federally recognized Indian tribal governments for Categories 1 & 2; State agencies only for Category 3 grants

<https://www.bja.gov/funding/DrugCourts17.pdf>

The purpose of the Adult Drug Court Discretionary Grant Program is to provide financial and technical assistance to eligible entities to develop and implement drug courts that effectively integrate evidence-based substance use disorder treatment, mandatory drug testing, sanctions and incentives, and transitional services in a judicially supervised court setting with jurisdiction over substance-misusers. BJA is accepting applications for FY 2017 grants to either establish new drug courts or enhance existing drug court programs using evidence-based principles and practices. Local governments are eligible to apply for two funding categories under this solicitation, including:

1. **CATEGORY 1: IMPLEMENTATION** -- Implementation grants are available to eligible jurisdictions that have completed a substantial amount of planning and are ready

to implement an evidence-based adult drug court. Applicants may propose to use funding for court operations and services; participant supervision, management, and services; provision and coordination of recovery support services including education, civil legal assistance, job training and placement, housing placement assistance, primary and behavioral health care, and childcare and other supportive services.

2. **CATEGORY 2: ENHANCEMENT** -- Enhancement grants are available to eligible jurisdictions with a fully operational adult drug court (to be eligible, the court must have been operating for at least 1 year as of September 30, 2017). Applicants are encouraged to include in their proposals funding to incorporate the evidence-based program principles included in the NADCP Adult Drug Court Best Practice Standards, and to specify which Standard(s) is/are addressed in the application and include in the program design details on how the Standard(s) will be implemented.

### **US Department of Justice: National Sexual Assault Kit Initiative (SAKI) FY 2017 Competitive Grant**

Deadline: March 2, 2017

Amounts: Grant Amounts vary by program as follows

- Purpose Area 1 -- 10 awards of up to \$3 million each
- Purpose Area 2 -- 10 awards of up to \$500,000 each
- Purpose Area 3 -- 5 awards of up to \$1 million each

Match: None required, but voluntary contributions are encouraged

Eligibility: law enforcement agencies of states, units of local government, federally recognized Indian tribal governments. Specific grants have different eligibility requirements (see Purpose Area descriptions below).

<https://www.bja.gov/funding/SAKI17.pdf>

The National Sexual Assault Kit Initiative (SAKI), administered by the Bureau of Justice Assistance (BJA), provides funding through a competitive grant program to support multidisciplinary community response teams engaged in the comprehensive reform of jurisdictions' approaches to sexual assault cases resulting from evidence found in previously unsubmitted sexual assault kits (SAKs). The focus of this solicitation is on those "un-submitted kits" which are defined as SAKs that have not been submitted to a forensic laboratory for testing with CODIS-eligible DNA methodologies. There are three different solicitations available under the SAKI grant program:

1. **PURPOSE AREA 1: Comprehensive Approach to Un-submitted Sexual Assault Kits** -- Applications are solicited from eligible agencies who can demonstrate their ability and commitment to implementing the comprehensive BJA model to address the issues that underlie the problem of un-submitted SAKs
2. **PURPOSE AREA 2: SAKI for Small Agencies** -- Applications are solicited from eligible entities to support targeted activities associated with un-submitted SAKs. Sites may apply for funding of up to \$500,000 to address any SAKI-related activity listed under Purpose Area 1 (see pages 10-13). These must be consistent with the BJA Model with modifications based on need, existing capacity and resources and local challenges. Eligible applicants under Purpose Area 2 are Small Law Enforcement Agencies that have less than 250 sworn officers OR Consortia of Small Agencies.
3. **PURPOSE AREA 3: Collection of Lawfully Owed DNA from Convicted Offenders to Assist with Sexual Assault Investigations and Prosecutions** -- This funding is

intended as enhancement funds for applicants who can clearly demonstrate that their jurisdiction has previously addressed, or is currently effectively addressing, the major issues associated with un-submitted SAKs. The goal of this purpose area is to enable the appropriate law enforcement and correctional authorities to plan and implement coordinated DNA collections of lawfully owed samples, testing, and CODIS uploads in accordance with applicable state law and for resolving sexual assault cases associated with previously un-submitted SAKs.

**US Department of Justice: Second Chance Act Reentry Program for Adults with Co-Occurring Substance Use and Mental Disorders FY 2017 Competitive Grant**

Deadline: March 14, 2017

Amount: Eight awards of up to \$650,000

Match: This solicitation does not require a match.

Eligibility: states, units of local government, and federally recognized Indian tribal governments  
<https://www.bja.gov/Funding/SCACOD.pdf>

Under this solicitation, BJA is seeking applications to implement or expand treatment programs for adults with co-occurring substance use and mental disorders who are returning to their communities following incarceration. Programs should expand and improve the screening and assessment for co-occurring disorders that takes place in jails and prisons, in-reach by community-based providers, and the reentry and community reintegration process. Proposed programs should improve the provision of treatment for adults (18 years and over) being treated for co-occurring substance use and mental disorders, focusing on pre- and post-release programming for every program participant.

**US Department of Justice: Smart Reentry - Focus on Evidence-based Strategies for Successful Reentry from Incarceration to Community FY 2017 Competitive Grant**

Deadline: March 14, 2017

Amount: Up to five awards of up to \$1,000,000 each

Match: 50% of the total project cost and may be in the form of cash or in-kind services.

Eligibility: State and local government agencies and federally recognized Indian tribal governments

<https://www.bja.gov/funding/SmartReentry.pdf>

The Second Chance Act of 2007 helps to address the significant challenges of reentry of incarcerated individuals into society by providing comprehensive responses to incarcerated adults who are returning to communities from prison, jail, and juvenile residential facilities. Programs funded under the Second Chance Act help to promote public safety by ensuring that the transition individuals make from prison and jail to the community is successful. The goal of the Smart Reentry Program is to support jurisdictions to develop and implement comprehensive and collaborative strategies that address the challenges posed by reentry to increase public safety and reduce recidivism for individuals reentering communities from incarceration who are at medium to high risk for recidivating. This process should provide the individual with appropriate evidence-based services—including reentry planning that addresses individual criminogenic needs identified through information obtained from an empirically validated risk/needs assessment that also reflects the risk of recidivism for each individual. The reentry plan should reflect both specific and ongoing pre-release and post-release needs, and a strategy for ensuring that these needs are met throughout the duration of the reentry process.



**US Department of Justice: Violent Gang and Gun Crime Reduction Program (Project Safe Neighborhoods) FY 2017 Competitive Grant**

Deadline: March 28, 2017

Amount: 12 awards of up to \$200,000-\$500,000 each

Match: This solicitation does not require a match.

Eligibility: PSN team fiscal agents for the United States Attorney Office districts and federally recognized Indian tribal governments. All fiscal agents must be certified by the relevant U.S. Attorney's Office (USAO). Eligible USAO-certified fiscal agents include states, units of local government, educational institutions, faith-based and other community organizations, private nonprofit organizations, and federally recognized Indian tribal governments.

<https://www.bja.gov/funding/PSN17.pdf>

BJA's "Smart Suite" of programs invests in the development of practitioner-researcher partnerships that use data, evidence, and innovation to create strategies and interventions that are effective and economical. This data-driven approach enables jurisdictions to understand the full nature and extent of the crime challenges they are facing and to direct resources to the highest priorities. The Smart Suite of programs, which includes Project Safe Neighborhoods (PSN), represents a strategic approach that brings more "science" into criminal justice operations by leveraging innovative applications of analysis, technology, and evidence-based practices with the goal of improving performance and effectiveness while containing costs. PSN is designed to create safer neighborhoods through a sustained reduction in gang violence and gun crime. The program's effectiveness is based on the cooperation and partnerships of local, state, and federal agencies engaged in a unified approach led by the U.S. Attorney (USA) in each district. The USA is responsible for establishing a collaborative PSN team of federal, state, and local law enforcement and other community members to implement gang violence and gun crime enforcement, intervention, outreach, and prevention initiatives within the district. Through the PSN team, the USA will implement the five design features of PSN—partnerships, strategic planning, training, outreach, and accountability—to address specific gun crime and gang violence, in the most violent neighborhoods. Details on the five design features (also referred to as core elements) can be found on pages 5-7.

**US Department of Justice: FY 2017 National Initiatives: Preventing Violence Against Law Enforcement Officers and Ensuring Officer Resilience and Survivability (VALOR) Initiative**

Deadline: March 7, 2017

Amount: One award of \$500,000 for Category 1 grants; One award of \$2,500,000 for Category 2 grants; One award of \$2,500,000 for Category 3 grants

Match: None required

Eligibility: Not-for-profit and for-profit organizations; state and local governments; federally recognized Indian tribal governments; and institutions of higher education

<https://www.bja.gov/funding/VALOR17.pdf>

The Preventing Violence Against Law Enforcement Officers and Ensuring Officer Resilience and Survivability (VALOR) Initiative is an overarching program that addresses officer safety, wellness, resilience, and survival through multifaceted training, technical assistance, and specialized programs. USDOJ/BJA is seeking applications under three distinct categories for the FY 2017 Initiative:



1. *Law Enforcement and Community: Crisis Intervention Training Model* – A national training and technical assistance (TTA) provider to further develop and enrich BJA’s justice and mental health portfolio specific to law enforcement’s response and interaction with individuals with mental illness.
2. *Law Enforcement Agency and Officer Resilience Training Program* – A national TTA organization to identify, develop, implement, and analyze the effectiveness of resiliency concepts and skills within a law enforcement agency; serving as the foundation of a nationally delivered resiliency training.
3. *Specialized Officer Safety and Wellness Topics* – Training and Technical Assistance National Provider – A national TTA provider to develop and deliver specialized one-day and half-day state, local, and tribal law enforcement trainings across the nation specifically related to officer safety, wellness, and preparedness.

VALOR is critical to educating and providing resources to law enforcement professionals on officer safety- and wellness-related issues, techniques, and considerations so that they can be better prepared to serve the communities that rely on them.

**US Department of Justice: Law Enforcement National Initiatives: Improving Responses to Criminal Justice Issues FY 2017 Competitive Grant**

Deadline: March 7, 2017

Amount: One award of \$600,000 for Category 1 grants; One award of \$800,000 for Category 2 grants; One award of \$1,300,000 for Category 3 grants

Match: None required

Eligibility: for-profit (commercial) organizations, nonprofit organizations, and institutions of higher education

<https://www.bja.gov/funding/NationalInitiativesLE17.pdf>

The FY 2017 Law Enforcement National Initiatives: Improving Responses to Criminal Justice Issues Competitive Grant Announcement focuses on national initiatives to improve the functioning of the criminal justice system, specifically by (1) providing training to selected law enforcement to develop effective communication strategies; (2) continuing the National Center for Campus Public Safety, which was established in FY 2013; and (3) providing training and technical assistance (TTA) to law enforcement on performance management to improve trust and accountability with communities through the CompStat process.

**US Department of Justice: Swift, Certain, and Fair (SCF) Supervision Program – Including Project HOPE FY 2017 Competitive Grant**

Deadline: March 20, 2017

Amount: Five awards of up to \$600,000 each

Match: None required

Eligibility: States, units of local government, territories, and federally recognized Indian tribal governments

<https://www.bja.gov/funding/SCF17.pdf>

The Swift, Certain, and Fair (SCF) Supervision Program, is a strategic approach that brings more “science” into criminal justice operations by leveraging innovative applications of analysis, technology, and evidence-based practices with the goal of improving performance and effectiveness while containing costs. The SCF principles are intended to: (a) improve supervision strategies that reduce recidivism; (b) promote and increase collaboration among

agencies and officials who work in community corrections and related fields to enhance swift and certain supervision; (c) enhance the supervised persons' perception that the supervision decisions are fair, consistently applied, and consequences are transparent; and (d) improve the outcomes of individuals participating in these initiatives. Through this FY 2017 grant announcement, BJA will select multiple applicants to develop, implement, or enhance an SCF model. Applicants selected under this announcement will work with BJA and its SCF training and technical assistance (TTA) partner to implement the model with fidelity. BJA is supporting this effort to enhance public safety, foster collaboration, and improve the outcomes of individuals under the supervision of community corrections.

**US Department of Justice: Justice and Mental Health Collaboration Program FY 2017 Competitive Grant**

Deadline: April 4, 2017

Amount: 78 awards ranging from \$75,000 - \$300,000

Match: 20% of the project costs from non-federal funds

Eligibility: States, units of local government, territories, and federally recognized Indian tribal governments

<https://www.bja.gov/funding/JMHCP17.pdf>

The Justice and Mental Health Collaboration Program (JMHCPC) supports innovative cross-system collaboration to improve responses and outcomes for individuals with mental illnesses or co-occurring mental health and substance abuse disorders who come into contact with the justice system. BJA is seeking applications that demonstrate a collaborative project between criminal justice and mental health partners from eligible applicants to plan and implement justice and mental health strategies collectively designed between justice and mental health. This solicitation specifically seeks to increase early identification and front-end diversion of people with mental health and co-occurring substance use disorders identified at early intercept points within the justice system. This program seeks to increase the number of justice, mental health, and community partnerships; increase evidence-based practices and treatment responses to people with behavioral health disorders in the justice system; and increase the collection of health and justice data to accurately respond to the prevalence of justice-involved people with mental health and co-occurring substance use disorders.

## **FIRE DEPARTMENT FUNDING**

**FEMA: FY 2016 Staffing for Adequate Fire & Emergency Response (SAFER) Grant**

Deadline: February 10, 2017

Amount: Varies; \$340,000,000 allocated to entire program

Match: None

Eligibility: Eligibility: Volunteer Fire Departments; Career Fire Departments; Combination Fire Departments; Municipalities, Tribal Organizations

<https://www.fema.gov/staffing-adequate-fire-emergency-response-grants>

The Staffing for Adequate Fire and Emergency Response Grants (SAFER) was created to provide funding directly to fire departments and volunteer firefighter interest organizations to

help them increase or maintain the number of trained, "front line" firefighters available in their communities. The goal of SAFER is to enhance the local fire departments' abilities to comply with staffing, response and operational standards established by the NFPA (NFPA 1710 and/or NFPA 1720). The SAFER grant program is composed of two activities:

- *Hiring of Firefighters*: Career, combination, and volunteer fire departments are eligible to apply to hire firefighters for a 36-month period.
- *Recruitment and Retention of Volunteer Firefighters*: Combination fire departments; volunteer fire departments; and national, state, local, or tribal organizations that represent the interests of volunteer firefighters are eligible to apply for a 12 to 48-month period.

### **FM Global Fire Prevention Grant Program**

Deadline: April 1; August 1; and December 1 annually

Award amount: \$2500-\$5000

Match: None

Eligibility: Fire departments and brigades, as well as national, state, regional, local, and community organizations

<http://www.fmglobal.com/page.aspx?id=01060200>

The FM Global Fire Prevention Grant Program supports a wide array of fire prevention, preparedness, and control efforts throughout the U.S. and internationally. Funded projects include pre-fire planning for commercial, industrial, and institutional facilities; fire and arson prevention and investigation; and fire prevention education and training programs.

### **Firefighters Charitable Foundation**

Deadline: Continuous

Amount: Varies

Match: None

<http://www.ffcf.org/>

Assists fire and disaster victims; and supports Volunteer Fire Departments. Grants offered for the following needs/programs: AED (Automatic External Defibrillator); Fire Department Equipment Program; Community Smoke Detector Program; and the Juvenile Fire-setter Prevention and Intervention Program.

### **Fire Fighters Support Foundation, Inc.**

Deadline: Quarterly

Amount: \$5-10,000

Match: None

<http://www.fffoundation.org/assistance.html>

The Firefighters Support Foundation pro-actively makes contributions to funds established for the children of fallen firefighters. This financial support may be applied for by downloading, completing, and mailing an application on the foundation's website.

### **Fireman's Fund Heritage Program**

Deadline: Continuous

Amount: Varies

Match: None

[https://www.firemansfund.com/home/policyholders/about\\_us/supporting\\_firefighters/index.html](https://www.firemansfund.com/home/policyholders/about_us/supporting_firefighters/index.html)

Fireman's Fund awards grants to fire departments and fire & burn prevention organizations to support firefighters for safer communities. These grants can be used to purchase needed equipment, firefighter training, and community education programs.

## MISCELLANEOUS FUNDING

### **USCM and USA Funds: National Education Pathways with a Purpose Initiative**

Deadline: March 31, 2017

Amount: \$25,000 - \$100,000

Match: None

Eligibility: United States Conference of Mayors (USCM) Member Cities

<http://www.usmayors.org/pathwayswithapurpose/>

The National Education Pathways with a Purpose Initiative, a collaboration between the United States Conference of Mayors (USCM) and USA Funds, awards competitive grants to expand creative initiatives that mayors have developed in their cities to advance both college and career readiness and college completion. Cities are recognized for developing strong collaborations between K-12 and higher education systems and employers to address college preparation and long-term career success. Eligible programs must apply innovative approaches to achieve the following two goals: enhance student persistence in and completion of post-secondary education or training programs, and enhance employment of graduates of post-secondary education or training programs in high-value occupations. USCM Member Cities are eligible to apply for a total of \$200,000 in grants: \$100,000 to one large city with a population greater than 500,000; \$75,000 to a medium-sized city with a population between 200,000 and 500,000; and \$25,000 to a small city of under 200,000. The application deadline is March 31, 2017. Visit the USCM website to access the application guidelines booklet.

### **International Paper Foundation: Environmental Education & Literacy Grants**

Deadline: Quarterly (February 1, April 1, August 1, and October 1, annually)

Amount: \$100 - \$100,000

Match: None

Eligibility: Nonprofit organizations, government entities, and school districts

<http://www.internationalpaper.com/company/regions/north-america/ip-foundation-usa/apply-for-a-grant>

The foundation's primary focus areas include the following:

1. Environmental Education: The Foundation supports programs that help both younger and older generations understand a sustainable approach balancing environmental, social, and economic needs. Examples of supported programs include:
  - science-based programs targeting children;
  - outdoor classrooms at schools or in communities;
  - outdoor science programs tied to forestry, air, or water; and,
  - education-based programs that promote recycling, tree planting, and composting initiatives.
2. Literacy: The Foundation addresses literacy through support of programs that:
  - enhance availability of reading materials at school and community libraries;
  - enhance reading skills of children and adults; and,

- teach English as a Second Language (ESL).

The Foundation provides limited consideration for funding to new critical needs in company communities. Consideration is given to one-time, non-recurring needs which benefit the community at large. The Foundation considers providing “seed” money on a one-time basis for requests that identify a community-wide need and provide details of sustaining the initiative within the community beyond International Paper funding. The Foundation generally does not fund capital, economic development, or multi-year projects. Average grant awards are around \$100.

### **Sierra Pacific Foundation Grant**

Deadline: Annually on February 28

Amount: \$100 - \$50,000

Match: None

Eligibility: Nonprofit organizations

[http://www.spi-ind.com/spf\\_contributions.aspx](http://www.spi-ind.com/spf_contributions.aspx)

The Sierra Pacific Foundation supports a wide range of organizations that serve communities where Sierra Pacific Industries operates facilities, primarily in Northern California and Washington. Funding is provided for academic and community programs, particularly those that benefit children. Specific areas of interest include:

- K-12 and higher education;
- libraries;
- museums;
- civic affairs;
- arts and culture;
- parks and recreation;
- youth sports;
- health and social services; and,
- public safety, including drug and alcohol prevention.

Types of support include general operating and project support. Educational scholarships are also given to dependent children of company employees. Contribution request forms may be obtained from the nearest Sierra Pacific Industries office or by contacting the Foundation.

### **Stuart Foundation Grant Funding**

Deadline: Continuous (LOIs may be submitted at any time)

Amount: Varies. The amount requested from the Foundation should be proportionate to your organizational budget, project budget, and expected income from other sources

Match: None

Eligibility: school districts, universities, and government entities such as city or county agencies in California

<http://www.stuartfoundation.org/BecomeOurPartner>

The Stuart Foundation is dedicated to transforming the public education and child welfare systems in California and Washington so that all youth can learn and achieve in school and life. The Foundation supports nonprofit organizations that address the following priorities: The Education Systems category invests in coordinated programs, partnerships, and research and

policy analysis that help students to learn and achieve in school by developing effective education systems. The Vulnerable Youth in Child Welfare category partners with child welfare agencies to help children and youth in foster care to realize positive outcomes in the following focus areas: safety, permanency, well-being, education opportunities, and youth, family, and community engagement. Letters of inquiry may be submitted at any time; the Foundation will take up to 60 days to respond to an LOI.

### **The Kresge Foundation: Human Services Program**

Deadline: Continuous

Amount: Varies.

Match: None

Eligibility: government agencies and 501(c)(3) nonprofit organizations

<http://kresge.org/programs/human-services/advancing-effectiveness-human-serving-organizations>

The Kresge Foundation works to improve the life circumstances of poor and low-income children and adults and those living in underserved communities. Through the Human Services Program, the Foundation seeks to expand access and opportunity for individuals and families who are vulnerable and low-income by strengthening human services organizations and promoting new responses to challenges in the sector. One of the program's focus areas, "Advancing the effectiveness of human-serving organizations," provides grants to enhance the ability of high-performing organizations to innovate and effectively support individuals and families on the path to self-sufficient, self-determined lives. Preference is given to nonprofit organizations and government entities that employ integrated, innovative, culturally responsive approaches to change the circumstances of people outside the economic mainstream. Preliminary inquiries may be submitted throughout the year. Visit the Foundation's website for more information.

### **Whole Foods Market Community Giving Program**

Deadline: Continuous

Amount: Varies.

Match: None

Eligibility: Nonprofits and educational organizations in communities with company stores.

<http://www.wholefoodsmarket.com/mission-values/caring-communities/community-giving>

The Whole Foods Market Community Giving Program supports local nonprofit and educational organizations that are important to each community in the U.S. where stores are located.

Several times each year, Whole Foods Market stores hold community giving days (otherwise known as "5% Days") where five percent of that day's net sales are donated to a local nonprofit or educational organization. The groups that benefit from these 5% Days are as varied as the communities themselves. Each year Whole Foods Market gives a minimum of 5% of its net profits to nonprofit and educational organizations in the locations where the company has stores.

Examples of the types of organizations supported include:

- Education: school support organizations, after-school organizations, etc.;
- Community and culture: arts organizations, museums, parks, etc.;
- Human interest: elder care, children and youth, homeless assistance, etc.; and,
- Environmental issues: organic food and farming, natural wildlife protection, green living, etc.



Along with cash donations, Whole Foods Market donates food and other products to area food banks and shelters. Organizations interested in applying for support should contact the Marketing Director at their local store or complete the donation request form available on the company's website.

## UPCOMING FUNDING (ALL CATEGORIES)

### **California Natural Resources Agency: Urban Greening Grant Program**

Release: TBD (Likely late 2016. Draft Guidance currently available for review)

Deadline: TBD (Likely early 2017)

Amount: TBD

Match: None

Eligibility: Cities, counties, special districts, nonprofit organizations or joint powers authorities.

<http://resources.ca.gov/grants/urban-greening/>

The Urban Greening Program, funded by the Greenhouse Gas Reduction Fund, will fund projects that transform the built environment into places that are more sustainable, enjoyable, and effective in creating healthy and vibrant communities by establishing and enhancing parks and open space, using natural solutions to improving air and water quality and reducing energy consumption, and creating more walkable and bike-able trails. Grants will be awarded on a competitive basis. This program emphasizes, and gives priority to, projects that are proposed by and benefit the State's disadvantaged communities.

### **California Natural Resources Agency: 2017 Museum Grant Program**

Release: TBD (Spring 2017)

Deadline: TBD (September 2017)

Amount: Up to \$50,000

Match: Dollar for dollar

Eligibility: Public agency (federal, state, city, county, district, association of governments, joint powers or Federally Recognized Indian Tribe); Nonprofit organizations

<http://resources.ca.gov/grants/california-museum/>

The program is a competitive grant program to support small capital asset projects in museums. For purposes of this program "capital asset" means tangible physical property with an expected useful life of 15 years or more. A capital asset project may be either of the following:

1. Acquisition of real property, that is, tangible physical property, including easements; or
2. Development of real (tangible physical) property. "Development" includes but is not limited to, improvement, rehabilitation, restoration, enhancement, preservation and protection.

For purposes of this program, "museum" means a public or private nonprofit institution that is organized on a permanent basis for essentially educational or aesthetic purposes and that owns or uses tangible objects, cares for those objects, and exhibits them to the public on a regular basis.

A public agency, nonprofit entity or Federally Recognized Tribe responsible for the operation of a museum may apply on behalf of the museum; or, a museum located within a parent organization (i.e., a municipality, university, historical society or cultural center) may apply on its own if it independently fulfills all the eligibility requirements.



## Proposition 1 Funding Schedule

Proposition 1 authorized \$7.545 billion in general obligation bonds for water projects including surface and groundwater storage, ecosystem and watershed protection and restoration, and drinking water protection. The State Water Resources Control Board (State Water Board), Department of Water Resources, and other state agencies will administer Proposition 1 funds. Below is a listing of Proposition 1 funding opportunities that are currently available and upcoming.

| Agency / Funding Program                                            | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Funding Amount                                                        | Match                                                                                                                                                          | Eligibility                                                                | Deadline                 | Link                                                                                                                                                                                                               |
|---------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------|--------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>SWRCB:<br/>Prop 1 Drinking Water State Revolving Fund</b></p> | <p>Chapter 5, Section 79724(a) of Proposition 1 allocates \$260 million for drinking water grants and loans for public water system infrastructure improvements and related actions to meet safe drinking water standards ensure affordable drinking water, or both. These funds will be administered consistent with the DWSRF Intended Use Plan (DWSRF IUP) and the DWSRF Policy.</p> <p>The purpose of the DWSRF is to provide financial assistance for the planning/design and construction of drinking water infrastructure projects that are needed to achieve or maintain compliance with federal and state drinking water statutes and regulations. Funding for the DWSRF comes from federal grants, state sources, and loan repayment. Applications are offered for the following two categories:</p> <ul style="list-style-type: none"> <li>- <b>Construction Financing</b> - These funds are for applicants with complete final plans, specifications, and environmental documentation.</li> <li>- <b>Planning/Design Financing</b> - These funds are for applicants who do not have final plans, specifications, and environmental documentation.</li> </ul> | <p>\$260 Million in program</p> <p>No maximum disbursement limit.</p> | <p>Interest rates average 2-3% and 20 year loan. Public water systems that serve small, disadvantaged communities may be eligible for 0% and 30 year loan.</p> | <p>Community water systems and non-profit, non-community water systems</p> | <p><b>Continuous</b></p> | <p><a href="http://www.waterboards.ca.gov/water_issues/programs/grants_loans/dwsrf/scoping_workshops.shtml">http://www.waterboards.ca.gov/water_issues/programs/grants_loans/dwsrf/scoping_workshops.shtml</a></p> |

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|---------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------|-------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>SWRCB: Small Community Wastewater Program</b></p> | <p>Section 79723 of Prop 1 allocates \$260 million to the Clean Water State Revolving Fund (CWSRF) Small Community Grant (SCG) Fund. The State Water Board has an annual SCG appropriation of \$8 million dollars, which is administered consistent with the CWSRF Intended Use Plan (IUP), and the CWSRF Policy. The Prop 1 funds will supplement existing SCG authority. Administering these funds as a part of the CWSRF Program allows grant funds to be easily leveraged with low-interest financing available through the CWSRF Program. Eligible projects include, but are not limited to: Construction of publicly-owned treatment facilities; Wastewater treatment; Local sewers; Sewer interceptors; Water reclamation and distribution; Stormwater treatment; Combined sewers; Landfill leachate treatment</p>                         | <p>\$260 million in program<br/>No maximum funding or disbursement limits.</p> | <p>Financing Term up to 30 years or the useful life of the project. Interest Rate is ½ the most recent General Obligation (GO) Bond Rate.</p> | <p>Most cities, towns, districts, or other public bodies created under state law, including state agencies</p> | <p><b>Continuous</b></p>                  | <p><a href="http://www.waterboards.ca.gov/water_issues/programs/grants_loans/small_community_wastewater_grant/projects.shtml">http://www.waterboards.ca.gov/water_issues/programs/grants_loans/small_community_wastewater_grant/projects.shtml</a></p> |
| <p><b>SWRCB: Water Recycling Fund</b></p>               | <p>The purpose of the WREP is to promote water recycling by providing technical and financial assistance to local agencies and other stakeholders in support of water recycling projects and research. Grant programs include:<br/>                 – <b>Planning Grants:</b> The purpose of the planning grant is to assist agencies or regions with completing feasibility studies for water recycling projects using treated municipal wastewater and/or treated groundwater from sources contaminated by human activities. Only local public agencies are eligible to apply for planning grants.<br/>                 – <b>Construction Grants:</b> The Water Recycling Funding Program provides grants and financing to eligible applicants for the construction of water recycling facilities. Construction projects may be funded with</p> | <p>\$75,000 (Planning Grants)<br/>\$15-\$20 Million (Construction Grants)</p>  | <p>50% (Planning Grants)<br/>35% (Construction Grants)</p>                                                                                    | <p>local public agencies</p>                                                                                   | <p><b>Continuous to December 2030</b></p> | <p><a href="http://www.waterboards.ca.gov/water_issues/programs/grants_loans/water_recycling/index.shtml">http://www.waterboards.ca.gov/water_issues/programs/grants_loans/water_recycling/index.shtml</a></p>                                         |

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|--------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|-------------------------|---------------------------------------------------------------------------------------|---------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                | <p>grants and low interest financing from a state bond, a CWSRF financing agreement, or combinations of funding sources. Eligible applicants are local public agencies, nonprofit organizations, public utilities, state &amp; federal recognized Indian tribes, and mutual water companies.</p>                                                                                                                                                                                                                                                                                                                                                       |                                                                                    |                         |                                                                                       |                                                               |                                                                                                                                                                                |
| <b>Upcoming Solicitations</b>                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                    |                         |                                                                                       |                                                               |                                                                                                                                                                                |
| <p><b>SWRCB:<br/>Prop 1<br/>Groundwater<br/>Sustainability<br/>Program</b></p> | <p>The State Water Board will administer \$800 million to prevent and cleanup contamination of groundwater that serves (or has served) as a source of drinking water. The funds can be provided as grants or loans. Program priorities are:</p> <ul style="list-style-type: none"> <li>- Threat posed by groundwater contamination to drinking water supply</li> <li>- Potential for groundwater contamination to spread/impair</li> <li>- Potential of project to enhance local water supply reliability</li> <li>- Potential of project to recharge vulnerable, high-use basins</li> <li>- Projects with no viable responsible party(ies)</li> </ul> | <p>\$800 million for total program<br/>Funding mechanisms are grants and loans</p> | <p>Match amount TBD</p> | <p>Public Agencies, Tribes, Public Utilities, Non-Profits, Mutual Water Companies</p> | <p><b>First Round Solicitation/ Review – Fall 2016/17</b></p> | <p><a href="http://www.waterboards.ca.gov/water_issues/programs/grants_loans/gw_funding/">http://www.waterboards.ca.gov/water_issues/programs/grants_loans/gw_funding/</a></p> |





Office of the City Manager

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ACTION CALENDAR  
September 24, 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: Resolution for the Allowance of 3404 King Street to Operate a Shelter for Homeless Youth

RECOMMENDATION

Adopt a resolution that:

1. Authorizes the City Manager to negotiate a lease with Covenant House, for \$1 per year, for the purposes of becoming a lessee at 3404 King Street and establishing a public facility open to the homeless at that property.
2. Authorizes the City Manager to negotiate a management agreement with Covenant House for said facility; and
3. Authorizes the City Manager to amend Contract No. 31900239 with Covenant House to include the operation of a 12-bed transitional housing program and to increase the not-to-exceed amount of the contract by \$357,020 (the amount currently awarded to Fred Finch Youth Center for the Turning Point transitional housing program) to a new total of \$1,630,572.

FISCAL IMPACTS OF RECOMMENDATION

Adopting this recommendation would authorize the City Manager to increase the not-to-exceed amount of the existing 4-year contract with Covenant House (Contract No. 31900239, CMS #AL3FA) by \$357,020 to a new total of \$1,630,572. This \$357,020 in funding would be re-allocated upon the termination of Contract No. 31900257 with Fred Finch Youth Center.

The recommendation would also require staff time from the Planning Department, City Attorney, and HHCS for the purposes of negotiating a lease and management agreement for a shelter at 3404 King Street.

CURRENT SITUATION AND ITS EFFECTS

The building at 3404 King Street is currently the home of Fred Finch Youth Center's (FFYC) Turning Point program, a transitional housing program for transition-aged (18-24) youth. The City of Berkeley provides \$89,255 annually in General Funds for the operation of this program, and FFYC also receives a direct grant from HUD in the amount of \$422,579 annually to support program operations.

In June, FFYC contacted HHCS staff to inform them that operating the program was no longer consistent with their mission nor financially viable for them. To avoid closing the program and terminating the HUD grant, FFYC intends to sell the property to Covenant House California.

Covenant House is a nonprofit for homeless youth that currently contracts with the City to operate the 30-bed YEAH! shelter for transition-aged youth at 1744 University Avenue. Since 2018, Covenant House's current tenancy at Lutheran Church of the Cross on University Avenue has become increasingly unviable, to the point that the organization launched a capital campaign to search for an alternative, permanent site in Berkeley. The organization has searched unsuccessfully for an alternative property in Berkeley for over a year, but have either found any lead to be outside their price range and/or not zoned appropriately for a shelter. Staff at HHCS have been informed that, without a suitable location identified by the end of 2019, Covenant House's executive leadership will likely discontinue the shelter.

Upon acquiring the property from FFYC, Covenant House will continue operating the Turning Point transitional housing program. HUD has already agreed to transfer the federal grant to Covenant House if the program continues uninterrupted. In addition, the proposed purchase of the 3404 King Street property would provide a suitable location for the YEAH! shelter, and for the acquisition of the property to be financially feasible for Covenant House, that agency has proposed operating both the YEAH! shelter and the existing Turning Point program at 3404 King Street after performing some interior renovations to accommodate a shelter.

Staff believe that if this deal were to fall through, the City likely lose the only two programs in Berkeley providing shelter/temporary housing for youth experiencing homelessness: the Turning Point transitional housing program would fold (and \$422,579 in HUD funding would be sacrificed) for lack of an operator (Covenant House will not operate Turning Point at 3404 King Street without the shelter), and the YEAH! shelter would likely need to close or relocate out of Berkeley as well for lack of a viable long-term home.

### *Zoning at 3404 King Street*

In exploring the feasibility of this proposal—namely, the sale of the 3404 King Street property from FFYC to Covenant House; the transfer of the Turning Point program's operations from FFYC to Covenant House; and the relocation of the YEAH! shelter to the same site after renovations by Covenant House—staff identified the following issues:

- First, 3404 King Street is bound by a Development Loan Agreement that restricts the use and affordability of the property for 55 years. Transferring the property from one owner to another requires the prior written approval of the City Manager. Staff have reviewed the terms of the Agreement and believe that

Covenant House's proposed uses are allowable, and are prepared to approve the transaction accordingly.

- Second, 3404 King Street is governed by a 1979 Variance/Use Permit that restricts the use of the property for its current purpose (a "transitional group home for 12 homeless youth 24 hours daily"). That use is not allowable in the parcel's zoning district (R2-A), but is allowable under the terms of the permits, which can be transferred to another operator (as they have twice before in the past).
- Third, the parcel's zoning district (R2-A) does not allow for the addition of a shelter under any circumstances of which City staff are aware. Therefore, Covenant House's proposal to move the shelter to the site is not consistent with existing zoning and would require an amendment to the Zoning Ordinance to proceed.

*City Council Authority under the Shelter Crisis Resolution*

In October of 2017, the City Council passed Resolution No. 68,206-N.S., an extension of a declaration of a shelter crisis, which stipulates that, "for the term of this Resolution, no planning, zoning, building, or other permit requirements for the interim establishment of shelters for the homeless shall be required to the extent that strict compliance would in any way prevent, hinder, or delay the mitigation of the effects of the shelter crisis." Staff believe that, in the unique circumstance of 3404 King Street, "strict compliance" with the land use allowances in the R2-A zoning district would certainly delay the mitigation of the effects of Berkeley's shelter crisis, and in fact would exacerbate these effects by risking the closure of up to 42 beds for homeless transition-aged youth.

Importantly, however, Resolution No. 68,206-N.S. only allows the waiver of zoning requirements for "public facilities." The City derives its authority for this waiver from California Gov. Code sec. 8698(c), which defines public facilities as facilities that are "owned, operated, leased, or maintained" by the City for the crisis waiver to apply. A lease agreement between the City and Covenant House would bring the facility within the definition of "public facilities" and would allow the City Council to invoke its authority under Resolution No. 68,206-N.S. to waive certain requirements of the Zoning Ordinance. Staff anticipates that the project would comply with the requirements of the Building Standards Code, in addition to minimum health and safety standards adopted by the City pursuant to Government Code section 8698.4.

For these reasons, staff recommend that the City Council adopt a resolution that:

1. Authorizes the City Manager to negotiate a lease with Covenant House, for \$1 per year, for the purposes of establishing a public facility open to the homeless at 3404 King Street. Under the terms of this lease, Covenant House would maintain



access to the property as operator of shelter and transitional housing programs, and the City would maintain a contractual relationship with Covenant House as a funder of these programs. As a lessee of the building at 3404 King Street, the City Council would be allowed, by resolution, to invoke the shelter crisis, waive the restrictions of the R2-A zoning district, and allow the relocation of the YEAH! shelter to the 3404 King Street site. Once this lease is negotiated, staff will return to Council with a Lease Ordinance.

2. Authorizes the City Manager to negotiate a management agreement with Covenant House for this facility. The resolution makes clear that this management agreement will only initiate at such point as Council invokes the Shelter Crisis Resolution at 3404 King Street. Because the Shelter Crisis Resolution requires that the City lease 3404 King Street and that Council approve “detailed plans for the project and the standards and requirements being applied to the facility and its operation,” staff cannot ask Council to formally invoke the resolution at this time, and will return to Council as soon as these plans have been determined. Instead, the purpose of this clause in the resolution is to demonstrate Council’s intent to support the eventual relocation of the YEAH! shelter to 3404 King Street, giving Covenant House reasonable assurance of the viability of their investment in the property.
3. Authorizes the City Manager to amend Contract No. 31900239 with Covenant House to include the operation of a 12-bed transitional housing program and to increase the not-to-exceed amount of the contract by \$357,020 (the 4-year amount currently awarded to Fred Finch Youth Center for Turning Point) to a new total of \$1,630,572.

#### *Long-term Consequences of this Proposal*

A critical consideration for evaluating this proposal is that the waiver of zoning considerations for the establishment of a shelter pursuant to an invocation of the Shelter Crisis Resolution is only allowable only “for the term of this Resolution.” The City Attorney’s Office is evaluating whether an established shelter could remain in place after the conclusion of the term of the Resolution as a lawful nonconforming use under the Zoning Ordinance. If not, the City would either need to close the shelter at 3404 King Street for operations that are inconsistent with the parcel’s land use allowance, or undertake the process of amending the Zoning Ordinance to allow a shelter at 3404 King Street.

Staff have communicated these long-term issues to Covenant House, and Covenant House has indicated its clear understanding of the risk and desire to proceed with the arrangement, notwithstanding the risks. Staff have also advised Covenant House to work closely with the City on any plans for interior renovations prior to shelter installation, in order to ensure compliance with all relevant building and fire codes.

## BACKGROUND

The building at 3404 King Street was permitted by Variance / Use Permit to operate as a group home for troubled adolescents in 1979, transferred to another operator in 1998 for a “transitional group home for 12 homeless youth 24 hours daily,” and transferred again to its most recent operator (Fred Finch Youth Center) in 2003.

As noted above, in June of 2019, Finch Youth Center informed HHCS staff of their intent to discontinue operations of this program, sell the property to Covenant House California, and transfer the HUD grant supporting the transitional housing program to Covenant House. Covenant House intends to continue operating the transitional housing program, but only if 3404 King Street also becomes the eventual long-term location for the 30-bed YEAH! shelter, which is at risk of closure by the end of 2019 for lack of a viable long-term location. However, 3404 King Street is located in the R2-A zoning district, which does not allow any shelter.

In October of 2017, Council passed Resolution No. 68,206-N.S., extending the declaration of a shelter crisis. This resolution authorizes, for the term of the Resolution, the waiver of planning, zoning, building, or other permit requirements for the purposes of establishing an interim shelter to address the crisis. This waiver applies to “City facilities or facilities leased by the City as shelters.”

## ENVIRONMENTAL SUSTAINABILITY

The present Resolution has no immediate environmental impacts. The eventual allowance of a shelter at 3404 King Street would have minimal to no environmental impact, as the 30-bed shelter currently at 1744 University Avenue would simply relocate to 3404 King Street.

## RATIONALE FOR RECOMMENDATION

The circumstances pertaining to this recommendation are urgent: staff have been advised that the only two programs offering shelter for transition-aged youth in Berkeley are at risk of closure by the end of the 2019 calendar year if Council does not indicate eventual support for the use of the shelter crisis declaration to allow a shelter at 3404 King Street. Staff are aware of the serious implications of waiving the restrictions of a zoning district, but believe the recommendation is warranted given the City’s 22% increase in unsheltered homelessness between 2017 and 2019.

## ALTERNATIVE ACTIONS CONSIDERED

The City Council could:

1. Identify a viable alternative site whose zoning district allows for the operation of the 12-bed Turning Point transitional housing program and 30-bed YEAH! shelter;
2. Take no action, and risk the closure of both the 12-bed Turning Point program and the 30-bed YEAH! shelter.

Allowance for a Shelter at 3404 King Street

ACTION CALENDAR  
September 24, 2019

CONTACT PERSON

Peter Radu, Homeless Services Coordinator, HHCS, (510) 981-5435.

Attachments:

1: Resolution

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

AUTHORIZATION TO NEGOTIATE A LEASE, MANAGEMENT AGREEMENT, AND  
CONTRACT AMENDMENT FOR A SHELTER AT 3404 KING STREET

WHEREAS, the City of Berkeley experienced a 22% increase in the people experiencing unsheltered homelessness from 2017 to 2019, with 82 homeless, unaccompanied youth and young adults in Berkeley on any given night in 2019; and

WHEREAS, the building at 3404 King Street is currently owned by the nonprofit Fred Finch Youth Center and home to the 12-bed Turning Point transitional housing program for homeless transition-aged youth, allowable per the terms of a 1979 variance/use permit; and

WHEREAS, Fred Finch Youth Center is seeking to discontinue operations of Turning Point, sell 3404 King Street (with written approval from the City Manager, per the terms of the Development Loan Agreement governing the property), and transfer the program's operations and supporting HUD grant to the buyer of the property; and

WHEREAS, Covenant House California, which currently operates the 30-bed YEAH! shelter for transition-aged youth at 1744 University Avenue, has offered to purchase 3404 King Street from Fred Finch Youth Center and continue operations of the Turning Point program; and

WHEREAS, the YEAH! shelter's long-term future at 1744 University Avenue is in jeopardy because of disagreements with the landlord, and Covenant House has searched for an alternative site for the shelter unsuccessfully since early 2018; and

WHEREAS, Covenant House has stated its intent to only enter into contract for the sale of 3404 King Street if they can move the YEAH! shelter to the property as well, ensuring the long-term financial viability of the investment; and

WHEREAS, City staff have been advised that the failure of this property deal may risk the closure of both homeless programs by the end of calendar year 2019; and

WHEREAS, 3404 King Street is located in the R2-A Zoning district, which does not permit the operation of a homeless shelter; and

WHEREAS, the City Council passed Resolution No. 68,206-N.S. on October 31, 2017, extending the declaration of a Shelter Crisis and allowing the City Council to waive planning, zoning, building, or other permit requirements for the interim establishment of shelters for the homeless, to the extent that strict compliance would in any way hinder, or delay the mitigation of the effects of the shelter crisis; and

WHEREAS, Resolution No. 68,206-N.S. applies to public facilities, including facilities leased by the City.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley authorizes the City Manager to enter into lease negotiations with Covenant House California, upon their purchase of 3404 King Street, to enter into a lease for \$1/year for the purposes of establishing a public facility open to the homeless at 3404 King Street. The City Manager will return to the City Council for approval of this lease as soon as it is finalized.

BE IT FURTHER RESOLVED that the City Manager is authorized to negotiate a management agreement with Covenant House for the operation of a 30-bed shelter for Transition Aged Youth at 3404 King Street.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley, if upon receipt of this lease and management agreement for a shelter, finds them to be satisfactory, shall by resolution invoke Resolution No. 68,206-N.S. at 3404 King Street, thereby permitting the operation of a 30-bed shelter in compliance with all applicable building and fire codes for the term of Resolution 68,206-N.S. or an extension thereof.

BE IT FURTHER RESOLVED that the City Manager is authorized to amend Contract No. 31900239 with Covenant House to add the operation of a 12-bed transitional housing program to Exhibit A and increase the contract's not-to-exceed amount by \$357,020 to a new total of \$1,630,572. The \$357,020 in additional funding shall be re-allocated from Contract No. 31900257 with Fred Finch Youth Center. A copy of any agreements or amendments shall be on file with the City Clerk.



CITY COUNCILMEMBER  
**RIGEL ROBINSON**  
 DISTRICT 7

34

ACTION CALENDAR  
 September 24, 2019

To: Honorable Mayor and Members of the City Council  
 From: Councilmembers Rigel Robinson, Lori Droste, Kate Harrison, and Mayor Jesse Arreguin  
 Subject: Referral: Develop a Bicycle Lane and Pedestrian Street Improvements Policy

RECOMMENDATION

Refer to the City Manager to develop a comprehensive ordinance governing a Bicycle Lane and Pedestrian Street Improvements Policy that would:

- Require simultaneous implementation of recommendations in the City's Bicycle and Pedestrian Plans when City streets are repaved, if one or more of the following conditions are met:
  - Bicycle Plan recommendations can be implemented using quick-build strategies that accommodate transit operations.
  - Pedestrian Plan recommendations can be implemented using quick-build strategies that accommodate transit operations.
  - The Bicycle Plan recommends studying protected bike lanes as part of a Complete Street Corridor Study in the Tier 1 Priority list.<sup>1</sup>
  - Improvements are necessary to comply with the Americans with Disabilities Act.
- Prioritize bikeways and Vision Zero high-fatality, high-collision streets under the five-year Paving Plan by requiring that 50 percent of the repaving budget go towards such streets until they meet a minimum surface standard established with input from the Public Works and Transportation Commissions.
- Encourage the use of quick builds by expediting quick-build projects under \$1 million.
  - "Quick-build" is defined as projects that a) require non-permanent features such as bollards/paint/bus boarding islands, b) make up less than 25 percent of the total repaving cost for that street segment, and c) can be a component of a Complete Street Corridor Study that includes evaluation after installation.
- Require staff to report progress back to Council every two years.

Furthermore, refer to the City Manager to draft a revised version of the City's Complete Streets Policy that would clarify that the presence of an existing or planned bikeway

<sup>1</sup> [https://www.cityofberkeley.info/uploadedFiles/Public\\_Works/Level\\_3\\_-\\_Transportation/Berkeley-Bicycle-Plan-2017\\_AppendixE\\_Project%20Recs%20Priorities\(1\).pdf](https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Transportation/Berkeley-Bicycle-Plan-2017_AppendixE_Project%20Recs%20Priorities(1).pdf)

parallel to an arterial does not exempt projects along said arterial from bicycle and micromobility improvements under the Policy.

### BACKGROUND

Bicycle lanes decrease conflict between different modes of transportation, promoting safe streets for both motorists and bicyclists. A 2012 study found that protected bike lanes are the strongest indicator of lower fatality and injury rates. Where bike lanes were most abundant, fatal crash rates dropped by 44 percent and injury rates dropped by 50 percent.<sup>2</sup> Another study showed that bike lanes improve safety for motorists because drivers who pass bicyclists on unmarked roads tend to veer farther into the next lane of traffic. Similarly, bicyclists on unmarked roads tend to hug the curb, increasing their risk of injury.<sup>3</sup>

Recently, the Cities of Cambridge and San Francisco have implemented policies that streamline the process of adding bike lanes to their streets. Cambridge's new ordinance, passed in April 2019, requires that any streets undergoing improvement per the City's paving plan must also be upgraded per the City's bike plan.<sup>4</sup> This law ensures that new, protected bicycle lanes get built regularly, and furthers the City's goal of improving accessibility and safety for bicyclists.

In June 2019, San Francisco passed a quick-build policy allowing the City Traffic Engineer to approve reversible and/or adjustable parking and traffic modifications that previously required approval by the SFMTA Board of Directors.<sup>5</sup> This policy encompasses bike lanes, in addition to street improvements such as painted safety zones, changes to the configuration of traffic lanes, and roadway and curb paint.

In September 2019, the City of Seattle passed an ordinance mandating that when a paving project over \$1 million is slated for a street that is meant to be upgraded to a protected bike lane per the City's Bicycle Master Plan, the two projects must be done simultaneously.<sup>6</sup> This policy is a hybrid of the San Francisco and Cambridge models.<sup>7</sup>

According to the City of Berkeley's Bicycle Plan, Berkeley has the fourth highest bicycle commute mode share in America, at 8.5 percent. Nearly one in ten residents rides a bicycle to work as their primary mode of transportation. As a result of Berkeley's high bicycle mode share and the City's insufficient bike infrastructure, there were 133 bicycle

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<sup>2</sup> <https://www.citylab.com/transportation/2019/06/protected-bike-lanes-safe-street-design-bicycle-road-safety/590722/>

<sup>3</sup> <https://bicycleuniverse.com/bicycle-lanes-no-brainer/>

<sup>4</sup>

<http://cambridgema.iqm2.com/Citizens/FileOpen.aspx?Type=4&ID=5905&highlightTerms=cycling%20safety%20ordinance>

<sup>5</sup> [https://www.sfmta.com/sites/default/files/reports-and-documents/2019/06/6-4-](https://www.sfmta.com/sites/default/files/reports-and-documents/2019/06/6-4-19_item_11_quick_build_projects_-_transportation_code_amendment_resolution.docx_.pdf)

[19\\_item\\_11\\_quick\\_build\\_projects\\_-\\_transportation\\_code\\_amendment\\_resolution.docx\\_.pdf](https://www.sfmta.com/sites/default/files/reports-and-documents/2019/06/6-4-19_item_11_quick_build_projects_-_transportation_code_amendment_resolution.docx_.pdf)

<sup>6</sup> <https://www.seattletimes.com/seattle-news/transportation/seattle-city-council-approves-new-bike-lane-requirements-calls-for-more-bike-lane-funding/>

<sup>7</sup> <http://seattle.legistar.com/LegislationDetail.aspx?ID=4078670&GUID=2AE8E905-1F17-4ED2-B9C2-3207591B92F6>



collisions in 2018.<sup>8</sup> Fear of injury is a significant deterrent to bicycling. A record 90 percent of Berkeley residents would consider bicycling under the right roadway conditions, demonstrating how important bikeway improvements are for increasing Berkeley's bicycle mode share.<sup>9</sup>

Additionally, as the City prepares for the introduction of shared electric scooters, it is appropriate and necessary to prioritize bike lane and pedestrian upgrades. Micromobility plays an important role in the future of transportation. Our approach to street improvements should reflect the growing population that uses alternative methods of transportation to get around our city.

Improving Berkeley's bike and pedestrian infrastructure is also an effective way to combat climate change. The City's Climate Action Plan calls for sustainable mobility modes, such as cycling, to become the primary means of transportation for Berkeley residents and visitors.<sup>10</sup> Adding new cycling facilities gives residents a safe alternative to driving, which reduces car usage and greenhouse gas emissions.<sup>11</sup>

This ordinance would prioritize bikeways and Vision Zero streets in the Paving Plan. Analysis of Berkeley's draft 2020-2024 Paving Plan shows that 23 percent of the repaving budget and 36 percent of street miles currently go towards streets that include bikeways. Upgrading high-fatality, high-collision streets, as defined in the forthcoming Vision Zero Action Plan, is consistent with the City's goal of eliminating traffic deaths in Berkeley. In July 2019, Council adopted Resolution No. 68,371 "In Support of Vision Zero," which created a City policy to prioritize high-collision streets as the City develops work plans and carries out infrastructure improvements. Adopting a quick-build policy and requiring simultaneous street upgrades would reduce delays, ensuring the timely implementation of the Bicycle and Pedestrian Plans.

This item also directs the City Manager to draft a revised version of the City's Complete Streets Policy, which currently provides an exemption from the Policy for when a "reasonable and equivalent project along the same corridor is already programmed to provide facilities exempted from the project at hand."<sup>12</sup> This language serves as a potential obstacle to adding bike infrastructure along arterials that run parallel to existing bikeways.

#### ACTIONS/ALTERNATIVES CONSIDERED

The Council could choose to maintain the current structure for repaving streets which takes bikeways into consideration, but does not prioritize such streets. Berkeley's

<sup>8</sup> <https://tims.berkeley.edu/login.php?next=/tools/query/summary.php>

<sup>9</sup> [https://www.cityofberkeley.info/uploadedFiles/Public\\_Works/Level\\_3\\_-\\_Transportation/Berkeley-Bicycle-Plan-2017-Executive%20Summary.pdf](https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Transportation/Berkeley-Bicycle-Plan-2017-Executive%20Summary.pdf)

<sup>10</sup> [https://www.cityofberkeley.info/uploadedFiles/Planning\\_and\\_Development/Level\\_3\\_-\\_Energy\\_and\\_Sustainable\\_Development/BCAP%20Exec%20Summary4.9.09.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Energy_and_Sustainable_Development/BCAP%20Exec%20Summary4.9.09.pdf)

<sup>11</sup> <https://www.sciencedirect.com/science/article/pii/S136192091630270X>

<sup>12</sup> [https://www.cityofberkeley.info/uploadedFiles/Public\\_Works/Level\\_3\\_-\\_Transportation/Berkeley%20Complete%20Street%20Resolution%2012%2011%2012.pdf](https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Transportation/Berkeley%20Complete%20Street%20Resolution%2012%2011%2012.pdf)

current bike plan recommends “complete street corridor studies” to determine how to add protected bike lanes on major streets.

The Council could also choose to follow Seattle’s model, which would require that when repaving is done on streets that are slated for full protected bike lanes (as opposed to *any* upgrades per the Bicycle Plan), the two improvements happen together.

#### FINANCIAL IMPLICATIONS

Staff time.

#### ENVIRONMENTAL SUSTAINABILITY

Transportation accounts for 60 percent of Berkeley’s community-wide GHG emissions. Improved bicycle and pedestrian infrastructure promotes sustainable, zero-emission methods of transportation, which is key to reaching the City’s target of reducing GHG emissions by 80 percent below 2000 levels by 2050. The actions outlined in the referral are in line with the City’s Climate Action Plan, which envisions “public transit, walking, cycling, and other sustainability modes” as the “primary means of transportation for Berkeley residents and visitors.”<sup>13</sup>

#### CONTACT PERSON

Councilmember Rigel Robinson, (510) 981-7170

#### Attachments:

1: City of Cambridge Ordinance Language

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<sup>13</sup> <https://www.cityofberkeley.info/climate/>

In the Year Two Thousand and Nineteen

AN ORDINANCE In amendment to the Ordinance entitled “Cambridge Municipal Code.”

That the Municipal Code of the City of Cambridge be amended by adding in Title Twelve entitled “Streets, Sidewalks and Public Places” a new Chapter 12.22 entitled “Cycling Safety Ordinance,” which reads as follows:

#### Chapter 12.22 Cycling Safety Ordinance

##### Section 12.22.010 Short Title

This Chapter may be cited as the "Cycling Safety Ordinance" of the City of Cambridge.

##### Section 12.22.020 Purpose

This Chapter seeks to eliminate fatalities and injuries on City streets in accordance with the City's Vision Zero goals through safety improvements and the construction of a connected network of permanent separated bicycle lanes across the City.

##### Section 12.22.030 Definitions

- A. “Adequate Directionality” shall mean (1) a two-way street with a separated bicycle lane or lanes that allow bicycle travel in both directions, or (2) a one-way street with a separated bicycle lane or lanes that allow bicycle travel either in the direction of the flow of vehicular traffic or in both directions.
- B. “Connectivity” shall mean the provision of a Permanent Separated Bicycle Lane system that reflects desired routes between all major origins and destinations in the city.
- C. “Cambridge Bicycle Plan” shall mean the plan adopted by the City of Cambridge in October 2015 to create a framework for developing a network of complete streets, and which is entitled “Cambridge Bicycle Plan: Toward a Bikeable Future”.
- D. “Five-Year Sidewalk and Street Reconstruction Plan” shall mean the City of Cambridge Department of Public Works’ five-year work plan of May 1, 2018, as it may be amended from time to time.
- E. “Improvements” shall mean the construction of new City-owned streets, or the reconstruction of an existing City-owned street, including but not limited to full depth reconstruction, expansion, and/or alteration of a roadway or intersection. Improvements shall not include routine maintenance, repairs, restriping of the road surface, or emergency repairs to the surface of a roadway (collectively “Maintenance”), provided that existing bicycle lanes will be restored to existing conditions or better.
- F. “Permanent Separated Bicycle Lane” shall mean a bicycle lane separated from motor vehicle traffic by a permanent vertical barrier that shall remain in place year-round,

including but not limited to granite or concrete barriers and raised curbs, provided, however, that the bicycle lane need not be separated from motor vehicle traffic by a permanent vertical barrier for short stretches to accommodate crosswalks, curb cuts, accessible parking, intersections, and public transportation, and provided further, that existing bicycle lanes may be temporarily removed during construction of Improvements or Maintenance, so long as they are restored to existing conditions or better.

G. "Separated Network" shall mean the proposed set of bicycle facilities identified in the Cambridge Bicycle Plan (Figure 5.14), or any plan superseding it, provided, however, that any such plan shall maintain Connectivity.

#### Section 12.22.040 Requirements

A. Whenever Improvements are made to a City-owned street under the City's Five-Year Sidewalk and Street Reconstruction Plan, the City Manager shall cause such Improvements to comply with the Cambridge Bicycle Plan, or any plan superseding it; provided, that if Improvements are made to a segment of the Separated Network, a Permanent Separated Bicycle Lane with Adequate Directionality shall be installed along that segment.

B. Full compliance with the provisions of Subsection A above is not required where the City Manager can demonstrate through a written alternatives analysis, to be made public, why it is impractical to comply with the provisions of Subsection A above, and where there will be a loss of Connectivity if the provisions of Subsection A are not complied with, how Connectivity could be otherwise advanced, if possible. Full compliance with the provisions of Subsection A above will be considered impracticable only in those rare circumstances where the City Manager determines that the characteristics of the physical features or usage of a street, or financial constraints of full compliance prevent the incorporation of a Permanent Separated Bicycle Lane with Adequate Directionality.



Office of the City Manager

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ACTION CALENDAR  
September 24, 2019  
(Continued from 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>



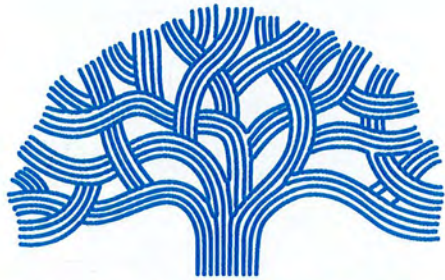
Lava Mae is a San Francisco based non-profit that brings critical services to the streets - delivered with an unexpected level of care we call Radical Hospitality - to rekindle dignity and hope for people experiencing homelessness through our Mobile Hygiene Service, Pop Up Care Villages, and BuildIt 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.

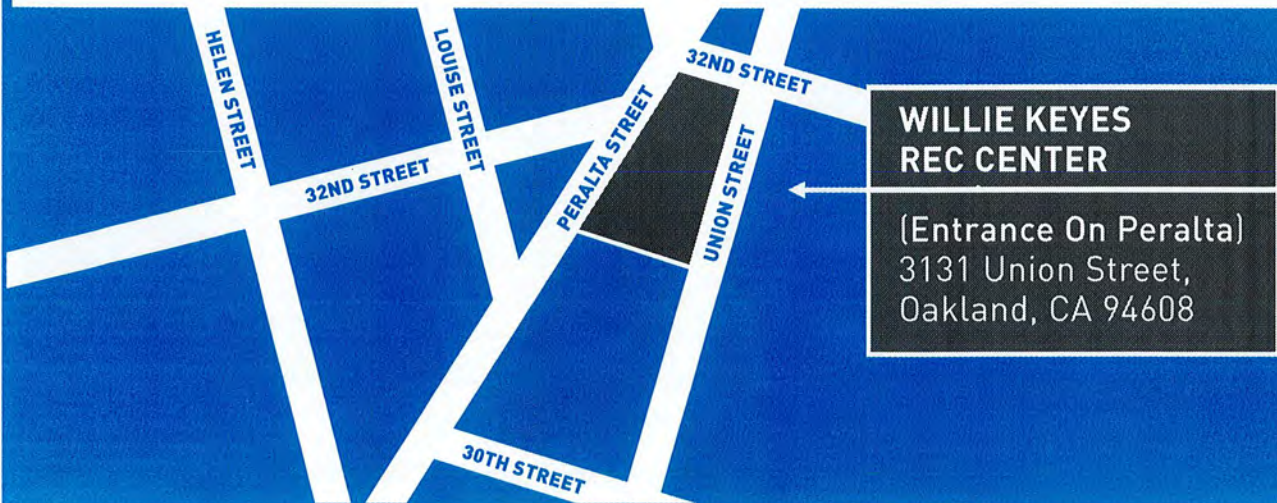
lava mae 



**POP-UP CARE VILLAGE**  
OAKLAND

**Tuesday, October 30th,**  
**11am - 4pm**

Hot Food, Clothing, Haircuts, Art, Medical,  
Live Music & More









Homeless Commission

36a

ACTION CALENDAR

September 24, 2019

*(Continued from 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

36b

ACTION CALENDAR

September 24, 2019

*(Continued from 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.





37a

ACTION CALENDAR

September 24, 2019

*(Continued from 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

37b

ACTION CALENDAR

September 24, 2019

*(Continued from 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).

## 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 24, 2019

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Mark Numainville, City Clerk  
Subject: City Council Short Term Referral Process – Monthly Update

INTRODUCTION

This report is a monthly update on the status of short term (90-day) and other date-certain Council referrals.

CURRENT SITUATION AND ITS EFFECTS

In this context, tracking refers to a manually updated chart (Attachment 1). The May 15, 2018 Council referral establishing the monthly update includes both “short term” and “date-certain” referrals. Short term referrals are referrals that staff determines they will be able to complete in approximately three months. Date-certain referrals are those which contain a specified date of completion at the time they are approved by the City Council. Currently, the City only tracks short term referrals in an Excel spreadsheet.

Providing a monthly update on all short term and date-certain referrals will allow Council and the public to see the status of these referrals and any circumstances which lead to delays.

BACKGROUND

In 2016, the City Council adopted a system of Re-Weighted Range Voting (RRV) to prioritize the outstanding City Council referrals to staff. The RRV system enables City Council to provide direction to staff on which referrals are highest priority to the City Council. However, that process does not provide information on the status of short term or date-certain referrals. While many short term or date-certain referrals were “updated” through being completed and presented to Council as consent or information items, there was no comprehensive overview of this subset of referrals.

ENVIRONMENTAL SUSTAINABILITY

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

POSSIBLE FUTURE ACTION

The City Council may wish to direct staff to evaluate this process.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

No direct fiscal impact. Greater efficiencies in staff resources due to prioritization of work and alignment with budget and strategic plan goals.

CONTACT PERSON

Mark Numainville, City Clerk, 981-6900

Attachments:

1: Short Term and Date-Certain Referrals

# Short Term Referrals [FINAL]

| Meeting Date | Agenda Item Number | Project Name                                                                                                                                | Recommendations                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Referral by    | Referral District | Sponsor                                                    | Referral Commission | Original end date   | Lead City Department           | State            | Planned end date    | Actual end date | Additional comments                                                                                                                                                                                                                                                                                                                                                                                                                       |
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| 2019-07-16   | 14                 | Opportunity Zone Project Guidelines for the City Manager                                                                                    | <p>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.</p> <p>The City Manager should further incorporate these guidelines into any relevant formal document relating to projects in Opportunity Zones.</p> <p>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.</p> | Councilmembers |                   | Ben Bartlett, Kate Harrison, Jesse Arreguin, Cheryl Davila |                     | 2019-07-22 17:00:00 | Office of Economic Development | Not Started      | 2019-07-22 17:00:00 |                 |                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 2019-07-16   | 9                  | Referral to the City Manager to Consider Amending the Language of the City's Wireless Telecommunications Ordinance and Aesthetic Guidelines | 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.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Councilmembers |                   | Susan Wengraf, Jesse Arreguin, Ben Bartlett, Kate Harrison |                     | 2019-07-22 17:00:00 | City Attorney                  | Work in Progress | 2019-07-22 17:00:00 |                 |                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 2019-03-26   | 15                 | Ensuring the Sustainability of the Berkeley Flea Market                                                                                     | Short-term referral to the City Manager to provide material and strategic assistance to the Berkeley Flea Market, to sustain and enhance its ability to serve both merchant participants and the community at large.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Council member |                   | Ben Bartlett, Sophie Hahn, Cheryl Davila                   |                     | 2019-05-27 17:00:00 | Office of Economic Development | Work in Progress | 2019-07-30 11:38:31 |                 | 2019-06-06 10:40:44 - Jordan Klein (Additional comments) OED's small business retention consultant, Uptima Business Bootcamp, is working closely with the Flea Market on the development of a new strategic plan. Expected completion is July 2019. At that point, OED will submit an information report to City Council with an update and summary, with strategic plan attached. Expected for the 9/10/19 City Council regular meeting. |



| Meeting Date | Agenda Item Number | Project Name                                                                                                                                                                                                | Recommendations                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Referral by District | Sponsor                                                    | Referral Commission | Original end date      | Lead City Department   | State            | Planned end date       | Actual end date | Additional comments                                                                                                                                                                                                                                                              |
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| 2018-11-13   | 23                 | Clarifying Jurisdiction of Ohlone Greenway                                                                                                                                                                  | Refer to the City Manager to review the recommendation to place the Ohlone Greenway under park rules and policies with the intent of revising the BMC to include the Ohlone Greenway as open space and enforce park-like rules.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Councilmembers       | Linda Maio, Sophie Hahn, Kate Harrison                     |                     | 2019-02-13<br>17:00:00 | City Attorney          | Work in Progress | 2019-08-05<br>12:00:00 |                 | 2019-04-24 10:04:24 - Mark Numainville (Additional comments) City Attorney provided legal opinion to PRW. PRW to report to Council.                                                                                                                                              |
| 2019-05-28   | 29                 | Referral to the Public Works Department and the City Manager: Finishing the installation of Sculpture Lighting into Adjacent Street Lights for the William Byron Rumford Statue on Sacramento and Julia St. | Refer to the City Manager a request to finish the installation of sculpture lighting into adjacent street lights for the William Byron Rumford statue on Sacramento and Julia Street. Refer to the Public Works Department for its installation.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Councilmembers       | Ben Bartlett, Kate Harrison, Cheryl Davila, Jesse Arreguin |                     | 2019-06-13<br>17:00:00 | Public Works           | Work in Progress | 2019-10-01<br>17:00:00 |                 |                                                                                                                                                                                                                                                                                  |
| 2019-02-19   | 16                 | Providing Requested Direction to the City Manager and Planning Department on the Number of Cannabis Retail Establishments and the Creation of an Equity Program                                             | That the Council provides requested direction to the Planning Department on how to proceed with the Equity Program recommended by the Cannabis Commission in the October 9, 2018 staff report; with the following specifications: Recommendation of creating 1 new dispensary license for equity applicants. It is envisioned as new licenses are created, such as, delivery, manufacturing, and micro-business, permits will be reserved for equity applicants for each new category.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Councilmembers       | Ben Bartlett, Kriss Worthington, Cheryl Davila             |                     | 2019-05-17<br>17:00:00 | PLANNING & DEVELOPMENT | Work in Progress | 2019-12-10<br>12:00:00 |                 | 2019-04-12 16:03:50 - Melissa McDonough (Additional comments) This will be included with the next set of Cannabis Ordinance changes, expected in summer 2019.                                                                                                                    |
| 2019-04-02   | 18                 | Companion Report: Effective Enforcement of Safe Lead-Paint Practices - Update on Amendments                                                                                                                 | Based on the intent of the recommendation from the Community Environmental Advisory Commission (CEAC) for the City to expand enforcement of unsafe lead paint practices, refer to the City Manager to: - Coordinate with the Alameda County Healthy Homes Program to clearly identify roles and responsibilities for expanding enforcement of unsafe lead practices, and to explore options for sharing resources that can support expanded local enforcement; - Identify what resources, staff capacity, and program structure would be required to expand City enforcement of unsafe lead practices; - Continue current work to educate building permit applicants and contractors about safe lead paint practices; train and certify all City of Berkeley Building and Housing Inspectors in lead paint safety; respond to, investigate, and enforce safe lead paint practices as needed; and administer the Public Health Division's Childhood Lead Poisoning Prevention Program; and - Provide an update to City Council within one-year that identifies progress and next steps for expanding enforcement of unsafe lead practices. AMENDMENTS: Request that the City Manager return to Council as soon as possible with recommendations on staffing for robust enforcement and internal restructuring for inspections. Options for noticing and distributing disclosure information. Enforcement by the City or the County, if feasible. | Councilmembers       |                                                            |                     | 2019-06-28<br>17:00:00 | CITY MANAGER'S OFFICE  | Work in Progress | 2020-04-28<br>15:28:36 |                 | 2019-08-07 15:33:54 - Melissa McDonough (Additional comments) In progress, drafting matrix of capacity across multiple city departments, next steps to develop an improved response framework and explore County funding options. Planned report back to Council in spring 2020. |

| Meeting Date | Agenda Item Number | Project Name                                                                                                                                                    | Recommendations                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Referral by District | Sponsor                 | Referral Commission     | Original end date      | Lead City Department        | State            | Planned end date       | Actual end date        | Additional comments                                                                                                                                                                                                                                                      |
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| 2018-02-27   | 23                 | Conceptual Study for Undergrounding Utility Wires in Berkeley From: Public Works Commission, Disaster and Fire Safety Commission, and Transportation Commission | That Council approve the following items: 1. Conceptual Study for undergrounding utility wires in Berkeley (the "Undergrounding Plan"). 2. Proceed with Phase 3 of the Undergrounding Plan. We want to emphasize the importance for Berkeley to actively participate in the current California Public Utilities Commission review of the Rule 20 program.                                                                                                                                                                                                                                                                                                                                                     | Commission           |                         | Public Works Commission | 2018-05-25<br>17:00:00 | Public Works                | Work in Progress | 2020-12-31<br>17:00:00 |                        | 2019-04-12 15:51:40 - Melissa McDonough (Additional comments)<br>Due date: report back after Task 5 is completed<br><br>2019-02-05 15:55:07 - Melissa McDonough (Additional comments)<br>Phase 3 funding not approved, to be reconsidered by City Council November 2018. |
| 2014-04-29   | 35                 | 35. City Manager Referral: Policy for Companies Such as Airbnb to Pay Transient Occupancy Tax, as Currently Paid by Other Small Local Businesses                | Refer to the City Manager creation of a policy for companies such as Airbnb to pay the Transient Occupancy Tax, as currently paid by other small local businesses.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Council member       | City Council District 7 | Kriss Worthington       | 2014-10-24<br>17:00:00 | PLANNING & DEVELOPMENT      | Completed        | 2014-10-27<br>08:00:00 | 2016-09-07<br>00:00:00 |                                                                                                                                                                                                                                                                          |
| 2014-12-16   | 25                 | Reconcile the West Berkeley Plan and the Zoning Code as it Pertains to Medical Uses                                                                             | Refer to the Planning Commission the task of revising the current zoning ordinance so that it reflects the West Berkeley Plan's goals of encouraging medical uses in West Berkeley.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Council member       | City Council District 2 |                         | 2015-06-12<br>17:00:00 | PLANNING & DEVELOPMENT      | Completed        | 2015-06-15<br>08:00:00 | 2017-01-24<br>00:00:00 |                                                                                                                                                                                                                                                                          |
| 2015-09-15   | 43                 | Prohibit Sales of Tobacco Products to Persons Under the Age of 21                                                                                               | Direct the City Manager and Community Health Commission to draft an ordinance amending Berkeley Municipal Code Chapter 9.80 "Tobacco Retailers" to prohibit the sales of tobacco products and smoking paraphernalia to persons under the age of 21.                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Council member       |                         | Jesse Arreguin          | 2016-03-11<br>17:00:00 | HEALTH, HSG & COMMUNITY SVC | Completed        | 2016-03-11<br>17:00:00 |                        |                                                                                                                                                                                                                                                                          |
| 2015-09-15   | 55                 | Referral to the Community Environmental Advisory Commission to Install 1.8 GPM Showerheads in All New Housing Projects or Any Renovation Over \$50,000          | Refer to the Community Environmental Advisory Commission to explore requiring a maximum of 1.8 GPM low flow showerheads in new housing projects and all housing renovations exceeding \$50,000 throughout Berkeley.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Council member       |                         | Kriss Worthington       | 2016-03-11<br>17:00:00 | PLANNING & DEVELOPMENT      | Completed        | 2016-03-14<br>08:00:00 | 2016-07-19<br>00:00:00 |                                                                                                                                                                                                                                                                          |
| 2015-11-10   | 1                  | Proposed Amendments to the Minimum Wage Ordinance; Amending Berkeley Municipal Code Chapter 13.99 (Continued from September 15, 2015)                           | Review and consider information regarding the activities and costs associated with implementing and enforcing the Commission on Labor's proposed amendments to the Minimum Wage Ordinance (MWO), including the potential impact of the proposed amendments on the City's minimum wage employees, employers, non-profit organizations and community-based organizations, on-call workers and youth training program workers, and either:<br>1. Adopt first reading of an Ordinance amending Berkeley Municipal Code Chapter 13.99, which includes staff-recommended revisions to the Commission's proposed Ordinance;<br>-OR-<br>2. Refer the MWO back to the City Manager for further analysis and revisions. |                      |                         |                         | 2016-05-06<br>17:00:00 | CITY MANAGER'S OFFICE       | Completed        | 2016-05-09<br>08:00:00 | 2016-09-01<br>00:00:00 |                                                                                                                                                                                                                                                                          |

| Meeting Date | Agenda Item Number | Project Name                                                                                                                                                                                                  | Recommendations                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Referral by District | Sponsor                                                   | Referral Commission | Original end date   | Lead City Department        | State     | Planned end date    | Actual end date     | Additional comments                                                                                                                                                                                                             |
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| 2015-11-17   | 30                 | Fourth Ambulance Pilot Project 6-Month Update                                                                                                                                                                 | No recommendation noted. Action: Moved to Consent Calendar and held over to January 19, 2016. Fire to report back in May 2016 for permanent program.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                      |                                                           |                     | 2016-05-13 17:00:00 | FIRE & EMERGENCY SERVICES   | Completed | 2016-05-16 08:00:00 | 2018-07-01 00:00:00 |                                                                                                                                                                                                                                 |
| 2015-12-01   | 22                 | City Manager Referral: Pilot Program to Implement Solar Trash Compactors on Telegraph Avenue and Downtown Berkeley                                                                                            | Refer to the City Manager to adopt a Pilot Program to implement Solar Trash Compactors on Telegraph Avenue and Downtown Berkeley.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Council member       | Kriss Worthington, Linda Maio, Susan Wengraf, Lori Droste |                     | 2016-05-27 17:00:00 | Public Works                | Completed | 2016-05-30 08:00:00 | 2018-07-24 00:00:00 | 2019-02-05 16:44:20 - Melissa McDonough (Additional comments) 6/2018 RFPs received; 2 solar compactors to be issued contracts.                                                                                                  |
| 2015-12-01   | 33                 | City Manager and Planning Commission's Referral: Enable Implementation of Council Approved Floor Area Ratio in the Telegraph Commercial District between Dwight and Bancroft by Amending the Zoning Ordinance | Refer to the City Manager and Planning Commission an immediate implementation strategy to bring the City Zoning Ordinance in compliance with the policy adopted by City Council to increase Floor Area Ratio (FAR) in the Telegraph Commercial District between Dwight and Bancroft - COUNCIL DIRECTION ON COMMUNITY BENEFITS NEEDS FOLLOW UP WORK AND REPORT TO COUNCIL                                                                                                                                                                                                                                                                                  | Council member       | City Council District 7<br>Kriss Worthington              |                     | 2016-05-27 17:00:00 | PLANNING & DEVELOPMENT      | Completed | 2016-05-30 08:00:00 | 2016-06-28 00:00:00 |                                                                                                                                                                                                                                 |
| 2015-12-15   | 35                 | Amending Open Government Ordinance to Allow Submission of Revised/Supplemental Items                                                                                                                          | Refer to the City Manager and City Attorney to draft an ordinance amending Berkeley Municipal Code Section 2.06.070.E (Open Government Ordinance) to allow the submission of revised or supplemental agenda material for the Supplemental Communications Packet 2. The revised or supplemental material must be submitted no later than 12 noon the day of the City Council meeting at which the item is to be considered. The online version of the City Council agenda shall also contain a link to such items. If revised agenda material is submitted by this deadline, it would not require a two-thirds vote of the Council to accept the material. | Council member       | Jesse Arreguin, Susan Wengraf, Lori Droste                |                     | 2016-06-10 17:00:00 | City Clerk                  | Completed | 2016-06-10 17:00:00 |                     |                                                                                                                                                                                                                                 |
| 2015-12-15   | 54                 | Referral to City Manager: Establishment of Affordable Housing Small Sites Program Revised Version                                                                                                             | Refer to the City Manager to: 1. Look into the feasibility of creating a Small Sites Program to allow non-profits to purchase small multi-family buildings (5-25 units) to create and preserve affordable housing, with an emphasis on properties with a high potential for conversion to cooperative homeownership. 2. Develop an inventory of City-owned land and other land owned by public agencies in the City of Berkeley which could potentially be used to create below-market rate housing.                                                                                                                                                      | Council member       | Jesse Arreguin                                            |                     | 2016-06-10 17:00:00 | HEALTH, HSG & COMMUNITY SVC | Completed | 2016-06-13 08:00:00 | 2016-12-13 00:00:00 | 2019-02-05 16:47:39 - Melissa McDonough (Additional comments) 2 is completed. 1 was later prioritized long term as top priority of Council's housing action plan. Plan outline complete and will bring before HAC in July 2018. |
| 2015-12-15   | 30                 | Provide Cost Estimates to Restore the Berkeley Pier                                                                                                                                                           | Refer to the City Manager to determine the cost to make the appropriate repairs so that it will be safe for public use.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Council member       | City Council District 2                                   |                     | 2016-06-10 17:00:00 | CITY MANAGER'S OFFICE       | Completed | 2016-06-13 08:00:00 | 2017-03-14 00:00:00 |                                                                                                                                                                                                                                 |
| 2016-01-19   | 24                 | Tenant Buyout Agreement Ordinance                                                                                                                                                                             | Refer to the City Manager and the Rent Stabilization Board to draft an ordinance regulating situations where a tenant agrees to vacate a rent-controlled unit in exchange for a sum of money, known as a buyout.                                                                                                                                                                                                                                                                                                                                                                                                                                          | Council member       | Jesse Arreguin                                            |                     | 2016-07-15 17:00:00 | CITY MANAGER'S OFFICE       | Completed | 2016-07-18 08:00:00 | 2016-03-31 00:00:00 | 484                                                                                                                                                                                                                             |

| Meeting Date | Agenda Item Number | Project Name                                                                                                                                                                                             | Recommendations                                                                                                                                                                                                                                                                                                                                                                                               | Referral by District | Referral District       | Sponsor                        | Referral Commission | Original end date   | Lead City Department        | State     | Planned end date    | Actual end date     | Additional comments                                                                                                            |
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| 2016-02-09   | 26                 | Develop a Provision for the Landmarks Preservation Ordinance to Allow for the De-designation of a Landmark Designation for a Building that has been Legally Demolished (Continued from January 12, 2016) | Refer to the City Manager to develop a provision for the Landmarks Preservation Ordinance (LPO) that would allow a landmark designation to be de-designated for a building that has been previously landmarked but subsequently has been legally demolished.                                                                                                                                                  | Council member       |                         |                                |                     | 2016-08-05 17:00:00 | CITY MANAGER'S OFFICE       | Completed | 2016-08-08 08:00:00 | 2016-05-10 00:00:00 |                                                                                                                                |
| 2016-02-09   | 15                 | Budget Referral: Including BigBelly Solar Compactor Bins Allocation in the 2016 Mid-Year Budget Process                                                                                                  | Refer to the 2016 Mid-year budget process the purchasing of BigBelly Solar Compactor Bins in order to save money, meet zero waste goals, and reduce Berkeley's greenhouse gas emissions.                                                                                                                                                                                                                      | Council member       |                         | Kriss Worthington, Lori Droste |                     | 2016-08-05 17:00:00 | Public Works                | Completed | 2016-08-08 08:00:00 | 2018-07-24 00:00:00 | 2019-02-05 16:51:37 - Melissa McDonough (Additional comments) 6/2018 RFPs received; 2 solar compactors to be issued contracts. |
| 2016-03-15   | 6                  | Prioritize Installation of Bicycle Lane on Fulton Street                                                                                                                                                 | Direct the City Manager and Transportation staff to prioritize and expedite the installation of a bicycle lane on Fulton Street between Bancroft Way and Channing Way.                                                                                                                                                                                                                                        | Council member       |                         | Jesse Arreguin                 |                     | 2016-09-09 17:00:00 | Public Works                | Completed | 2016-09-12 08:00:00 | 2016-05-10 00:00:00 |                                                                                                                                |
| 2016-04-05   | 10                 | Modify the Proposed Early Mitigation Fee Discount and Preserve Revenue Towards Units At Or Below 50% AMI and Add Sunset Clause (Continued from February 23, 2016)                                        | That the City of Berkeley amend Council Item 10a to remove the option of paying a substantially-reduced mitigation fee at the issuance of a permit, and to preserve revenue from the mitigation fees to maintain or increase the funds designated towards units for incomes at or below 50% AMI, and add a sunset clause.                                                                                     | Council member       |                         | Kriss Worthington              |                     | 2016-09-30 17:00:00 | HEALTH, HSG & COMMUNITY SVC | Completed | 2016-10-03 08:00:00 | 2016-07-19 00:00:00 |                                                                                                                                |
| 2016-04-26   | 31                 | Creation of 311 Mobile Application                                                                                                                                                                       | Refer to the City Manager to create a mobile application for the 311 system and improve the 311 Online Service Center.                                                                                                                                                                                                                                                                                        | Council member       |                         | Jesse Arreguin                 |                     | 2016-10-24 08:00:00 | Information Technology      | Completed | 2016-10-24 08:00:00 | 2016-11-15 00:00:00 |                                                                                                                                |
| 2016-05-10   | 21                 | Resolutions Consenting to Inclusion of the City of Berkeley Properties in the California Home Finance Authority PACE Programs and Associate Membership in California Home Finance Authority              | ABAG has a new report and the City Council has voted twice in favor; thus, the City of Berkeley should approve and sign an agreement for collaborative services for Property Assessed Clean Energy Financing (PACE) marketplace. Also, that the City of Berkeley approve and sign acknowledgement addendum of RCSA, as executed between ABAG and RPPs.                                                        | Council member       |                         | Kriss Worthington              |                     | 2016-11-04 17:00:00 | City Attorney               | Completed | 2016-11-07 08:00:00 | 2016-09-20 00:00:00 |                                                                                                                                |
| 2016-05-31   | 20                 | Requesting a Comprehensive Report on the State of Homeless Services within the City of Berkeley                                                                                                          | Request the City Manager direct staff to prepare a report outlining the details of City funded homeless services. The purpose of this report is to help Council and the community understand the various factors related to the allocation of resources to address homelessness within the City. Once the report is complete, it is requested that city staff schedule a worksession to go over the findings. | Council member       | City Council District 5 |                                |                     | 2016-11-25 17:00:00 | HEALTH, HSG & COMMUNITY SVC | Completed | 2016-11-28 08:00:00 | 2016-11-01 00:00:00 |                                                                                                                                |
| 2016-05-31   | 22                 | City Manager Referral: Consider Adding Energy Efficient Equity as an Additional Property Assessed Clean Energy Program                                                                                   | Refer to the City Manager to consider adding Energy Efficient Equity as an additional property assessed clean energy program.                                                                                                                                                                                                                                                                                 | Council member       |                         | Kriss Worthington              |                     | 2016-11-25 17:00:00 | PLANNING & DEVELOPMENT      | Completed | 2016-11-28 08:00:00 | 2016-09-20 00:00:00 | 485                                                                                                                            |

| Meeting Date | Agenda Item Number | Project Name                                                                                                                              | Recommendations                                                                                                                                                                                                                                                                                                                                                          | Referral by District | Referral District | Sponsor                        | Referral Commission | Original end date   | Lead City Department           | State     | Planned end date    | Actual end date     | Additional comments                                                                                                            |
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| 2016-06-28   | 47                 | City Manager Referral: Feasibility of Acquiring a High-Capacity Scanner for Multiple City Departments                                     | Refer to the City Manager to consider investing in a high-capacity scanner to digitize City records for the Council and multiple City departments.                                                                                                                                                                                                                       | Council member       |                   | Kriss Worthington              |                     | 2016-12-26 08:00:00 | Information Technology         | Completed | 2016-12-26 08:00:00 | 2017-12-12 00:00:00 |                                                                                                                                |
| 2016-07-12   | 27                 | Refer to City Manager to Consider Applying for \$100,000 from the Better Together Resilient Communities Grant Program                     | That the City Manager consider applying for the \$100,000 grant that PG&E's Better Together Resilient Communities grant program will offer in the beginning of 2017.                                                                                                                                                                                                     | Council member       |                   | Kriss Worthington              |                     | 2017-01-06 17:00:00 | PLANNING & DEVELOPMENT         | Completed | 2017-01-09 08:00:00 | 2016-12-31 00:00:00 |                                                                                                                                |
| 2016-07-19   | 41                 | Companion Report: Amend Berkeley Municipal Code Creating Community Health Commission                                                      | Refer to staff to write an ordinance based on the Community Health Commission (CHC) recommendation with the changes suggested by staff.                                                                                                                                                                                                                                  |                      |                   |                                | MAYOR AND COUNCIL   | 2017-01-13 17:00:00 | HEALTH, HSG & COMMUNITY SVC    | Completed | 2017-01-16 08:00:00 | 2016-11-29 00:00:00 |                                                                                                                                |
| 2016-09-20   | 22                 | Amending Council Rules Regarding Removal of Commissioners                                                                                 | Direct staff to return with a policy recommendation consistent with the recommendations in this report, i.e., noting that as a matter of courtesy and respect, Councilmembers are expected to set the date a commissioner is to be replaced on a commission and communicate that date to the commissioner not less than two weeks from the official date of replacement. | Council member       |                   | Commission                     |                     | 2017-03-17 17:00:00 | City Clerk                     | Completed | 2017-03-20 08:00:00 | 2018-06-12 00:00:00 | 2019-02-05 17:02:37 - Melissa McDonough (Additional comments) Incorporating changes from City Council.                         |
| 2016-09-20   | 21                 | City Manager Referral: Consider the Four Recommendations Contained in the Alameda County Grand Jury Report (Continued from July 19, 2016) | Refer to the City Manager to consider the four recommendations in response to the Alameda County Grand Jury Report recommendations.                                                                                                                                                                                                                                      | Council member       |                   | Kriss Worthington              |                     | 2017-03-20 08:00:00 | Information Technology         | Completed | 2017-03-20 08:00:00 | 2016-10-20 00:00:00 |                                                                                                                                |
| 2016-09-20   | 32                 | City Manager Referral: Implementing BigBelly Solar Compactor Bins                                                                         | Refer to the City Manager to examine the feasibility of procuring BigBelly Solar Compactor Bins to save money, meet zero waste goals, and reduce Berkeley's greenhouse gas emissions.                                                                                                                                                                                    | Council member       |                   | Kriss Worthington, Lori Droste |                     | 2017-03-17 17:00:00 | Public Works                   | Completed | 2017-03-20 08:00:00 | 2018-07-24 00:00:00 | 2019-02-05 17:04:44 - Melissa McDonough (Additional comments) 6/2018 RFPs received; 2 solar compactors to be issued contracts. |
| 2016-10-18   | 26                 | Revisions to the Public Art in Private Development Program                                                                                | Request the City Manager draft a resolution to revise the Public Art in Private Development Program Guide to provide the Civic Arts Commission guidance and more flexibility in the use of the Cultural Trust Fund with the language suggested in the report.                                                                                                            | Council member       |                   |                                |                     | 2017-04-14 17:00:00 | Office of Economic Development | Completed | 2017-04-17 08:00:00 | 2016-12-13 00:00:00 |                                                                                                                                |

| Meeting Date | Agenda Item Number | Project Name                                                                                             | Recommendations                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Referral by District | Sponsor           | Referral Commission | Original end date      | Lead City Department           | State     | Planned end date       | Actual end date        | Additional comments |
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| 2016-10-18   | 41                 | City Plan for Emergency Shelter During Winter Season                                                     | Refer the following actions to the City Manager to consider in developing a plan for emergency shelter/services during the upcoming winter season. These actions will help implement Resolution No. 67,357-N.S. "Declaring a Homeless Shelter Crisis in Berkeley": 1. Allow full use of the Multi-Agency Service Center (MASC) at 1931 Center Street as a Warming Center. Direct the City Manager to study the feasibility of using the West Berkeley Senior Center as a day-time Warming Center or evening shelter. Engage in discussions with Dorothy Day House about a day-time respite center. 2. Direct staff to develop a winter shelter services program for Fall 2016-Spring 2017 with funding to increase warming centers and emergency shelter. 3. Direct staff to work with service providers and faith-based organizations who have capacity, to add shelter beds during the year. 4. Direct that all bathrooms in City-owned buildings be available to homeless people for use at the City Manager's discretion. 5. Prioritize people on the street for Housing First funds who are in frail health, disabled, or with special needs and have a source of income. Direct the City Manager to create a list of city-owned properties that could be used for a Tiny House development for the homeless, a successful and growing model for dense urban regions. | Council member       | Jesse Arreguin    |                     | 2017-04-14<br>17:00:00 | HEALTH, HSG & COMMUNITY SVC    | Completed | 2017-04-17<br>08:00:00 | 2017-06-27<br>00:00:00 |                     |
| 2016-10-18   | 25                 | Amendments to BMC 23C.23.050 to Allow a Third Option to Satisfy the Private Percent for Art Requirements | Request the City Manager draft an ordinance for Council adoption to revise BMC 23C.23.050, the One-Percent for Public Art on Private Projects Ordinance, to do the following: 1. Have 5% of the 1% requirement go directly to administration of the Public Art in Private Development program regardless of how the developer decides to satisfy the requirement;                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Council member       |                   |                     | 2017-04-14<br>17:00:00 | Office of Economic Development | Completed | 2017-04-17<br>08:00:00 | 2017-01-24<br>00:00:00 |                     |
| 2016-11-01   | 15                 | City Manager Referral: Increasing Transparency in City Public Record Act Responses                       | Approved revised recommendation to request a report from the City Manager on how the City is using the permitted exemptions in compliance with the Public Records Act.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Council member       | Kriss Worthington |                     | 2017-04-28<br>17:00:00 | City Attorney                  | Completed | 2017-05-01<br>08:00:00 | 2016-12-13<br>00:00:00 |                     |
| 2016-12-13   | 29                 | Ordinance for Standards for Testing and Certification of DAS Antennas                                    | Request that the City Manager draft ordinance language to amend Section 16.10.100 of the Berkeley Municipal Code to include Standards for Testing and Certification of DAS Antennas and return to the City Council within 60 days.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Council member       | Susan Wengraf     |                     | 2017-06-09<br>17:00:00 | City Attorney                  | Completed | 2017-06-12<br>08:00:00 | 2017-03-28<br>00:00:00 |                     |
| 2017-01-24   | 37                 | Berkeley BABIES Initiative                                                                               | Request that the City Manager create a provision and enforcement mechanism to ensure that all publically-accessible City buildings install and maintain at least one baby diaper-changing accommodation that is accessible in both men and women's restrooms or a single diaper-changing accommodation that is accessible to all genders. In addition, request that the City Manager provide recommendations to mandate all businesses to provide changing stations in either women's and men's restrooms or gender-neutral restrooms.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Councilmembers       |                   |                     | 2017-07-24<br>08:00:00 | CITY MANAGER'S OFFICE          | Completed | 2017-07-24<br>08:00:00 | 2017-07-01<br>00:00:00 |                     |
| 2017-01-24   | 38                 | Berkeley Mothers Initiative                                                                              | Request that the City Manager ensure that all City buildings provide and maintain at least one private place reasonably close to an employee's workspace for breastfeeding mothers to pump.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Councilmembers       | Lori Droste       |                     | 2017-07-21<br>17:00:00 | CITY MANAGER'S OFFICE          | Completed | 2017-07-24<br>08:00:00 | 2017-07-01<br>00:00:00 |                     |
| 2017-01-31   | 10                 | Medical Cannabis Ordinance Revisions and Cultivation Application Process                                 | Request that the City Manager provide Council with analysis of the questions presented by Councilmember Sophie Hahn.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Council member       |                   |                     | 2017-07-28<br>17:00:00 | PLANNING & DEVELOPMENT         | Completed | 2017-07-31<br>08:00:00 | 2017-11-07<br>00:00:00 |                     |
| 2017-02-14   | 11                 | Updated Information Report on Measure M                                                                  | Request that the City Manager return to the City Council in April with an Information Report on Measure M implementation, expenditures, projected expenses and plans.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Council member       |                   |                     | 2017-08-11<br>17:00:00 | Public Works                   | Completed | 2017-08-14<br>08:00:00 | 2017-05-02<br>00:00:00 |                     |

| Meeting Date | Agenda Item Number | Project Name                                                                                              | Recommendations                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Referral by District | Referral District | Sponsor                                                   | Referral Commission                         | Original end date      | Lead City Department           | State     | Planned end date       | Actual end date        | Additional comments                                                                                                                                                                     |
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| 2017-03-28   | 33                 | Referral Response: Cigarette Butt Pollution Prevention                                                    | REFER to the City Manager to enact a pilot program in downtown Berkeley with the goal of greatly reducing cigarette butt litter that accumulates on sidewalks and curbsides, in a central location. This pilot program would: a) Place a total of four receptacles for cigarette butt disposal in front of three adult schools and a bus stop where smoking behavior continues despite its prohibition. The receptacles are to be placed in front of: i. Berkeley City College, 2050 Center Street; ii. Language Studies International on 2015 Center Street; iii. Kaplan International, Berkeley, 150 Berkeley Square; and iv. a selected major bus stop in the vicinity of an entrance to the Downtown Berkeley BART station; and b) Exhibit graphics on the receptacles to remind and inform the public that tobacco litter is hazardous to the health of the Bay; and c) Enter into a partnering agreement with the Downtown Berkeley Association (DBA) for upkeep of the receptacles for the duration of the one-year pilot program, including sending collected butts to the company for recycling; and d) TerraCycle® will track the weight of butts received, and share the data with the City of Berkeley and CEAC commissioners to help track and assess the success of the pilot program; and e) Identify funding sources to expand the pilot program if successful at the end of the one year trial. | Commission           |                   |                                                           | Community Environmental Advisory Commission | 2017-09-22<br>17:00:00 | Office of Economic Development | Completed | 2017-09-25<br>08:00:00 | 2017-05-30<br>00:00:00 |                                                                                                                                                                                         |
| 2017-03-28   | 22                 | Security Camera Database                                                                                  | Request that the City Manager return to Council with an update on the referral to create a voluntary database of security cameras in Berkeley. With an increase in crime, residents are anxious to help the Berkeley Police Department solve cases and arrest the perpetrators - amended to include direction that guidelines protect privacy and prevent misuse of camera footage.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Council member       |                   |                                                           |                                             | 2017-09-25<br>08:00:00 | Police                         | Completed | 2017-09-25<br>08:00:00 | 2018-08-15<br>00:00:00 |                                                                                                                                                                                         |
| 2017-07-25   | 40                 | Expediting Elements of Previous Council Referral to Study Possible Scenarios of the Loss of Federal Funds | Direct the City Manager to expedite the compilation and delivery of a list of federal funds that the City of Berkeley receives and the programs and facilities supported by such funds.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Council member       |                   | Sophie Hahn, Jesse Arreguin, Cheryl Davila, Kate Harrison |                                             | 2018-01-19<br>17:00:00 | HEALTH, HSG & COMMUNITY SVC    | Completed | 2017-10-23<br>00:00:00 | 2018-12-11<br>12:22:40 | 2019-02-05<br>17:14:03 - Melissa McDonough (Additional comments) HHCS is updating with the latest single audit findings.                                                                |
| 2017-05-30   | 53                 | Eliminate the Required Affidavits of Residency for Commissioners                                          | Eliminate the requirement for Commissioners to submit Affidavits of Residency when they are appointed, and annually thereafter, in pursuit of saving time and money for the City of Berkeley.<br>Revised Materials - <a href="http://www.cityofberkeley.info/Clerk/City_Council/2017/05_May/Documents/2017-05-30_Item_53_Eliminate_the_Required_-_Rev.aspx">http://www.cityofberkeley.info/Clerk/City_Council/2017/05_May/Documents/2017-05-30_Item_53_Eliminate_the_Required_-_Rev.aspx</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Council member       |                   |                                                           |                                             | 2017-11-24<br>17:00:00 | City Clerk                     | Completed | 2017-11-27<br>08:00:00 | 2017-09-12<br>00:00:00 |                                                                                                                                                                                         |
| 2017-06-27   | 32                 | Housing Inspection and Community Services Manager                                                         | Request the City Manager to create and fill the position of Housing Inspection and Community Services Manager.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Council member       |                   |                                                           |                                             | 2017-12-22<br>17:00:00 | PLANNING & DEVELOPMENT         | Completed | 2017-12-25<br>08:00:00 | 2018-09-13<br>00:00:00 | 2019-02-05<br>17:13:07 - Melissa McDonough (Additional comments) New position approved by Personnel Board. Will bring to Council for adoption by November which will complete referral. |



| Meeting Date | Agenda Item Number | Project Name                                                                                                                   | Recommendations                                                                                                                                                                                                                                                                                                                                                                                                                          | Referral by District | Referral District | Sponsor                                                | Referral Commission | Original end date   | Lead City Department   | State     | Planned end date    | Actual end date     | Additional comments                                                                                                                                                                                                                                                                                                                                      |
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| 2017-07-25   | 51                 | Commercial Cannabis Regulations and Licensing                                                                                  | Refer to the City Manager and Cannabis Commission the proposed local ordinances to establish a licensing process for Commercial Cannabis operations, as permitted under Proposition 64, Adult Use of Marijuana Act. The Council requests that the City Manager and Cannabis Commission report to the City Council on its recommendations on regulations and licensing for commercial cannabis businesses before the end of 2017.         | Council member       |                   |                                                        |                     | 2018-01-19 17:00:00 | PLANNING & DEVELOPMENT | Completed | 2018-01-22 08:00:00 | 2018-09-13 00:00:00 | 2019-02-05 17:15:33 - Melissa McDonough (Additional comments) Lengthy process involving 3 Commissions and many City departments. Some Ordinance changes will be at Council 9/13/18. But more will be needed. Council Worksession scheduled for 10/9/18, then adoption of more Ordinance changes expected by end of year, which will close this referral. |
| 2017-09-12   | 33                 | Voter Registration Forms in All City Buildings on Their Main Floors                                                            | Direct the City Manager to provide voter registration forms on the main floor of all designated city buildings that are open to the public and in all Community based organizations within the city limits. Community based organizations that are funded by the City of Berkeley will be required to pick up the voter registration forms from the City Clerk's Office and that should be clearly stated in their respective contracts. | Council member       |                   | Cheryl Davila, Kate Harrison, Sophie Hahn              |                     | 2018-03-09 17:00:00 | City Clerk             | Completed | 2018-03-12 08:00:00 | 2017-11-08 00:00:00 |                                                                                                                                                                                                                                                                                                                                                          |
| 2017-10-03   | 24                 | Parallel Permitting Process                                                                                                    | Request that the City Manager in coordination with the Director of Planning and the Chief Building Official work to establish a voluntary parallel permitting process for applications to construct housing in the City of Berkeley.                                                                                                                                                                                                     | Council member       |                   | Susan Wengraf, Linda Maio, Lori Droste, Jesse Arreguin |                     | 2018-03-30 17:00:00 | PLANNING & DEVELOPMENT | Completed | 2018-04-02 08:00:00 | 2017-11-01 00:00:00 | 2019-02-05 17:23:50 - Melissa McDonough (Additional comments) This voluntary parallel permitting option already exists. Following October 2017 referral we advised Building staff to be sure to make option known to interested applicants.                                                                                                              |
| 2017-10-03   | 21                 | Referral to the City Manager to Provide a Public Master List of the Legislation on which the City Council Has Taken a Position | Request that the City Manager work with the City's lobbyist to create and maintain a master list of the legislation on which the City Council has taken a formal position of support or opposition through passage of an item.                                                                                                                                                                                                           | Council member       |                   | Kate Harrison, Sophie Hahn, Cheryl Davila              |                     | 2018-03-30 17:00:00 | City Clerk             | Completed | 2018-04-02 08:00:00 | 2018-01-23 00:00:00 |                                                                                                                                                                                                                                                                                                                                                          |

| Meeting Date | Agenda Item Number | Project Name                                                                                                                                                                                             | Recommendations                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Referral by District | Referral Sponsor                                        | Referral Commission | Original end date   | Lead City Department           | State     | Planned end date    | Actual end date     | Additional comments                                                                                                                                                                                                                                                                                                                                    |
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| 2018-01-23   | 27                 | Open the West Campus Pool All Year Round and Start the Shower Program at the West Campus Pool                                                                                                            | Short Term Referral to City Manager to assess the feasibility to keep the West Campus Pool open all year round and to start COB Shower Program at the West Campus Pool. Keeping the West Campus Pool open all year round will provide equitable swimming options in both North Berkeley and in South/West Berkeley and provide another location available for our community to shower.                                                                                                                                                                                                                                                                                                                                               | Council member       | Cheryl Davila, Ben Bartlett                             |                     | 2018-07-20 17:00:00 | Parks, Recreation & Waterfront | Completed | 2018-04-23 00:00:00 | 2018-10-16 10:14:13 | 2019-02-05 17:38:54 - Melissa McDonough (Additional comments)<br>a) On June 12, 2018, Council received an Off Agenda Memo that identifies the cost to establish a shower program at West Campus Pool.<br>B) In mid-September 2018, Council will receive an Off Agenda Memo that describes the feasibility of keeping West Campus pool open year-round. |
| 2017-10-31   | 30                 | Short-Term Referral to the City Manager, a Process for Relocation of a Permitted Cannabis Dispensary                                                                                                     | Refer to the City Manager to approve a process for the relocation of Apothecarium, a cannabis dispensary with valid permits.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Council member       |                                                         |                     | 2018-04-27 17:00:00 | PLANNING & DEVELOPMENT         | Completed | 2018-04-30 08:00:00 | 2018-01-23 00:00:00 |                                                                                                                                                                                                                                                                                                                                                        |
| 2017-12-05   | 18                 | City Manager Referral: Prioritizing New Business Before Old Business at City Council Meetings                                                                                                            | Prioritize new business before old business at City Council Meetings by: 1. Altering the Council rules of procedure as adopted May 24, 2016 so that new business comes before old business. The reformatted section will read "The agenda for the regular business meetings shall include the following: Ceremonial; Comments from the City Manager; Comments from the Public; Consent Calendar; Action Calendar (Appeals, Public Hearings, Continued Business, New Business, Old Business); Information Reports; and Communication from the Public"; and 2. Granting explicit authorization to Agenda Committee to move new business backwards or forwards at their discretion by amending section III E of the Rules of Procedure. | Council member       |                                                         |                     | 2018-06-01 17:00:00 | City Clerk                     | Completed | 2018-06-04 08:00:00 | 2018-01-30 00:00:00 |                                                                                                                                                                                                                                                                                                                                                        |
| 2018-02-13   | 17                 | Referral to the City Manager to Submit a Filing to the CPUC Recommending Adjusting Electric Rule 20 to Better Serve the City of Berkeley and Other Communities with Very High Fire Hazard Severity Zones | A referral to the City Manager to submit a filing with the California Public Utilities Commission (CPUC) concerning the CPUC's current review of Electric Rule 20. The CPUC is considering, among other things, how the existing program is administered by the various utility companies operating in California and the definition of what projects are to be included in the public interest.                                                                                                                                                                                                                                                                                                                                     | Council member       | Susan Wengraf, Sophie Hahn, Jesse Arreguin, Lori Droste |                     | 2018-08-10 17:00:00 | Public Works                   | Completed | 2018-08-10 17:00:00 |                     |                                                                                                                                                                                                                                                                                                                                                        |
| 2018-02-13   | 26                 | Referral to the City Manager on Gender Options of the General Application for City Boards and Commissions                                                                                                | Refer to the City Manager to add a nonbinary gender option on the General Application for appointment to Berkeley boards and commissions.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Council member       | Lori Droste, Linda Maio, Susan Wengraf, Worthignton     |                     | 2018-08-10 17:00:00 | City Clerk                     | Completed | 2018-08-13 08:00:00 | 2018-03-01 00:00:00 |                                                                                                                                                                                                                                                                                                                                                        |
| 2018-02-27   | 22                 | Wildland Urban Interface Fire Safety and Fire Safety Education                                                                                                                                           | Commission Referral #5 revised to read: 5. Refer to the Planning Commission to consider Accessory Dwelling Units (ADUs) in the Very High Hazard Fire Zone to review public safety issues especially relevant to the risk of WUI fires. Amend Section 23D.10 to incorporate greater public safety considerations to be met before issuing an Administrative Use Permit (AUP);                                                                                                                                                                                                                                                                                                                                                         |                      | City Council and Mayor                                  |                     | 2018-08-24 17:00:00 | FIRE & EMERGENCY SERVICES      | Completed | 2018-08-24 17:00:00 |                     | 490                                                                                                                                                                                                                                                                                                                                                    |

| Meeting Date | Agenda Item Number | Project Name                                                                                                                                                                                                    | Recommendations                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Referral by District | Referral District | Sponsor                                                | Referral Commission       | Original end date   | Lead City Department        | State     | Planned end date    | Actual end date     | Additional comments |
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| 2018-03-13   | 17                 | Referral to the Arts Commission and the City Manager: Cost Estimate and Plan for Installation of Sculpture Lighting into Adjacent Street Lights for the William Byron Rumford Statue on Sacramento and Julia St | Refer to the City Manager a request to develop a cost estimate and an installation plan for installing sculpture lighting into adjacent street lights for the William Byron Rumford statue on Sacramento and Julia Street. Refer the cost estimate and plan to the Arts Commission.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Council member       |                   |                                                        |                           | 2018-09-07 17:00:00 | Public Works                | Completed | 2018-09-07 17:00:00 |                     |                     |
| 2018-01-30   | 14                 | Direction and Referral to the City Manager Regarding "Premier Cru" Property                                                                                                                                     | 3. The Berkeley Way Affordable Housing Project is the City's top affordable housing priority. Premier Cru, as a City property, to be developed for affordable housing falls under the "High Priority" on the list of housing initiatives passed by Council on November 28, 2017. In light of the above, refer to the City Manager to take the following actions to move Premier Cru forward as a High Priority initiative: a. Based on recommendations from Health, Housing and Community Services and other Departments, the Housing Advisory Commission, and on consultation with local affordable housing providers, and taking into consideration requirements and restrictions associated with potential funding sources, create a recommendation or recommendations to Council regarding levels of affordability, unit sizes, on-site services and other features to be included in the proposed project or projects. b. Based on the above analyses and recommendations, and on Council direction, develop and issue an RFQ or RFP to affordable housing developers for proposals to develop affordable housing at the site. | Council member       |                   | Sophie Hahn, Jesse Arreguin, Linda Maio, Kate Harrison |                           | 2018-09-07 17:00:00 | PLANNING & DEVELOPMENT      | Completed | 2018-09-10 08:00:00 | 2018-05-29 00:00:00 |                     |
| 2017-12-19   | 41                 | Companion Report: Public Works Commission Recommendation for the Five-Year Paving Plan                                                                                                                          | Adopt a Resolution updating the City's Five-Year Street Rehabilitation Plan for FY 2018 to FY 2022. The City Council may consider the information put forth by the Public Works Commission relevant to adoption of the recommended plan.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                      |                   |                                                        |                           | 2018-09-21 17:00:00 | Public Works                | Completed | 2018-09-24 08:00:00 | 2018-07-24 00:00:00 |                     |
| 2017-12-05   | 24                 | Ordinance Amending the Berkeley Municipal Code to Establish Ability to Pay Provisions Regarding Parking Fines and Fees in Accordance with Guidelines Established in Assembly Bill 503                           | to refer the item as written in Supplemental Reports Packet #2 to the City Manager to conduct an analysis of the item, including a review of current indigency procedures and coordination with similar efforts in the City of Oakland, and report back to the Council in 90 days.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Council member       |                   |                                                        | Transportation Commission | 2018-09-28 17:00:00 | Finance                     | Completed | 2018-09-28 17:00:00 | 2018-07-02 00:00:00 |                     |
| 2017-07-25   | 10                 | Authorizing City Manager Approval for Community Development Block Grant (CDBG) Community Facility Improvement Contracts Under \$200,000; Amending BMC Chapter 7.18                                              | Adopt first reading of an Ordinance, by two-thirds vote of the Council, amending Chapter 7.18 of the Berkeley Municipal Code to authorize the City Manager to enter into and amend contracts of up to \$200,000 with applicants recommended for funding by staff and the Housing Advisory Commission under the City's Community Development Block Grant (CDBG) program for community facility improvements.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                      |                   |                                                        |                           | 2018-10-19 17:00:00 | HEALTH, HSG & COMMUNITY SVC | Completed | 2018-10-22 08:00:00 | 2018-04-24 00:00:00 |                     |

| Meeting Date | Agenda Item Number | Project Name                                                                                                                                    | Recommendations                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Referral by District | Sponsor                                    | Referral Commission | Original end date   | Lead City Department        | State     | Planned end date    | Actual end date     | Additional comments                                                                                                                                                                      |
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| 2018-05-15   | 23                 | Transgender Health Access Training at City of Berkeley Clinics                                                                                  | Adopt a Resolution providing \$2,400 from the General Fund to support a half-day Transgender Health Access Training for City of Berkeley Public Health staff in June 2018.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Commission           |                                            |                     | 2018-11-09 17:00:00 | HEALTH, HSG & COMMUNITY SVC | Completed | 2018-11-10 17:00:00 | 2019-02-04 10:22:57 | 2019-04-15 10:25:13 - Laura Schroeder (Additional comments)<br>On February 4, 2019 staff from public health and mental health attended a training on Transgender Access to Public Health |
|              | 24                 | Budget Referral: Increasing Safety at San Pablo Park                                                                                            | Request the City Manager perform traffic assessments to gather data and refer any needed improvements to the FY 2020 – FY 2021 budget process.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Councilmembers       | Cheryl Davila                              |                     | 2018-11-13 17:00:00 | Public Works                | Completed | 2018-11-13 17:00:00 | 2019-05-16 00:00:00 |                                                                                                                                                                                          |
| 2018-05-29   | 14                 | Implementation of Secure Storage Program                                                                                                        | 1. Direct the City Manager to expedite implementation of two publicly available, secure storage facilities to accommodate as many individuals as possible, based on the parameters set in staff’s March 2, 2018 RFI: Downtown Homeless Storage Pilot – Staffing and Operations and on additional parameters outlined in Program Details, below. 2. Direct the City Manager to publicize the locations, hours, and rules applicable to new storage facilities through normal outreach channels (website, press release, etc.) and through direct outreach to homeless individuals by the City, community organizations (CBOs) and other partners such as the Downtown Berkeley Association and Telegraph Avenue BID. 3. Refer \$100,000 to the budget process; an added \$25,000 for the downtown storage location and \$75,000 for storage in West Berkeley. | Council member       |                                            |                     | 2018-11-23 17:00:00 | HEALTH, HSG & COMMUNITY SVC | Completed | 2018-11-26 08:00:00 | 2018-07-24 00:00:00 |                                                                                                                                                                                          |
| 2018-09-13   | 31                 | Short-Term Referral to City Manager re: Emergency Standby Officers Qualifications                                                               | Referral to the City Manager to consider the following suggestions for requirements and qualifications for Emergency Standby Officers and return to Council within 90 days with recommendations. Possible requirements may include: -Trainings in roles and responsibilities to serve as a standby officer possibly including: ethics and workplace harassment. -City government experience. -Council District residency. -Require standby officers to meet the same qualifications, including restrictions on conflict of interest, as required in the City Charter for City Councilmembers. -In addition, consider requiring Councilmembers to nominate three people in a single action.                                                                                                                                                                   | Council member       | Susan Wengraf, Jesse Arreguin, Sophie Hahn |                     | 2018-12-11 17:00:00 | City Clerk                  | Completed | 2018-12-11 17:00:00 | 2019-05-02 12:02:38 | 2019-02-05 15:21:26 - Melissa McDonough (Additional comments)<br>Ongoing discussion with City Attorney regarding potential criteria                                                      |
| 2018-07-10   | 17                 | Referral to City Manager to Consolidate all City Commission Workplans in One Place for Easy Access for Staff, the Public, and Elected Officials | Make a referral to the City Manager to consolidate all City Commission Workplans in one place for easy (electronic) access for staff, the public, and elected officials.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Council member       |                                            |                     | 2019-01-04 17:00:00 | City Clerk                  | Completed | 2019-01-07 08:00:00 | 2018-09-13 00:00:00 |                                                                                                                                                                                          |
| 2018-10-30   | 20                 | Proposed Portland Loo Installations in Telegraph Commercial District                                                                            | Short-Term Referral to the City Manager to identify costs for the installation of a "Portland Loo" type of bathroom facility in Telegraph Commercial District. Costs should be comprehensive and include, but not be limited to: the facility, infrastructure, design, construction, oversight and any contingencies.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Councilmembers       | Jesse Arreguin, Sophie Hahn                |                     | 2019-01-31 17:00:00 | Public Works                | Completed | 2019-01-31 17:00:00 | 2019-02-27 00:00:00 |                                                                                                                                                                                          |
| 2017-05-02   | 27                 | Berkeley Bicycle Plan 2018                                                                                                                      | Adopt a Resolution approving the Berkeley Bicycle Plan 2017, and directing the City Manager to pursue implementation of the Plan as funding and staffing permit.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                      |                                            |                     | 2019-02-15 17:00:00 | Public Works                | Completed | 2019-02-15 17:00:00 |                     |                                                                                                                                                                                          |

| Meeting Date | Agenda Item Number | Project Name                                                                                                                                             | Recommendations                                                                                                                                                                                                                                                                                                                                                                                                                                        | Referral by District | Referral District       | Sponsor                    | Referral Commission | Original end date      | Lead City Department   | State     | Planned end date       | Actual end date        | Additional comments                                                                                                                        |
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| 2018-11-13   | 24                 | Budget Referral: Increasing Safety at San Pablo Park                                                                                                     | 4. Develop, implement and coordinate drills for active shooter and other emergency protocol at San Pablo Park: Create protocol with input from community partners, then orient licensed daycare providers, coaches, trainers and program staff who operate out of the park, and conduct drills with City staff operating the Center and providers in order to prepare for emergencies and how to use the Center as a shelter during or following them. | Councilmembers       |                         | Cheryl Davila              |                     | 2019-03-01<br>17:00:00 | Police                 | Completed | 2019-03-01<br>17:00:00 | 2019-03-30<br>15:34:27 | 2019-04-24<br>15:35:06 - Melissa McDonough (Additional comments)<br>Training class conducted March 30                                      |
| 2017-12-05   | 17                 | City Manager Referral: Consider CPUC Interconnection Applications                                                                                        | Refer to the City Manager consideration of applying for CPUC interconnection applications.                                                                                                                                                                                                                                                                                                                                                             | Council member       |                         |                            |                     | 2019-03-04<br>16:00:00 | Public Works           | Completed | 2019-03-04<br>16:00:00 | 2018-04-04<br>00:00:00 |                                                                                                                                            |
| 2018-09-13   | 18                 | Adopt a Resolution in Support of Appropriate City Enforcement Measures to Mitigate Damages Resulting from the Removal of Trees at 1698 University Avenue | Amended to be a referral to the City Manager regarding enforcement of measures to mitigate damage to the general welfare of the City and neighborhood resulting from the damage and subsequently-required removal of trees at 1698 University Avenue.                                                                                                                                                                                                  | Council member       |                         | Kate Harrison              |                     | 2019-03-11<br>17:00:00 | PLANNING & DEVELOPMENT | Completed | 2019-03-11<br>16:00:00 | 2018-10-01<br>15:56:16 |                                                                                                                                            |
| 2018-09-25   | 22                 | Safe storage of firearms - Revised materials (Supp 2)                                                                                                    | Refer to the City Manager to review draft Safe Storage of Firearms ordinance, identify and resolve issues, and return to Council within 90 days.                                                                                                                                                                                                                                                                                                       | Council member       |                         | Susan Wengraf, Sophie Hahn |                     | 2019-03-22<br>17:00:00 | City Attorney          | Completed | 2019-03-23<br>16:00:00 | 2018-12-24<br>16:21:16 |                                                                                                                                            |
| 2018-10-02   |                    | Lobbyists Registration and Regulation Ordinance; Amendments to Existing Revolving Door Ordinance                                                         | Request an analysis from the City Manager before the November budget discussion on the administrative impacts and cost to implement the lobbyist ordinance.                                                                                                                                                                                                                                                                                            | Council member       |                         | MAYOR AND COUNCIL          |                     | 2019-03-29<br>17:00:00 | City Attorney          | Completed | 2019-03-30<br>16:00:00 | 2019-01-22<br>12:32:26 |                                                                                                                                            |
| 2018-10-30   | 35                 | City Manager referral: Initiate a franchise agreement with FlixBus                                                                                       | That the Council refer to the City Manager initiation of a franchise agreement with FlixBus, requiring a permit issued by the Director of Public Works, establishing a fee for the issuance of the permit, establishing administrative penalties for failure to obtain a permit or violation of permit requirements, and providing a procedure for the assessment and collection of administrative penalties for permit violations.                    | Councilmembers       |                         | Kriss Worthington          |                     | 2018-10-30<br>17:00:00 | Public Works           | Completed | 2019-05-01<br>11:39:27 | 2019-05-23<br>00:00:00 | 2019-04-23<br>11:49:56 - Mark Numainville (Additional comments)<br>Resolution of Intent adopted on 3/26/19; Public Hearing set for 4/30/19 |
| 2018-10-16   | 25                 | Welcome to Berkeley Signage                                                                                                                              | Refer to the City Manager on a short term basis to replace all the Welcome to Berkeley signs with the Option B design per the Transportation Commission recommendation, including "Ohlone Territory" but not a second motto. Also, leave space on the sign to add a policy message and consult with Ohlone leaders on the use of the word "territory."                                                                                                 | Councilmembers       | City Council District 2 | Cheryl Davila              |                     | 2018-10-16<br>17:00:00 | Public Works           | Completed | 2019-05-03<br>12:00:00 | 2019-02-07<br>00:00:00 |                                                                                                                                            |

| Meeting Date | Agenda Item Number | Project Name                                                                                                                                                                                                                                                                           | Recommendations                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Referral by District | Referral District | Sponsor                                    | Referral Commission | Original end date   | Lead City Department   | State     | Planned end date    | Actual end date     | Additional comments                                                                                                                                                                                           |
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| 2019-02-19   | 21                 | Refer to the Planning Commission an amendment to BMC Chapter 23C.12.020 (Inclusionary Housing Requirements - Applicability of Regulations) and the Affordable Housing Mitigation Fee Resolution to Close a Loophole for Avoiding the Mitigation Fee through Property Line Manipulation | 1) Refer to the Planning Commission an amendment to BMC Section 23C.12.020 (Inclusionary Housing Requirements – Applicability of Regulations) and BMC Section 22.20.065 (Affordable Housing Mitigation Fee) to close a loophole allowing prospective project applicants to avoid inclusionary affordable housing requirements for projects by modifying property lines so that no lot is large enough to construct five or more units; the Commission should return to Council with a report by April 30, 2019. 2) Refer to the Planning Commission to consider modifying the structure of in-lieu fees for owner-occupied developments to a flat per-unit fee, as with rental developments, or a per square foot fee; the Commission should return to Council with a report. 3) Refer to the Housing Advisory Commission to assess the appropriateness of the fee level as suggested in the proposed amendments to BMC 23C.12. 4) The Planning Commission is to consider the following language from the item submitted at the meeting: It is possible that the new fee structure will be adopted prior to the Housing Advisory Commission approving the level of the fee. In this instance, those projects that opt to pay the in-lieu fee and are permitted after the new fee structure is adopted but before the new fee level is adopted shall be given the choice of paying the current fee level, or the one that is adopted. | Councilmembers       |                   | Kate Harrison, Rigel Robinson, Sophie Hahn |                     | 2019-05-21 17:00:00 | PLANNING & DEVELOPMENT | Completed | 2019-05-21 17:00:00 | 2019-06-11 09:40:07 | 2019-04-15 09:44:51 - James Bondi (Additional comments) Scheduled for Council 4/30/19.                                                                                                                        |
| 2019-02-19   | 9                  | Short-Term Referral: Develop Ordinance permitting Cannabis Events and designate Cesar Chavez Park as an Approved Venue                                                                                                                                                                 | Short-Term Referral to the City Manager to develop ordinance amendments permitting up to three cannabis events per year in the first year in the City of Berkeley and designating Cesar Chavez Park as the sole approved location for cannabis events, provided such events are organized and licensed as required by the State of California. The ordinance shall: 1. reference Resolution No. 68,326-N.S., declaring that Berkeley is a sanctuary for adult use cannabis, 2. specify procedures for such events that replicate similar alcohol related event protocols. The City Council will revisit the provisions of the ordinance following the first year of implementation.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Councilmembers       |                   | Jesse Arreguin                             |                     | 2019-05-21 17:00:00 | PLANNING & DEVELOPMENT | Completed | 2019-05-22 00:00:00 | 2019-04-15 09:54:32 | 2019-04-15 09:54:26 - James Bondi (Additional comments) Council considered and opted not to adopt policy, 4/2/19.                                                                                             |
| 2017-07-25   | 37                 | Reviewing the GIG Car Share Pilot Program                                                                                                                                                                                                                                              | Refer to the City Manager and Transportation Department a review of the concerns, emerging regarding some features of the recently implemented GIG Car Share pilot program, request adjustments before the two-year pilot program from staff.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Council member       |                   | Linda Maio, Susan Wengraf                  |                     | 2019-05-28 17:00:00 | Public Works           | Completed | 2019-05-28 17:00:00 | 2019-05-28 11:39:27 | 2019-02-05 15:16:47 - Melissa McDonough (Additional comments) The program evaluation will be conducted in early 2019 and an action report prepared for Council to continue, modify, or discontinue the pilot. |

| Meeting Date | Agenda Item Number | Project Name                                                                                                                                                                                                               | Recommendations                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Referral by District | Referral District | Sponsor                                  | Referral Commission       | Original end date   | Lead City Department   | State     | Planned end date    | Actual end date     | Additional comments                                                                                                                                                                              |
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| 2019-03-26   | 23                 | Referral to City Manager to Scope Process and Estimate Cost of New General Plan                                                                                                                                            | Referral to the City Manager to return to City Council with an outline of the process for creating a new City of Berkeley General Plan. The cost for the first two years of work will be included in the report for consideration during the upcoming 2020-2021 Budget Process.                                                                                                                                                                                                                                                                                                                                                | Councilmembers       |                   | Jesse Arreguin, Cheryl Davila            |                           | 2019-06-21 17:00:00 | PLANNING & DEVELOPMENT | Completed | 2019-06-21 17:00:00 | 2019-06-12 09:41:11 | 2019-04-15 09:53:31 - James Bondi (Additional comments) Scoping has begun. Off-Agenda Memo will provide answers (date TBD)                                                                       |
| 2018-12-11   | 26                 | Referral to the City Manager and Planning Commission to Update the Housing Pipeline Report to Address Timeline between Planning Entitlements and Submission of Building Permit Applications and Consider Reasons for Delay | Referral to the City Manager to include in the Housing Pipeline Report an analysis of the time between planning entitlements and building permit requests for all projects of five units or greater over the past five years. On an ongoing basis, refer to the City Manager and Planning Commission to propose changes to current Planning approval process to address the causes of delays between entitlements and building permits for construction or substantial rehabilitation of five or more dwelling units.                                                                                                          | Councilmembers       |                   | Kate Harrison                            |                           | 2018-12-11 17:00:00 | PLANNING & DEVELOPMENT | Completed | 2019-07-16 16:43:23 | 2019-07-23 11:40:57 |                                                                                                                                                                                                  |
| 2017-10-31   | 17                 | Expanded Criteria for the Installation of Stop Signs                                                                                                                                                                       | 1. Refer to the Transportation Commission consideration of additional or supplemental stop sign criteria which addresses the needs of vulnerable populations, the presence of bicycle boulevards, and the difficulty of crossing particular intersections. 2. Direct that staff consult with the Bicycle Subcommittee of the Transportation Commission when making decisions impacting bicycle boulevards, whenever possible. 3. Request that the City Manager provide an informational report on the particular state and federal warrants and local policies that prevent stop signs being used as traffic calming measures. | Council member       |                   | Kate Harrison, Ben Bartlett, Lori Droste | Transportation Commission | 2018-01-29 17:00:00 | Public Works           | Past Due  | 2018-01-29 17:00:00 |                     | 2019-02-05 16:27:28 - Melissa McDonough (Additional comments) Transportation Commission formed a subcommittee and held first meeting 6/11/18, additional meetings to be planned by subcommittee. |

| Meeting Date | Agenda Item Number | Project Name                                                                                                                                   | Recommendations                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Referral by District | Referral District | Sponsor                        | Referral Commission       | Original end date   | Lead City Department        | State    | Planned end date    | Actual end date | Additional comments                                                                                                                                                                                                                                                                                             |
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| 2017-07-25   |                    | Public Toilet Policy                                                                                                                           | Refer to the City Manager to develop the following "Neighborhood Public Toilet Policy": Develop a process in which residents can obtain a permit for a neighborhood public toilet via an official petition; Residents should contact the City via 311 to obtain an official petition form to apply for a permit; In order to obtain the permit, the petition should be signed by at least 51% of residential addresses and business owners within the nearest two block radius of the proposed public toilet site; The City shall not fund or contribute to the financing of the public toilets or their maintenance.                                | Council member       |                   |                                |                           | 2018-06-29 17:00:00 | CITY MANAGER'S OFFICE       | Past Due | 2018-06-29 17:00:00 |                 | 2019-08-05 09:47:54 - Melissa McDonough (Additional comments) Staff have prepared a memo which will be submitted to Council in Fall 2019.                                                                                                                                                                       |
| 2018-04-24   | 17                 | Refer the Housing Advisory Commissions Questions on the Smoke-Free Residential Housing Ordinance to Staff and Berkeley Considers               | The Housing Advisory Commission respectfully requests that the Council direct the City Manager to assist the HAC in its review of the Smoke-Free Residential Housing Ordinance, a regulation of tobacco use, as follows: 1. By responding to the HAC's questions enumerated in the report with any readily available responsive information. 2. By facilitating the conduct of a "Berkeley Considers" questionnaire about the Smoke-Free Residential Housing Ordinance, questions for which are proposed in the report.                                                                                                                              | Commission           |                   |                                |                           | 2018-10-19 17:00:00 | HEALTH, HSG & COMMUNITY SVC | Past Due | 2018-10-19 17:00:00 |                 | 2019-04-12 15:41:24 - Melissa McDonough (Additional comments) Staff transition and priority put on TNC, RV policy, and Safe Clean Streets                                                                                                                                                                       |
| 2018-07-10   | 20                 | Refer to City Manager to look into adopting an ordinance requiring a permit process for scooter sharing companies to operate on public streets | Refer to the City manager to look into adopting an ordinance establishing a pilot Powered Scooter Share Permit Program for 24 months, requiring a permit issued by the Director of Public Works, establishing a fee for the issuance of the permit, establishing administrative penalties for failure to obtain a permit or violation of permit requirements, providing a procedure for the assessment and collection of administrative penalties for permit violations or parking or leaving standing an unpermitted powered scooter subject to the pilot Powered Scooter Share Permit Program on a sidewalk, street, or other public right-of-way. | Council member       |                   | Kriss Worthington, Sophie Hahn | Transportation Commission | 2018-11-27 17:00:00 | Public Works                | Past Due | 2018-11-27 17:00:00 |                 | 2019-08-07 11:03:01 - Nancy Melendez (Additional comments) City issued an RFP for Franchise applications due back by 1/25/19. A panel consisting of staff reps from Public Works, Police, 311, Economic Development and UC Berkeley scored the applications. A draft Council memo was prepared to recommend the |



| Meeting Date | Agenda Item Number | Project Name | Recommendations | Referral by District | Referral District | Sponsor | Referral Commission | Original end date | Lead City Department | State | Planned end date | Actual end date | Additional comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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|              |                    |              |                 |                      |                   |         |                     |                   |                      |       |                  |                 | <p>top 3 scorers when staff learned that the City of San Diego was being sued by Disability Rights California over accessibility impacts of permitted scooter sharing operations. City of Berkeley staff is reevaluating the scooter applications with an eye toward requirements informed by the lawsuit. The approval of 3 Scooter Franchises is expected to go to Council in Oct 2019.</p> <p>2019-02-05 15:22:21 - Melissa McDonough (Additional comments)<br/>Council adopted tentative terms for franchise agreements on December 4, 2018 based on input from the Transportation Commission and multiple other Commissions and agencies. Transportation staff has solicited proposals from various scooter sharing companies and will return to Council with recommendations for up to 3 service providers and adoption of franchise agreements for each.</p> |

| Meeting Date | Agenda Item Number | Project Name                                                                                                                                                                                                                                        | Recommendations                                                                                                                                                                                                                                                                                                                                                                                                  | Referral by District | Sponsor                                                 | Referral Commission | Original end date   | Lead City Department | State                   | Planned end date    | Actual end date | Additional comments                                                                                                                                                                                                                                                          |
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| 2017-10-03   | 7                  | Request for Information Regarding Grant Writing Services from Specialized Grant Writing Firms                                                                                                                                                       | Refer to the City Manager to issue a request for information to explore grant writing services from specialized municipal grant-writing firms, and report back to Council.                                                                                                                                                                                                                                       | Council member       | Sophie Hahn, Kate Harrison, Cheryl Davila, Ben Bartlett |                     | 2018-01-01 17:00:00 | Finance              | Pending Not On Schedule | 2018-01-01 17:00:00 |                 | 2019-04-12 15:07:44 - Melissa McDonough (Additional comments) Issued #18-11201 Feb. 5, 2018 as an RFI (Request for information); closed March 1, 2018. Received 13 information responses for review. Next Steps: use responses to inform scope of work, then release as RFP. |
| 2017-12-19   | 22                 | Develop Ordinance Prohibiting Companies Participating in the Construction of a Border Wall from Contracting with the City of Berkeley                                                                                                               | Direct the City Manager to develop an ordinance prohibiting companies involved in the construction of a border wall from contracting with the City of Berkeley. Return to Council with the proposed ordinance within 90 days.                                                                                                                                                                                    | Council member       | Ben Bartlett, Sophie Hahn, Cheryl Davila                |                     | 2018-07-20 17:00:00 | Finance              | Pending Not On Schedule | 2018-07-20 17:00:00 |                 |                                                                                                                                                                                                                                                                              |
| 2018-04-03   | 18                 | Supplemental Paid Family Leave                                                                                                                                                                                                                      | 2) refer to the City Manager to draft an ordinance regarding retaliation against employees using state family leave, including a private right of action provision.                                                                                                                                                                                                                                              | Commission           |                                                         |                     | 2018-09-28 17:00:00 | City Attorney        | Pending Not On Schedule | 2018-09-28 17:00:00 |                 |                                                                                                                                                                                                                                                                              |
| 2018-07-31   | 10                 | Direction to the City Manager Regarding the Community Service In Lieu of Parking Penalties Program                                                                                                                                                  | Direct the City Manager to amend the eligibility requirements of the Community Service In Lieu of Parking Penalties Program in order to allow all indigent individuals to be eligible to participate in the program (regardless of the registration status of a potential participant's vehicle).                                                                                                                | Council member       | Ben Bartlett, Cheryl Davila, Kate Harrison, Sophie Hahn |                     | 2018-10-29 17:00:00 | Public Works         | Pending Not On Schedule | 2018-10-29 17:00:00 |                 | 2019-02-05 15:38:44 - Melissa McDonough (Additional comments) Because this is a multidepartmental task assigned to Public Works, involving Finance and City Attorney, and administered by the City of Oakland, the completion date is unclear.                               |
| 2018-12-11   | 23                 | Short-term referral to City Attorney and Health Housing and Community Service 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 | Short-term referral to City Manager to amend Berkeley Municipal Code 7,441-N.S. according to the changes made in the attached amended ordinance to prohibit the sale of flavored tobacco products and require a minimum package size for cigars and little cigars across the City of Berkeley. The primary purpose of the amendment to the ordinance is to do more to prevent youth and young adult tobacco use. | Councilmembers       | Cheryl Davila                                           |                     | 2018-12-11 17:00:00 | City Attorney        | Pending Not On Schedule | 2018-12-11 17:00:00 |                 |                                                                                                                                                                                                                                                                              |

| Meeting Date | Agenda Item Number | Project Name                                                                                               | Recommendations                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Referral by District | Referral District | Sponsor                    | Referral Commission | Original end date   | Lead City Department  | State                   | Planned end date    | Actual end date | Additional comments                                                                                                                                                                                                                                                                                                                                                                                                              |
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| 2018-11-13   | 18                 | Short-Term Referral to City Manager to Complete Steps Necessary to Establish Lava Mae Services in Berkeley | 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; and -Identifying water source for hook ups designated to dispense water for showers, either fire hydrants (preferred) or garden hose spigots; and -Parking permits for shower trailer; and -Identifying sewage manholes designated to pump out/dump gray and black water (H2O) into the sewer system; and -Calendaring a Fire Department inspection to inspect the propane to heat up the H2O 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. | Councilmembers       |                   | Cheryl Davila, Sophie Hahn |                     | 2019-09-10 17:00:00 | CITY MANAGER'S OFFICE | Pending Not On Schedule | 2019-09-10 17:00:00 |                 | 2019-08-07 15:07:11 - Melissa McDonough (Additional comments) Sites and hook-ups have been established.                                                                                                                                                                                                                                                                                                                          |
| 2017-03-14   | 24                 | Referral to Consider Caregiver Parking in Residential Shared Parking Pilot                                 | Refer to the City Manager and Transportation Commission to consider a pilot program for caregiver parking permits in RPP zones in the goBerkeley Residential Shared Parking Pilot.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Council member       |                   |                            |                     | 2017-06-12 17:00:00 | Public Works          | Pending On Schedule     | 2017-06-12 17:00:00 |                 | 2019-04-12 14:22:07 - Melissa McDonough (Additional comments) Ongoing, part of 3-year pilot project (Spring 2018); staff will work with consultants to collect data to determine the various needs and constraints of all residential parking users, including those with childcare needs; subsequent policy proposals will balance these needs.Contract for outreach consultant has been executed and work is starting in 2019. |

| Meeting Date | Agenda Item Number | Project Name                                                                                             | Recommendations                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Referral by District | Referral District | Sponsor                 | Referral Commission | Original end date      | Lead City Department        | State                     | Planned end date       | Actual end date | Additional comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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| 2015-11-17   | 28                 | Improve Conditions on Our Community Sidewalks; Amending Berkeley Municipal Code Chapters 13.36 and 14.48 | Discuss and refer the following services and ordinances to the City Manager for implementation, and adopt first reading of three Ordinances: 1. Adding Section 13.36.085 to the Berkeley Municipal Code prohibiting urination and defecation in public places. 2. Amending Sections 14.48.020 and 14.48.170 of the Berkeley Municipal Code regulating use of sidewalks. 3. Adding Section 13.36.040 to the Berkeley Municipal Code prohibiting obstruction of City-owned planters and trees. Additional Services: 1. Create a secure storage facility for personal belongings; bins must be of adequate size, of reasonable number (estimate of 50 – 100 at the outset) and ensure reasonable access, with posted hours. 2. Provide additional bathrooms in the Downtown and Telegraph areas. 3. Provide mobile showers and bathrooms for public use. | Council member       |                   | Linda Maio, Lori Droste |                     | 2019-02-28<br>16:00:00 | CITY<br>MANAGER'S<br>OFFICE | Pending<br>On<br>Schedule | 2019-02-28<br>16:00:00 |                 | <p>2019-08-07<br/>14:46:28 - Melissa McDonough (Additional comments)<br/>Storage is done as is mobile showers and expansion of bathrooms, 14.48 re: sidewalks is done.</p> <p>2019-04-24<br/>15:08:11 - Melissa McDonough (Additional comments)<br/>Outreach information disseminated to people on streets; another round of personal notification starts 4/16/19 and 3 person team starts 4/23/19.</p> <p>2019-04-12<br/>14:20:27 - Melissa McDonough (Additional comments)<br/>Ordinances and AR 10.2 have been updated.<br/>Homeless storage program created in October 2018.<br/>Enforcement of 10.2 has been launched as of 2/28.</p> |

| Meeting Date | Agenda Item Number | Project Name                                                                                                                                                                                                                                                                           | Recommendations                                                                                                                                                                                                                                                                                                           | Referral by District | Referral District | Sponsor           | Referral Commission | Original end date   | Lead City Department | State               | Planned end date    | Actual end date | Additional comments                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|--------------|--------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|-------------------|-------------------|---------------------|---------------------|----------------------|---------------------|---------------------|-----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2019-03-26   | 15                 | Dynamex Decision Impact and Compliance on Minimum Wage Ordinance and Paid Sick Leave Ordinance                                                                                                                                                                                         | That the City Council refers to the City Manager and the Labor Commission to ensure the Berkeley Minimum Wage Ordinance (MWO) and Paid Sick Leave Ordinance are interpreted and enforced in a manner consistent with the holdings in Dynamex Operations West, Inc. v. Superior Court of Los Angeles (2018) 4 Cal.5th 903. | Councilmembers       |                   | Ben Bartlett      |                     | 2019-03-26 17:00:00 | City Attorney        | Pending On Schedule | 2019-03-26 17:00:00 |                 | 2019-06-18 08:04:27 - Melissa McDonough (Additional comments) The City Attorney's Office is drafting a City Attorney opinion analyzing the holding in Dynamex Operations West, Inc. v. Superior Court of Los Angeles (2018) 4Cal.5th 903 with respect to the City's MWO and PSLO. The completed memo will be referred to the City Manager and the Labor Commission for review by June 24, 2019 and for any related action, including amending ordinances as necessary. |
| 2018-10-02   | 9                  | Amend BMC Chapters 6.24 and 14.52 to Authorize Paid Parking on Shattuck Avenue between Carleton Street and Ward Street and add the Northside (Euclid/Hearst) Metered Parking Area to the goBerkeley Program; and Authorize Paid Parking at the City-Owned Adeline/Alcatraz Parking Lot | Request staff to perform an analysis of the parking in the Northside area during the academic year to be completed within six months.                                                                                                                                                                                     | Council member       |                   | MAYOR AND COUNCIL |                     | 2019-04-02 17:00:00 | Public Works         | Pending On Schedule | 2019-04-02 17:00:00 |                 | 2019-02-05 16:25:11 - Melissa McDonough (Additional comments) Per Council direction to conduct a study in 6 months, the due date should be April 2, 2019, which is 6 months from October 2, 2018.                                                                                                                                                                                                                                                                      |





Office of the City Manager

40

INFORMATION CALENDAR  
September 24, 2019

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Jordan Klein, Economic Development Manager  
 Subject: Deaccession of *Berkeley Big People*

SUMMARY

On July 24, 2019 the City's Civic Arts Commission voted to deaccession the *Berkeley Big People* artwork, by Scott Donahue, located at the bike and pedestrian bridge crossing Interstate-80 in west Berkeley. The artwork was originally installed in 2008 and has since experienced material failure due to the use of unsuitable materials in the construction of the artwork. This Information Report details the following:

- the rationale for the decision made by the Civic Arts Commission to deaccession *Berkeley Big People*;
- the authority delegated in the Berkeley Municipal Code to the Civic Arts Commission to make all decisions on artistic matters for the City of Berkeley;
- description of subsequent public reaction;
- background on the artwork selection and approval process;
- circumstances leading to the decision to deaccession the artwork;
- alternatives considered; and
- possible future actions and associated cost estimates.

CURRENT SITUATION AND ITS EFFECTS

The Civic Arts Commission took action at their regular meeting on July 24, 2019 to initiate deaccessioning the artwork *Berkeley Big People*, by Scott Donahue, two large-scale sculptures located on the Interstate 80 pedestrian bridge. (M/S/C Passmore/Anno. Vote: Ayes – Anno, Blecher, Bullwinkel, Covarrubias, Ozol, Passmore, Ross; Nays – Tamano; Abstain – None; Absent – Slattery.) This decision was made in accordance with the deaccession guidelines (included in Attachment 1) set by the Civic Arts Commission which describe the conditions and specific process by which a decision is made to remove an artwork from the City of Berkeley's civic art collection.

Commissioners who voted in favor of the motion cited the following:

- concerns over the current failing condition of the artwork with an estimated cost for repairs at \$68,000 to \$96,000;
- the high cost to properly maintain the work over time with an estimated annual cost of \$26,920 to \$31,000;
- the cost to repair and relocate the artwork at a different site is between \$170,668 and \$256,366, where it would still require annual maintenance; and
- the aesthetic incompatibility of the artwork with the design of the bridge where the artwork is located.

The staff report that was provided to the Civic Arts Commission for their July 24th meeting (Attachment 1) includes information on the artwork and artist, summarizes the commissioning process by which this artwork was selected, and describes the condition assessment which found that the artwork has systemic material failure due to the use of unsuitable materials. Included in the condition assessment attached to the staff report are cost estimates to repair the artwork and to maintain it over time. Because the estimated costs to repair and maintain the artwork were so high, staff contacted a second conservation firm who verified that making repairs and maintaining this artwork would be costly due to the materials used in the sculpture and its location. The staff report also describes alternatives to deaccessioning the artwork that could be further considered by the Commission, including possible relocation of the artwork and associated costs. Finally, the report includes the guidelines for deaccession, which details the process by which a decision is made to remove an artwork from the City of Berkeley's civic art collection.

In accordance with Berkeley Municipal Code Chapter 6.14 (Attachment 2), once the Civic Arts Commission votes to initiate the deaccessioning process, there is no further action required by City Council.

Following the Civic Arts Commission's vote, the artist was formally notified by letter (Attachment 3) of the decision and offered the artwork at his own cost of removal. A legal notice was also published in the Berkeley Voice offering the artwork to any other public institution at their own cost of removal should the artist decline the artwork. In compliance with applicable state and federal notice requirements of the California Art Preservation Act (CAPA) and the Visual Artists Rights Act (VARA), the soonest that the artwork could be removed is November 8, 2019.

Subsequent to the Civic Arts Commission's decision, there has been media coverage by numerous news sources such as Berkeleyside, East Bay Times, San Francisco



Chronicle, and Los Angeles Times.<sup>1</sup> The City has also received a significant number of public comment communications both in favor of removal and opposed. Those communications received as of August 22, 2019 are compiled and attached to this report as Attachment 4.

#### SUPPORTING THE CITY'S STRATEGIC PLAN

Deaccessioning the *Berkeley Big People*, by Scott Donahue, is aligned with the following Strategic Plan goals:

- Provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.
- Provide an efficient and financially-healthy City government.

#### BACKGROUND

In 2002, the City of Berkeley's Civic Arts Program held a national competition for artists to create an entry sculpture to the City of Berkeley. This process was conducted in accordance with Berkeley Municipal Code, Chapter 6.14. The selection of Scott Donahue for the I-80 Bicycle/Pedestrian Bridge public art project was made by an ad-hoc community art selection panel and approved by the Civic Arts Commission in 2003. Later that year City Council authorized the City Manager to execute a contract with Scott Donahue for \$113,000 to create two monumental sculptures that symbolize the city, its people and its activities. According to the BMC, City Council would not have had a formal role in the selection of the artwork.

*Berkeley Big People* was commissioned by the City of Berkeley with funding from the 1.5% for Art requirement, which covered the design, engineering, fabrication, assembly and installation costs. Due to numerous cost overruns, the final total contract value with the artist for this artwork was \$196,762.

The completed sculptures were installed in 2008 on the east and west ends of the elevated portion of the Bicycle/Pedestrian Bridge that spans I-80 in West Berkeley. The two monumental sculptures consist of clusters of figures made of fiberglass, steel and bronze mounted on fanciful four-legged pedestals. The sculpture on the eastern side of the span represents the urban and cultural experience of Berkeley, including the University of California's campanile, a violinist, a scientist, an activist, and a wheelchair-user. The sculpture on the western side represents recreation and nature, including bird watchers, kite flyers and a dog catching a Frisbee.

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<sup>1</sup> Sarah Ravani, *Weather-beaten Berkeley sculptures wear out their welcome; supporters call for saving them*, San Francisco Chronicle, <https://www.sfchronicle.com/bayarea/article/Weather-beaten-Berkeley-sculptures-wear-out-their-14362177.php> (August 20, 2019); and Tony Hicks, *Berkeley arts commission votes to remove controversial sculptures on I-80 bridge*, Berkeleyside, <https://www.berkeleyside.com/2019/08/14/berkeley-arts-commission-votes-to-remove-controversial-sculptures-on-i-80-bridge> (August 14, 2019)

The materials used in the construction of *Berkeley Big People* began to fail within nine years after the artwork's installation. According to the City contract with the artist, the artist warranted that the artwork was designed to last for a lifespan of 30 years from the date of acceptance and guaranteed against any faulty materials or workmanship. The artwork maintenance manual (Attachment 5) submitted by the artist as part of his final contract deliverables did not indicate that the artwork would require frequent recurring maintenance to prevent the eventual failure of the materials. The artwork's material failure was brought to the attention of the Civic Arts Commission's Public Art Committee in 2017. Photographs of the piece show cracking and material loss on the sculpture legs and failing finish on the figurative elements that comprise the top portion of the artwork (Attachment 6). At that time the artist approached the Civic Arts Commission with a proposal to repair the artwork himself for approximately \$7,000. However, due to prolonged negative public response to the artwork as installed on the bridge, the Civic Arts Commission's Public Art Committee began to contemplate a larger project that would involve both repairing and relocating the artwork.

The chair of the Public Art Committee first reached out to the artist in July 2017 to discuss the possibility of relocating the sculptures to a new location off of the bridge. In July 2018, the Civic Arts Commission allocated approximately \$60,000 in funding for the move. Subsequently, when the Commission received information about the actual costs for relocation and maintenance, they turned towards deaccessioning rather than relocating the piece. Staff notified Mr. Donahue on July 17, 2019 that the deaccession was scheduled for discussion at the Public Art Committee on July 22 and for discussion and possible action at the full Commission on July 24. At each meeting, the artist attended and was given as much time as he wanted to address the Commission prior to their discussion and action.

#### ENVIRONMENTAL SUSTAINABILITY

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

#### POSSIBLE FUTURE ACTION

The artist has the option to remove or pay for removal of the artwork no later than 90-days from his receipt of notice of deaccession. The 90-day period ends on November 8, 2019. Should the artist choose to remove or pay for removal of the artwork, upon such removal, legal title shall pass to the artist along with physical possession of the artwork. Should the artist choose not to remove or pay for removal of the artwork within the 90-day timeframe, any organization may elect to remove or pay for removal of the artwork themselves. If the artist chooses not to exercise his option to remove or pay for removal of the artwork, and no organization indicates their interest in removing the artwork or should the artist or any organization expresses interest in removing the artwork and fail to remove or pay the cost of removal of the artwork within the ninety 90-day period, the City of Berkeley may remove, relocate and/or destroy this artwork at its discretion and convenience.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Should the artist or another entity remove the artwork at their expense, a rough order of magnitude cost to restore the site could be up to \$10,000.

Should the City chose to conserve and reinstall the sculptures at another site, it could cost between \$170,668 and \$256,366. The original artwork cost was \$196,762, which puts the cost for initial conservation and relocation at a range that is close to the original cost of the artwork. Added to that the ongoing costs to maintain the artwork in the long-term will exceed the original cost and may require more aggressive and more costly interventions due to the unsuitability of the original materials.

Should the City chose to demolish the artwork and restore the bridge paving, a rough order of magnitude cost is between \$20,000 and \$30,000.

CONTACT PERSON

Jordan Klein, Economic Development Manager, 510-981-7534  
Jennifer Lovvorn, Chief Cultural Affairs Officer, 510-981-7533

Attachments:

- 1: Staff Report to the Civic Arts Commission for the July 24, 2019 Meeting
- 2: Berkeley Municipal Code, Chapter 6.14
3. Deaccession Notification Letter to Scott Donahue
4. Public Comment Communications Regarding Deaccession of Berkeley Big People
5. Maintenance Manual Submitted by Artist as Contract Deliverable
6. Artwork Condition Photographs



Civic Arts Program

July 19, 2019

**STAFF REPORT**

To: Civic Arts Commission  
From: Civic Arts Program Staff  
Re: Agenda Item 4.a – *Berkeley Big People* by Scott Donahue

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**ARTWORK**

Title: *Berkeley Big People*, 2008

Artist: Scott Donahue

Medium: Sculpture comprised of multiple materials including Epoxy Clay, Fiberglass, Concrete, Forton Concrete Additive, Keim Mineral Colorants, Sealants, Stainless Steel and Bronze Elements, and Steel Armature.

Dimensions: Two Sculptures, each approximately 28' x 12' x 12'

Location: Berkeley I-80 Bike Bridge

**BACKGROUND**

In 2002, The City of Berkeley's Civic Arts Program held a national competition for artists to create an entry sculpture to the City of Berkeley. The selection of Scott Donahue for the I-80 Bicycle/Pedestrian Bridge public art project was approved by the Civic Arts Commission in 2003 and later that year City Council authorized the contract with Scott Donahue to create two monumental sculptures that symbolize the city, its people and its activities. These sculptures were installed in 2008 on the east and west ends of the elevated portion of the Bicycle/Pedestrian Bridge that spans I-80 in West Berkeley. The two monumental sculptures consist of clusters of figures made of fiberglass, steel and bronze mounted on fanciful four-legged pedestals. The sculpture on the eastern side of the span represents the urban and cultural experience of Berkeley, including the University of California's campanile, a violinist, a scientist, an activist, and a wheelchair-user. The sculpture on the western side represents recreation and nature, including bird watchers, kite flyers and a dog catching a Frisbee. *Berkeley Big People* was commissioned by the City of Berkeley with funding from the 1.5% for Art requirement, which covered the design, engineering, fabrication, assembly and installation costs. The total contract value was \$196,762.

**ARTIST'S BIOGRAPHICAL INFORMATION**

Scott Donahue is a professional sculptor who has been producing public art installations since 1983. He has designed, fabricated and installed 25 permanent public art pieces in California and Colorado and completed 40 temporary public art works in New York, New Jersey, California, and Italy. He uses a variety of techniques and works with a wide range of materials including concrete, bronze, fiberglass and ceramic. Each of his pieces is unique and specific to the site where they are located. Scott Donahue was born in Hinsdale, Illinois in 1951. He currently lives and works in Emeryville, California. (Resume is attached as Exhibit A)

**IMAGES OF ARTWORK AT TIME OF INSTALLATION**



**CONDITION ASSESSMENT**

As part of an overall inventory and assessment of the City of Berkeley's Civic Art Collection, the City of Berkeley engaged the services of RLA Conservation to evaluate the condition of Berkeley Big People. (Condition Assessment is attached as Exhibit B.) The report states that the artwork is in poor condition due to the use of unsuitable materials, which has led to systemic material failure. The painted fiberglass

surface is actively failing most likely from moisture seeping out of unsealed concrete. There are significant areas of material loss and cracking on the column capitals, exposing the underlying cast concrete base form. There is also cracking of the fiberglass across all of the pillars. The structural condition of the underlying concrete is unconfirmed through visual inspection and requires assessment by a structural engineer. The painted fiberglass figures are in poor condition caused by paint failure and potential fiberglass resin failure. There are large gray patches and streaks across all of the figures caused by paint loss from exposure to high winds, rain, and high UV exposure. The bronze paint binder has failed, causing it to leach down the surface of the sculpture onto the platform and the columns, which were originally painted a green-gray.

### **COST OF CONSERVATION TREATMENT AND ONGOING MAINTENANCE**

Costs for conservation treatment and ongoing maintenance of *Berkeley Big People* are detailed in the condition assessment report (Exhibit B). In summary, RLA Conservation estimates the cost to repair the artwork at \$68,000.00 - \$ 96,000.00. Once the artwork is repaired RLA recommends maintenance treatments every six months\* which would cost \$13,460.00 - \$15,500 each time. [\*Correction made to recommended frequency of maintenance which was previously listed as every two years based upon the consultant's incorrect use of the word "biennial" in their report.]

It is important to note two points made in the report:

1. RLA strongly recommends inspection by a structural engineer to determine the long-term structural stability and safety of the artwork. The cost for this work has not been included in the estimates.
2. The original materials and any replacement materials may not have significant long-term longevity given the current artwork display conditions. The report states that **there may continue to be deterioration issues** despite conservation efforts.

### **RELOCATION SITES CONSIDERED**

As part of the FY2019 Public Art Budget, the Civic Arts Commission set aside \$60,366 to potentially remove the artwork so that it could be relocated to another location. In preparation for that possibility, alternative sites for the relocation of *Berkeley Big People* were studied in consultation with two independent design professionals (urban designer and architect). (Alternate Location Study is attached as Exhibit C.) More than seven alternative sites were considered. The criteria listed below provided guidance for identifying a number of initial site alternatives as well as the seven shown on the attached Exhibit C map and photographs.

- Prioritization of public land owned by the City of Berkeley and under City jurisdiction where possible
- Visible to the public, including pedestrians and motorists
- Avoid environmentally sensitive areas
- Public Safety considerations (clearances, diver's line of sight, etc.)
- Cost effective (construction, transport, permits, etc.)
- Proximity to (in sight of) each other
- West Berkeley location, near the waterfront, and or within proximity to the I-80 Pedestrian Bridge

- Consider relationship to other exiting public art installations
- Level pad or level area, minimum size of 10' x 10'

These sites may still be considered by the Civic Arts Commission for possible relocation of *Berkeley Big People*, however due to the costs for conservation and ongoing maintenance of this artwork, the Commission may want to consider commissioning a new more appropriate work by the artist for the City's collection, possibly for installation at a different location. No matter the site for reinstallation of the existing sculpture or installation of a new work, approvals would need to be secured from the departments, Commissions and any other agencies with jurisdiction over those locations. For the location on the pedestrian bridge, that would likely include CalTrans as they were involved with approval for installation of the original artwork. Any sites within 100' of the bay may also need approval from the San Francisco Bay Conservation and Development Commission.

### **COSTS FOR REMOVAL, CONSERVATION, REINSTALLATION AND ONGOING MAINTENANCE**

Staff received a cost estimate from a professional art handling company to remove the top portion of the sculptures. (Removal Cost Estimate is attached as Exhibit D.) The rationale for studying the cost for removal of the top portion of the two sculptures is that if a site was identified for relocation, it is likely that the artwork would need to have a new pedestal designed to fit the space. The cost to remove the top portion of the sculptures alone is approximately \$40,000, excluding the cost to remove the four-legged pedestals and dispose of them, which could cost as much as \$10,000 - \$20,000. Additional costs related to the effort to re-site the sculptures would include transportation of sculptures; design, engineering and construction of new pedestals; and artwork installation. It is difficult to price these tasks without knowing the specific foundation and pedestal design and the location for installation. A very rough estimate for this effort is \$50,000 - \$100,000 based upon costs for similar artwork installations in other cities.

A summary of the cost to conserve and reinstall the sculptures at another site is between \$170,668 - \$256,366. The original artwork cost was \$196,762, which puts the cost for initial conservation and relocation at a range that is close to the original cost of the artwork. Added to that the ongoing costs to maintain the artwork in the long-term will exceed the original cost and may require more aggressive and more costly interventions due to the unsuitability of the original materials.

### **DEACCESSION GUIDELINES**

The following Conditions for Deaccession from the City of Berkeley's Artwork Deaccession Policy (attached as Exhibit E – Section 3) are to be used by the Civic Arts Commission to evaluate and determine whether to deaccession *Berkeley Big People* from the City's collection. A work of art may be considered for deaccession if one or more of the following conditions apply:

- The work presents a threat to public safety.
- Condition or security of the work cannot be guaranteed, or the City cannot properly care for or store the work.
- The work requires excessive or unreasonable maintenance, or has faults in design or workmanship.

- The condition of the work requires restoration in gross excess of its market value, or is in such a deteriorated state that restoration is infeasible, impractical, or would be so extensive as to fundamentally transform the work from the artist's original intent.
- Significant changes in the use, character or actual design of the site require reevaluation of the artwork's relationship to the site.
- If the artwork cannot remain at its original installation site and if no suitable alternate site for the work is available.
- The work interferes with the operations of the City.
- Significant adverse public reaction over an extended period of time (5 years or more).
- The work is judged to have little or no aesthetic and/or historical or cultural value, or is judged to have negative historical or cultural value.
- The Civic Arts Commission wishes to replace a work with a more appropriate work by the same artist.
- The work can be sold to finance or be traded for a work that refines and improves the quality and appropriateness of the City's collection and better serves the Civic Arts Commission's mission.
- Written request from the artist has been received to remove the work from public display.
- The work is duplicative in a large holding of work of that type or of that artist.
- The work is fraudulent or not authentic.
- The work is rarely or never displayed.

#### **STAFF RECOMMENDATION**

While it is ultimately a decision of the Civic Arts Commission, staff recommends that the Commission consider the following three conditions relative to a possible action to initiate the deaccession of *Berkeley Big People* by Scott Donahue:

- The work requires excessive or unreasonable maintenance, or has faults in design or workmanship.
- The condition of the work requires restoration in gross excess of its market value, or is in such a deteriorated state that restoration is infeasible, impractical, or would be so extensive as to fundamentally transform the work from the artist's original intent.
- The Civic Arts Commission wishes to replace a work with a more appropriate work by the same artist.



SCOTT DONAHUE

1420 45th Street, #49, Emeryville, California, 510-658-5182 (shop) or 510-453-1861 (mobile)  
www.sdonahue.com scott@sdonahue.com

## EDUCATION

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1982

University of California, Davis, CA, M.F.A

1975

Sculptor's Assistant to Juan Lombardo, Cuernavaca, Mexico

1973

Philadelphia College of Art, Philadelphia, PA, B.F.A.

## PUBLIC WORKS

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2017

Immigrant Angel,  
Philadelphia, Pennsylvania

2017

Watching You  
Traverse Park, Milpitas, CA

2014

Garligeese,  
Monterey Rd., Gilroy, CA

2010

Touching Earth,  
San Francisco Richmond District Library, San Francisco, CA

2010

The Chosen,  
4508 Horton Street, Emeryville, CA

2009

Water Meets Land,  
1301 Pinole Valley Road, Pinole, CA

2009

Berkeley Big People,  
I-80 at University Avenue, Berkeley, CA

2008

Human Hellix,  
4300 Hacienda Drive Pleasanton, CA

2006

The Way It Was,  
389 West El Camino Real, Sunnyvale, CA

2006

Stockton Rising,  
Arena Way, Stockton CA

2005 Central Police Station, Brentwood, CA  
2002  
Six Figures,  
B.A.R.T. Station, Millbrae, CA  
2001  
Sigamé/ Follow Me,  
Union Point Park, Oakland, CA  
2001  
Lost and Found,  
Bollinger Crossing Shopping Center, San Ramon, CA  
2000  
The Discussion,  
City Hall, Emeryville, CA  
2000  
Homage to Huntington Beach,  
Garfield & Goldenwest Streets, Huntington Beach, CA  
1999  
Evergreen Evolution,  
4100 San Felipe Road, San Jose, CA  
1999  
The Arch of Ely,  
390 Lytton Street, Palo Alto, CA  
1998  
Progress,  
401 High Street, Palo Alto, CA  
1998  
Hand Up,  
Alameda Light Rail Station, Denver, CO  
1997  
Headwaters,  
400 Emerson Street, Palo Alto, CA  
1997  
Cool Down,  
400 Emerson Street, Palo Alto, CA  
1996  
Kate, Allan, Javier, Ting-Ting, Sloane,  
Taraval Police Station, San Francisco, CA  
1995  
Portrait of Peter Augustine Anderson,  
St. Dominics Church, Benicia, CA  
1993  
History of Pacific Gas and Electric,  
Pacific Gas and Electric, Emeryville, CA  
1992  
Ear-Rational,  
Emeryville Marina, Emeryville, CA  
1991  
6 Bronze Medallions,  
Palo Alto, CA

1986  
20 Bus Sculptures,  
Rutgers University, New Brunswick, NJ  
1986  
Sculptures for the Lake,  
Lake Merrit, Oakland, CA  
1983  
14 Lightpole Sculptures,  
Oakland, San Francisco, Berkeley and Emeryville, CA

PROJECT AWARDS

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2003  
Downtown Berkeley Association President's Award,  
Berkeley Poetry Walk on Addison Street  
2001  
Best of the Year Public Art Project, Allied Arts Board,  
Homage to Huntington Beach  
1999  
Friedel Klussmann Award for  
Kate, Allan, Javier, Ting-Ting, Sloanie,  
San Francisco, CA

PUBLIC ART CONSULTANT

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1999 – 2002  
Technical Director for the City of Berkeley's Addison Street Arts District  
2006 - present Design and Construction Advisor for  
The Cesar Chavez Calendar, <http://www.solarcalendar.org>

SOLO EXHIBITIONS

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1987  
Bruce Velick Gallery, San Francisco, CA  
1986  
Pro Arts, Oakland, CA  
TWO-PERSON EXHIBITIONS

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1990  
San Jose Institute of Contemporary Art, San Jose, CA,  
Places of the Mind

1982  
Cuesta College, San Luis Obispo, CA,  
Human Dimension

SELECTED GROUP EXHIBITIONS

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1999  
John Natsoulas Gallery, Davis, CA,  
Bob Arneson and Friends

1993  
California State University, Hayward, CA,  
Large Scale Figurative Ceramics  
1990  
Fortezza Del Priamar, Savona, Italy,  
Eight California Artists Invitational

#### ACADEMIC POSITIONS

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2009 University Of California, Berkeley CA, Adjunct Professor  
1998, 2001-03  
California College of the Arts, Oakland, CA, Adjunct Professor  
1989 – 91  
San Jose State University, CA, Adjunct Professor  
1985 - 86  
Rutgers University, New Brunswick, NJ, Visiting artist  
1983  
University of California, Davis, CA, Instructor

#### REFERENCES

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Jos Sanchez,  
Berkeley Big People,  
2009  
Former chairperson for the Berkeley Art Commission  
510-845-8835 jos@unionbug.com  
110 8th street Berkeley, CA  
William Jacobson,  
The Way It Was,  
2006  
650-941-6366, Fax: 650-941-7029, califwj@aol.com  
Cherry Glen Plaza LLC, 949 Sherwood Avenue, Suite 201, Los Altos, CA 94022  
Robyn Burror,  
Stockton Rising,  
2006  
209-598-0440 deltakiwi@yahoo.com  
Molly McArthur,  
Six Figures For Bart,  
2002  
510-464-6176, mmcath@bart.gov  
Division Manager, Community Relations, Capital Projects, BART  
300 Lakeside Drive 18th Floor, Oakland, Ca 94604-2688  
Steven Huss,  
Addison Street Arts District  
City of Oakland Cultural Arts Programs Coordinator  
510-238-4949

2010  
Touching Earth,  
San Francisco Richmond District Library, San Francisco, CA  
2010  
The Chosen,  
4508 Horton Street, Emeryville, CA  
2009  
Water Meets Land,  
1301 Pinole Valley Road, Pinole, CA  
2009  
Berkeley Big People,  
I-80 at University Avenue, Berkeley, CA  
2008  
Human Hellix,  
4300 Hacienda Drive Pleasanton, CA  
2006  
The Way It Was,  
389 West El Camino Real, Sunnyvale, CA  
2006  
Stockton Rising,  
Arena Way, Stockton CA  
2005 Central Police Station, Brentwood, CA  
2002  
Six Figures,  
B.A.R.T. Station, Millbrae, CA  
2001  
Sigamé/ Follow Me,  
Union Point Park, Oakland, CA  
2001  
Lost and Found,  
Bollinger Crossing Shopping Center, San Ramon, CA  
2000  
The Discussion,  
City Hall, Emeryville, CA  
2000  
Homage to Huntington Beach,  
Garfield & Goldenwest Streets, Huntington Beach, CA  
1999  
Evergreen Evolution,  
4100 San Felipe Road, San Jose, CA  
1999  
The Arch of Ely,  
390 Lytton Street, Palo Alto, CA  
1998  
Progress,  
401 High Street, Palo Alto, CA  
1998  
Hand Up,  
Alameda Light Rail Station, Denver, CO

1997  
Headwaters,  
400 Emerson Street, Palo Alto, CA  
1997  
Cool Down,  
400 Emerson Street, Palo Alto, CA  
1996  
Kate, Allan, Javier, Ting-Ting, Sloanie,  
Taraval Police Station, San Francisco, CA  
1995  
Portrait of Peter Augustine Anderson,  
St. Dominics Church, Benicia, CA  
1993  
History of Pacific Gas and Electric,  
Pacific Gas and Electric, Emeryville, CA  
1992  
Ear-Rational,  
Emeryville Marina, Emeryville, CA  
1991  
6 Bronze Medallions,  
Palo Alto, CA  
1986  
20 Bus Sculptures,  
Rutgers University, New Brunswick, NJ  
1986  
Sculptures for the Lake,  
Lake Merrit, Oakland, CA  
1983  
14 Lightpole Sculptures,  
Oakland, San Francisco, Berkeley and Emeryville, CA

#### PROJECT AWARDS

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2003  
Downtown Berkeley Association President's Award,  
Berkeley Poetry Walk on Addison Street  
2001  
Best of the Year Public Art Project, Allied Arts Board,  
Homage to Huntington Beach  
1999  
Friedel Klussmann Award for  
Kate, Allan, Javier, Ting-Ting, Sloanie,  
San Francisco, CA  
PUBLIC ART CONSULTANT

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1999 – 2002  
Technical Director for the City of Berkeley's Addison Street Arts District

2006 - present Design and Construction Advisor for  
The Cesar Chavez Calendar, <http://www.solarcalendar.org>  
SOLO EXHIBITIONS

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1987  
Bruce Velick Gallery, San Francisco, CA  
1986  
Pro Arts, Oakland, CA  
TWO-PERSON EXHIBITIONS

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1990  
San Jose Institute of Contemporary Art, San Jose, CA,  
Places of the Mind  
1982  
Cuesta College, San Luis Obispo, CA,  
Human Dimension  
SELECTED GROUP EXHIBITIONS

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1999  
John Natsoulas Gallery, Davis, CA,  
Bob Arneson and Friends  
1993  
California State University, Hayward, CA,  
Large Scale Figurative Ceramics  
1990  
Fortezza Del Priamar, Savona, Italy,  
Eight California Artists Invitational

#### ACADEMIC POSITIONS

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2009 University Of California, Berkeley CA, Adjunct Professor  
1998, 2001-03  
California College of the Arts, Oakland, CA, Adjunct Professor  
1989 – 91  
San Jose State University, CA, Adjunct Professor  
1985 - 86  
Rutgers University, New Brunswick, NJ, Visiting artist  
1983  
University of California, Davis, CA, Instructor

#### REFERENCES

---

Jos Sanchez,  
Berkeley Big People,  
2009  
Former chairperson for the Berkeley Art Commission

510-845-8835 jos@unionbug.com

110 8th street Berkeley, CA

William Jacobson,

The Way It Was,

2006

650-941-6366, Fax: 650-941-7029, califwj@aol.com

Cherry Glen Plaza LLC, 949 Sherwood Avenue, Suite 201, Los Altos, CA 94022

Robyn Burror,

Stockton Rising,

2006

209-598-0440 deltakiwi@yahoo.com

Molly McArthur,

Six Figures For Bart,

2002

510-464-6176, mmcath@bart.gov

Division Manager, Community Relations, Capital Projects, BART

300 Lakeside Drive 18th Floor, Oakland, Ca 94604-2688

Steven Huss,

Addison Street Arts District

City of Oakland Cultural Arts Programs Coordinator

510-238-4949



## CITY OF BERKELEY CIVIC ARTS PROGRAM

## PUBLIC ART CONSERVATION SURVEY

**Examined by:** Sarah Giffin

**Examined on (date):** July 10, 2019

**Artist Name:** Scott Donahue

**Date:** 2009

**Title:** Big People

**Type of Artwork:** Sculpture

**Materials:** Cast concrete, plaster, house paint, stainless steel

**Dimensions:** 28' (H) x 12' (Diam.) each

**Location:** I-80 pedestrian/bicycle bridge

**GPS:** Protesters 37.8645, -122.3029

Kite flyers 37.8644, -122.3032

**General Condition:** Excellent      Good      Fair      Poor



**Description:**

The artwork is a two-component installation consisting of two large sculptures of clusters of individuals participating in activities characteristic of the City of Berkeley. The east sculpture depicts activities at the University campus: the UC Berkeley Campanile, around which are two individuals holding up protest signs, a man in a wheelchair, a woman playing a violin, a man reading, and a woman holding a model of a DNA strand. The west sculpture shows people participating in activities at the Berkeley Marina: two people flying kites, two people bird watching, a dog playing frisbee, and geese. Each cluster of figures sits on a slanted platform with smaller vignettes around the vertical edge. The platform is seated on four twisted columns with bulbous capitals.

The sculptures are made out of fiberglass that has been painted with a faux bronze finish made from a bronze flake pigment paint to make the figures resemble cast bronze with a red-brown patina. The items that the individuals are holding are made of welded stainless steel posts that have been bent to shape. The columns are made of cast concrete coated with multiple layers of fiberglass and painted. The cast concrete disc for the figures contains vented weep holes on the underside of the platforms to prevent water from pooling on the horizontal surfaces. The green applied scenes around the vertical edge of the disc base may be made of bronze, but this could not be verified at the time of the assessment.

## CITY OF BERKELEY CIVIC ARTS PROGRAM

PUBLIC ART CONSERVATION SURVEY

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**Condition:**

The artwork is in poor condition due to the use of unsuitable materials, which has led to systemic material failure. The painted fiberglass surface is actively failing most likely from moisture seeping out of unsealed concrete. There are significant areas of material loss and cracking on the column capitals, exposing the underlying cast concrete base form. There is also cracking of the fiberglass across all of the pillars. The structural condition of the underlying concrete is unconfirmed through visual inspection and requires assessment by a structural engineer. Failure of the concrete structure could pose a serious safety hazard due to its location above a major freeway. There is a chance that leaching moisture through the concrete fabric combined with high winds, seismic activity, and constant vibrations from the freeway has caused structural damage to the concrete base.

The painted fiberglass figures are in poor condition caused by paint failure and potential fiberglass resin failure. There are large gray patches and streaks across all of the figures caused by paint loss from exposure to high winds, rain, and high UV exposure. The bronze paint binder has failed, causing it to leach down the surface of the sculpture onto the platform and the columns, which were originally painted a green-gray. Closer inspection is required to determine the structural stability of the fiberglass resin to determine whether the material has been irreparably damaged by UV from ten years of prolonged exposure.

There is considerable graffiti on all surfaces readily reachable by members of the public, including the concrete pavers. Graffiti is primarily applied rather than incised.

The stainless-steel elements have visible iron spot corrosion on their surfaces. This may be due to exposure to chloride salts from sea spray and high humidity.

**Comments on Mounting:**

The sculptures are seated directly onto the concrete pavers. No mounting equipment is visible. Posts may be used.

**Comments on Location:**

The sculptures are located outdoors in full sun during the day. Both components are located within a quarter mile of the San Francisco Bay, so they are constantly exposed to high levels of ambient moisture and salt spray. There is also a small lake immediately next to the artwork, thereby increasing the ambient moisture levels. The busy I-80 freeway runs directly underneath the artwork, so it is exposed to high levels of automobile exhaust and atmospheric pollution, as well as constant vibrations from the cars below. The sculptures are readily accessible to the public, as demonstrated by the amount of graffiti on the surfaces. Public access is limited to the columns as the figures are approximately 10 feet above ground level. The Hayward Fault runs within a mile of the sculpture, so there is frequent seismic activity in the area.

**Comments on Safety/Risk Management:**

Individuals may attempt to climb the artwork and fall off. Pieces of plaster may detach and fall on individuals.

**Recommended Site Improvements:**

Increase lighting and security cameras around the artwork to deter vandalism

**Treatment Priority: 1**

## CITY OF BERKELEY CIVIC ARTS PROGRAM

## PUBLIC ART CONSERVATION SURVEY

**Access Considerations:**

Because of the sculptures' locations above a freeway with only a metal railing to prevent falls, serious safety measures will need to be put in place to protect the treating conservators. This may include protective netting and the use of harnesses and scaffolding. Permitting may be required due to the erection of scaffolding above a freeway.

**Equipment Required:**

Scaffold, harnesses, fencing, tenting/shade, ladders, electrical access, water access, parking permits.

**Recommended Treatment:**

RLA strongly recommends inspection by a structural engineer to determine the long-term structural stability and safety of the artwork. The original materials and any replacement materials may not have significant long-term longevity given the current artwork display conditions. There may continue to be deterioration issues despite conservation efforts.

1. Document all aspects of the treatment with digital, high-resolution photographs before, during, and after treatment, as well as a written report.
2. Perform a detailed, up close assessment to determine the stability of the fiberglass material. This will determine whether or not the original fiberglass can be salvaged or if it requires replacement.
3. Consult with a structural engineer to determine the stability of the concrete substructure.
4. Consult with the artist regarding materials used and the potential for refabrication of elements that cannot be repaired.
5. Dry clean and wet clean the sculpture to remove soiling, bird guano, and accretion build-up on the surface.
6. Remove applied graffiti from the columns using the appropriate organic solvent.
7. Remove leached red paint from the columns, if possible, using an appropriate organic solvent and/or poulticing method.
8. Readhere and consolidate areas of delaminating fiberglass using a conservation-grade adhesive suitable for use outdoors.
9. Fill areas of fiberglass loss using a fill material suitable for use outdoors.
10. Remove old failed paint from the figures and replace with new bronze flake paint in a medium suitable for use outdoors.
11. Coat the sculpture with a protective coating suitable for use outdoors.

**Cost Estimate for Treatment:**

The following cost estimate does not include the cost of hiring a structural engineer for assessment, nor does it include the cost of any artist's fees required for consultation and/or refabrication. The estimate also does not include the cost of air fare, lodging, or per diems that would be required if a non-local conservator is used for the treatment.

|                    |                                   |                                      |
|--------------------|-----------------------------------|--------------------------------------|
| Conservator (2):   | 10-15 days at \$1,280.00 per. day | = \$ 25,600.00 - \$ 38,400.00        |
| Technician (4):    | 10-15 days at \$760 per day       | = \$30,400.00 - \$ 45,600.00         |
| Materials:         |                                   | Allow up to \$ 2,000.00              |
| Equipment:         |                                   | Allow up to \$ 10,000.00             |
| <b>Total Cost:</b> |                                   | <b>= \$ 68,000.00 - \$ 96,000.00</b> |

CITY OF BERKELEY CIVIC ARTS PROGRAM  
PUBLIC ART CONSERVATION SURVEY

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**Recommended Maintenance:**

1. Document all aspects of the treatment with digital, high-resolution photographs before, during, and after treatment, as well as a written report.
2. Dry clean the sculpture to remove any loose dirt and soiling.
3. Wet clean the sculpture to remove more ingrained soiling and accretions that may have accumulated since the original treatment.
4. Reapply a protective coating to further protect the fiberglass.

**Maintenance Frequency:**

Regular artwork maintenance recommended biannually\*. Scaffolding and safety measures required. [\*Correction from previous version which listed "biennially" ]

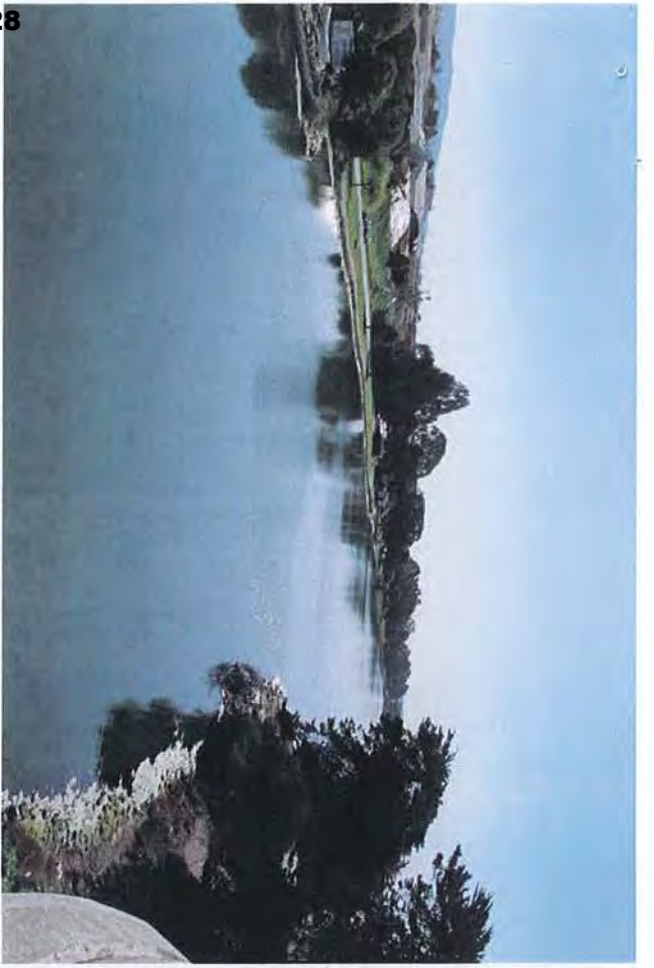
**Cost Estimate for Maintenance:**

The following estimate includes the potential cost of scaffolding for the maintenance treatment.

|                    |                                 |                                   |
|--------------------|---------------------------------|-----------------------------------|
| Conservator:       | 4-5 days at \$ 1,280.00 per day | = \$ 5,120.00 - \$ 6,400.00       |
| Technician (1):    | 4-5 days at \$ 760.00 per day   | = \$ 3,040.00 - \$ 3,800.00       |
| Materials:         |                                 | Allow up to \$ 300.00             |
| Equipment:         |                                 | Allow up to \$ 5,000.00           |
| <b>Total Cost:</b> |                                 | <b>= \$ 13,460.00 - \$ 15,500</b> |







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IMG\_2592.JPG



IMG\_2588.JPG



IMG\_2677a.jpg

Area 1 - Aquatic Park





IMG\_2533.JPG



IMG\_2580.JPG



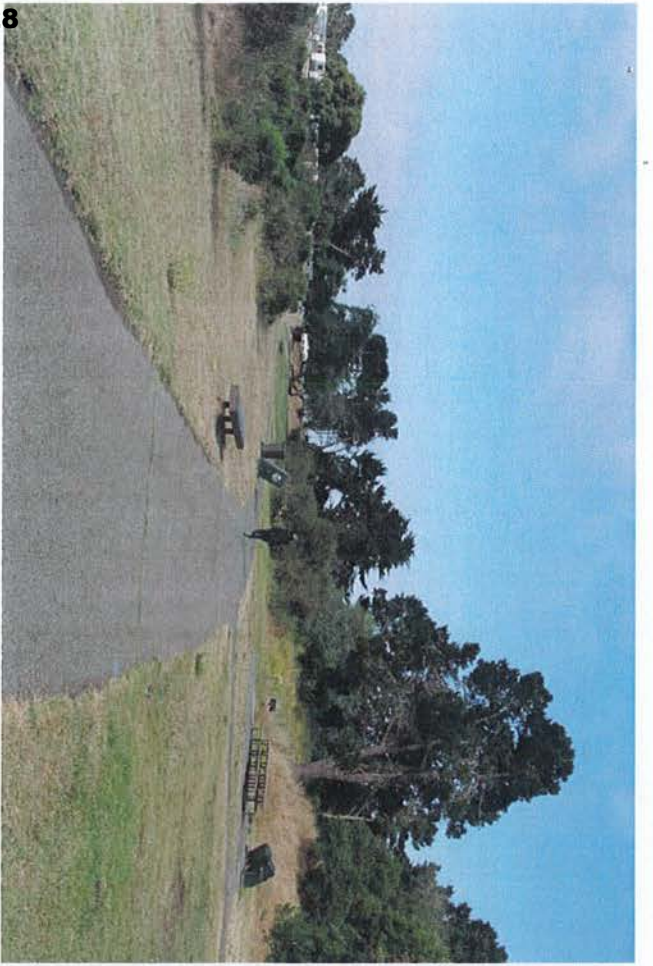
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Area 2 - University Avenue





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IMG\_2636a.jpg



IMG\_2607.JPG



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Area 3 - Shorebird Park, Marina





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Area 4 - Cesar Chavez Park





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Area 5 - Tom Bates Sports Complex, Gilman Ave.





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Area 6 - Harrison Park, Lower Codornices Trail





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IMG\_2661.JPG



IMG\_2652.JPG

Area 7 - UC University Village, Albany

**BIG PEOPLE**

**REMOVAL OF TOP PORTION SCULPTURES (ROUGH ORDER OF MAGNITUDE COST ESTIMATE)**

|                                       |                            |
|---------------------------------------|----------------------------|
| Rigging crew, 2 days on site          | \$7,888-\$10,846           |
| Crane, 2 days on site                 | \$9,200-\$11,200           |
| Flat-bed transport to Oakland         | \$2760-\$3000              |
| Pallets and tarps for storage         | \$5080-\$5680              |
| Packing of stainless steel parts      | \$450-\$500                |
| Storage receiving                     | \$340                      |
| Materials, supplies                   | \$250-\$300                |
| Project management, site visits, etc. | \$2500-\$3000              |
| Lift/equipment rental                 | \$1200-\$1500              |
| Contingency                           | \$3000-\$4000              |
| <b>SUBTOTAL</b>                       | <b>\$32,668 - \$40,366</b> |

Storage rate \$275-\$300 per month

Some notes: I have no money in here for traffic control or road closure PLUS I am assuming that we can do the work during regular daytime hours. The city may have a problem with that even though we are not lifting over the roadway at all. Also, I have not put any costs in for removal of the 8 legs, only for the sculptures on top as we discussed. You would want to have a demo company do that work.

**DEMOLITION OF LEGS AND RESTORING SITE**

Rough order of magnitude **up to \$20,000**

**TOTAL COST – REMOVAL OF SCULPTURE, DEMO OF LEGS & RESTORE SITE**

**UP TO \$60,366**

EXCERPT FROM GUIDELINES FOR PUBLIC ART  
CITY OF BERKELEY PUBLIC ART PROGRAM  
Approved by Berkeley City Council - April 30, 2019

**K. ARTWORK DEACCESSION POLICY**

**1. INTRODUCTION**

The term “deaccession” applies to the specific process by which a decision is made to remove an artwork from the City of Berkeley’s civic art collection. The City of Berkeley, through its Civic Arts Commission, reserves the right to deaccession works of art in its civic art collection in the best interest of the public and as a means of improving the overall quality of the City’s civic art collection. Removing artwork from the City’s civic art collection by deaccession should be cautiously applied only after careful and impartial evaluation of the artwork to avoid the influence and the premature removal of a work from the collection. Except in the case of an immediate threat to public safety, no artwork in the collection will be deaccessioned until the policies set forth below have been observed.

**2. DEFINITIONS**

For the purposes of this Policy, the following definitions apply:

- **Artwork:** Per the Berkeley Municipal Code, Section 6.14.101, Artwork is an original work by an artist and includes, but is not limited to, functional art integrated into public improvements, a sculpture, monument, mural, painting, drawing, photography, fountain, banner, mosaic, weaving, stained art glass, multi-media, computer-generated art, electronic and media art, video, and earth art, installation art, performance and time based works of visual art, and social practice art.
- **Deaccession:** The procedure for the removal of an artwork owned by the City and the determination of its future disposition.
- **Deaccession Notification:** A written letter to the artist or donor referencing the applicable conditions of the artwork and describing reasons why the deaccession review is being undertaken.

### 3. CONDITIONS FOR DEACCESSION

A work of art may be considered for deaccession if one or more of the following conditions apply:

- The work presents a threat to public safety.
- Condition or security of the work cannot be guaranteed, or the City cannot properly care for or store the work.
- The work requires excessive or unreasonable maintenance, or has faults in design or workmanship.
- The condition of the work requires restoration in gross excess of its market value, or is in such a deteriorated state that restoration is infeasible, impractical, or would be so extensive as to fundamentally transform the work from the artist's original intent.
- Significant changes in the use, character or actual design of the site require reevaluation of the artwork's relationship to the site.
- If the artwork cannot remain at its original installation site and if no suitable alternate site for the work is available.
- The work interferes with the operations of the City.
- Significant adverse public reaction over an extended period of time (5 years or more).
- The work is judged to have little or no aesthetic and/or historical or cultural value, or is judged to have negative historical or cultural value.
- The Civic Arts Commission wishes to replace a work with a more appropriate work by the same artist.
- The work can be sold to finance or be traded for a work that refines and improves the quality and appropriateness of the City's collection and better serves the Civic Arts Commission's mission.
- Written request from the artist has been received to remove the work from public display.
- The work is duplicative in a large holding of work of that type or of that artist.
- The work is fraudulent or not authentic.
- The work is rarely or never displayed.



#### 4. PROCEDURES

The following steps shall be followed for works being considered for deaccession:

4.1 Absence of Restrictions: Before disposing of any artworks from the collections, reasonable efforts shall be made to ascertain that the City is legally free to do so.

4.2 Deaccession Notification: City staff shall comply with any applicable state or federal notice requirements and shall make every reasonable effort to contact the artist whose artwork is being considered for deaccession, and any other known parties with a vested interest in the artwork. Staff shall make reasonable effort to notify the artist of the Public Art Committee and Civic Arts Commission meetings where the issue will be discussed.

4.3 Civic Arts Program Staff Report: The Civic Arts Program staff shall prepare a report which includes a staff evaluation and recommendation along with the following information:

- Artist's name and biographical information, samples of past work and resume.
- Written description and images of artwork.
- Information about and images of the artwork's site.
- City Attorney's Opinion: The City Attorney shall be consulted regarding any restrictions that may apply to a specific work.
- Rationale: An analysis of the reasons for deaccessioning and its impact on the Collection and the artist, and an evaluation of the artwork.
- Community Opinion: If pertinent, public feedback on the dispensation of the artwork in question.
- Independent Appraisal or other documentation of the value of the artwork: Prior to deaccessioning of any artwork having a value of \$10,000 or more, Civic Arts Program staff should obtain an independent professional appraisal, or an estimate of the value of the work based on recent documentation of gallery, comparable public commissions and/or auction sales.
- Related Professional Opinions: In cases of where deaccessioning or removal is recommended due to deterioration, threat to public safety, ongoing controversy, or lack of artistic quality, it is recommended that the Commission seek the opinions of independent professionals qualified to comment on the concern prompting review (conservators, engineers, architects, critics, safety experts etc.).



- History: Provide written correspondence, press and other evidence of public debate; Original Acquisition method and purchase price; Options for Disposition; and Replacement Costs.

4.4 Considerations for Disposition of a Work of Art: Civic Art Program Staff shall research and present to the Civic Arts Commission all feasible alternatives for the disposition of the proposed artwork for deaccession. Recommendations shall adhere to the following principles:

- The manner of disposition is in the best interest of the Civic Arts Commission and the public it serves.
- Preference should be given to retaining works that are a part of the historical, cultural, or artistic heritage of Berkeley and the Bay Area.
- Consideration should be given to placing the artwork, through gift, exchange, or sale, in another tax-exempt public institution where it may be accessible to the public and thereby continue to serve the purpose for which it was acquired initially by the Civic Arts Commission.
- Artworks may not be given or sold privately to City employees, officers, members of the governing authority, or to their representatives.

## 5. DEACCESSION CRITERIA

The following criteria will be used by the Civic Arts Commission to evaluate whether to deaccession an artwork:

- Inherent Artistic Quality: The assessed aesthetic merit of the piece as a work of art, independent of other considerations.
- Cultural or Historical Impact: Whether the artwork has negative cultural or historical impact.
- Context of Artwork within the Civic Art Collection: Proposed artwork should be evaluated within the context of the larger collection, and whether it is judged to strengthen the collection.
- Context of Artwork with Site: Accessibility, public safety, and social, cultural, historical, ecological, physical, and functional context of the artwork in relation to the site, both existing and planned.

- Availability of City Support: The availability of necessary funding for conservation, maintenance, repair, storage or required staff support.
- Legal Considerations: Issues related to liability, insurance, copyright, moral rights, warranties, ownership, theft, vandalism, loss, indemnification, and public safety. The City Attorney shall review the recommendation of the Civic Art Program staff to determine whether there are any known legal restrictions that would prevent deaccession of the artwork. The City Attorney's approval must be obtained prior to deaccessioning an artwork.
- Timing: Timing for the deaccession of an artwork may be affected by issues such as a hazardous condition related to the artwork that would pose an immediate threat to public safety, relevant construction schedules, or the allowance of sufficient time for a normal review process.
- Acquisition process: Method by which the artwork was originally acquired and accessioned in the City's collection (i.e. by donation, loan, or commission).
- Community feedback: Community feedback about the artwork, its site, and its condition solicited via a publicly-noticed meeting or placed on the agenda of the Public Art Committee.
- Restrictions: Any recognized restrictions associated with the artwork.

## **6. PUBLIC HEARINGS**

The proposed deaccession of an artwork will be heard at two meetings which are open to the public.

6.1 Public Art Committee: The recommendation to deaccession an artwork will be considered by the Public Art Committee as part of the Committee's regular meeting. The Committee shall make its recommendation to the full Civic Arts Commission.

6.2 Civic Arts Commission: The Commission must approve the Public Art Committee's recommendation that an artwork owned by the City should be deaccessioned.

## **7. DISPOSITION OF ARTWORK**

7.1 Right of First Refusal: In all cases, the Artist or Artist's legally recognized representative or heir shall be given, when possible and within a reasonable time frame, the opportunity to purchase the artwork for the fair market value (as determined by a qualified appraiser), or if the artwork is determined to be of negligible value, the artist shall be given the opportunity to claim the artwork at the artist's own cost for removal and transportation.

7.2 When the artist does not purchase or claim the deaccessioned artwork, the Civic Arts Commission at its discretion, may use any of the following methods to remove the Artwork:

- Sale: Proceeds from the sale shall be deposited into the City's public art fund.
  - Sale through a dealer.
  - Sale through a public auction.
- Trade or exchange of a deaccessioned artwork for another by the same artist.
- Donation of deaccessioned artwork to a public institution or nonprofit organization.
- Destruction: for the following instances:
  - The entire artwork or the majority of the artwork has been damaged or has deteriorated and repair or remedy is impractical or infeasible, and artist is not willing to claim the remaining artwork at artist's own cost.
  - Public safety considerations support destroying the artwork.
  - Every reasonable effort to locate the artist, the artist's heirs or next of kin, or donor has failed.
  - The Civic Arts Commission determined that no other methods of disposition are feasible.

7.3 Civic Arts Program staff duties for all deaccessioned artworks:

- Update Civic Art Collection database: The artwork will stay in the database, but be noted as deaccessioned and include the years during which it was displayed.
- Coordinate the removal of identification plaques from artwork site and coordinate the artwork's physical removal from the City's collection.
- Report on the sale or exchange at the next regularly scheduled Public Art Committee and Civic Arts Commission meetings.
- Transmit a report informing City Council of the removal of the artwork from the City's collection.

- Maintain a deaccession file that includes documentation on the artwork and all associated deaccession documents.
- If the art work is in good enough condition to yield quality photographic documentation, that documentation will be kept in the deaccession file and offered to the artist.

Chapter 6.14

VISUAL ART IN PUBLIC PLACES

Sections:

- 6.14.010 Definitions.
- 6.14.020 Visual arts panel.
- 6.14.030 Standards for review.
- 6.14.040 General rules for art in public places.
- 6.14.050 Review of artistic matters.

**Section 6.14.010 Definitions.**

For purposes of this chapter the terms listed in this section shall be defined as follows:

A. "Visual art in public places" means any visual work of art displayed for two weeks or more in an open City-owned area, on the exterior of any City-owned facility, in areas designated as public areas, lobbies, or public assembly areas, or on non-city property if the work of art is installed or financed, whether wholly or in part, with city funds or grants procured by the City.

B. "Work of art" is an original work by an artist and includes, but is not limited to, functional art integrated into public improvements, sculpture, monument, mural, painting, drawing, photography, fountain, banner, mosaic, weaving, art glass, multi-media, computer-generated art, electronic and media art, video, earth art, installation art, performance and time based works of visual art, and social practice art.

C. "Permanent installation" means a work of art in a public place intended to remain or remaining for one year or more.

D. "Temporary installation" means a work of art in a public place intended to remain for less than one year.

E. "Qualified consultant" means professional visual artists, educators, scholars, historians, collectors, and environmental designers and planners, whose authorities and skills are known and respected in the community and, whenever feasible, who have demonstrated an interest in, and have participated in, the arts of the City. (Ord. 7400-NS § 1, 2015; Ord. 6487-NS § 1, 1999; Ord. 5630-NS § 1 (part), 1985)

**Section 6.14.020 Visual arts panel.**

A. A visual arts panel shall be convened by the Civic Arts Commission as a temporary subcommittee of the Civic Arts Commission for each art in public places project. A different visual arts panel shall serve for each art in public places project and shall dissolve after placement of the work of art. The visual arts panel shall include three qualified consultants appointed by the Civic Arts Commission and, when appropriate as determined by the Civic Arts Commission, a representative of affected neighborhoods, the Civic Arts Commission, other appropriate City boards and commissions, and project architects. The duties of a visual arts panel with respect to specific art in public places projects shall be as follows:

1. To devise methods of selecting and commissioning artists with respect to the design, execution, and placement of specific art in public places projects, and pursuant to such methods, to advise the Civic Arts Commission on the selection and commissioning of artists for such projects;

2. To advise the Civic Arts Commission regarding the amounts to be spent on specific art in public places projects;

3. To advise and assist the Civic Arts Commission in obtaining financial assistance for art in public places projects from private, corporate, and governmental sources.

B. Notwithstanding subdivision A, for exhibits that change on a regular periodic basis, the functions of a visual arts panel shall be carried out by the Public Art Committee in consultation with a curator, and no visual arts panel shall be required. In such cases, the Committee's choice of artworks shall be reported to the Civic Arts Commission at a meeting no less than two weeks prior to the planned installation date. (Ord. 7082-NS § 2, 2009; Ord. 5630-NS § 1 (part), 1985)

**Section 6.14.030 Standards for review.**

In performing its duties with respect to art in public places, a visual arts panel shall give special attention to the following matters:

A. Appropriateness of the design to the functions of the site;

B. Representation of a broad variety of tastes within the community and the provisions of a balanced inventory of art in public places to insure a variety of style, design, and media throughout the community that also will be representative of the eclectic tastes of the community. (Ord. 5630-NS § 1 (part), 1985)

**Section 6.14.040 General rules for art in public places.**

A. Review of permanent and temporary installations: Permanent and temporary installations shall receive the prior review and advice of a visual arts panel. Extensions of time for temporary installations to remain for one year or more may be granted by a visual arts panel. Permanent installations shall not be removed, altered, or changed without the prior review and advice of a visual arts panel and the artist, whenever feasible.

B. Private sites for art in public places: No work of art financed or installed whether wholly or in part with City funds or with grants procured by the City shall be permanently installed on privately owned property without a written agreement between the City and the owner specifying the proprietary interests in the work of art, binding the owner to the general rules for art in public places, specifying that the owner shall assure installation of the work of art in a manner which will protect the work of art and the public and that the work of art will be maintained in good condition, and providing for appropriate insurance and indemnification, as well as any other provisions deemed necessary or desirable by the City Attorney.

C. Consultation with the artist: Installation, maintenance, alteration, refinishing, and moving of art in public places shall be done in consultation with the artist whenever feasible.

D. Inventory of art in public places: The Civic Arts Commission shall maintain a detailed record of all art in public places, including site drawings, photographs, designs, names of artists, and names of architects whenever feasible. (Ord. 5630-NS § 1 (part), 1985)

**Section 6.14.050 Review of artistic matters.**

Recognizing that professional expertise is necessary and desirable in artistic matters, such as the selection of artists for a project, the selection of particular works of art, and the approval of designs and plans for works of art under the visual art in public places program, it is the City's policy that:

A. Decisions on artistic matters will be made by a visual arts panel, the Public Art Committee, or the Civic Arts Commission, as set forth in this chapter;

B. The City Council will not exercise its independent judgment on artistic matters;

C. The City Council will refer questions, suggestions, requests, complaints and similar items pertaining to visual art in public places to the Civic Arts Commission for review and response. (Ord. 7082-NS § 3, 2009; Ord. 5630-NS § 1 (part), 1985)



August 5, 2019

Scott Donahue  
1420 45th Street, #49  
Emeryville, CA 94608

RE: Berkeley Big People Statue

Dear Mr. Donahue,

For many years, the public has enjoyed the *Berkeley Big People* artwork which you created in 2008. The City recognizes the great importance of art and appreciates the opportunity to support the commissioning of artwork such as yours. However, sometimes it is in the best interest of the public to deaccession artwork as a means of improving the overall quality of the City's civic art collection. I regret to inform you that on July 24, 2019 the City's Civic Arts Commission voted to deaccession the *Berkeley Big People* artwork. Pursuant to the terms of the Visual Artists Rights Act, 17 USCS 113 (VARA), and the California Art Preservation Act, Cal. Civ. Code 987—89 (CAPA), this letter serves as the required notice that the *Berkeley Big People* (the "Artwork") located at the bike and pedestrian bridge crossing Interstate-80 in west Berkeley is scheduled to be removed no sooner than ninety (90) days following your receipt of this notice. In accordance with VARA and CAPA, you have the option to remove or pay for removal of the Artwork no later than ninety (90) days from receipt of this notice. If you have not removed or arranged for removal of the Artwork within this ninety (90) day period, the City of Berkeley may remove, relocate and/or destroy this artwork at its discretion and convenience.

Should you choose to remove or pay for removal of the Artwork, upon such removal, legal title shall pass to you along with physical possession.

Additionally, the City of Berkeley is simultaneously publishing the thirty (30) day notice required by the California Art Preservation Act, California Civil Code Section 989(e)(2), in the Berkeley Voice. This notice will alert arts organizations in the area that, should you choose not to remove or pay for removal of the Artwork within the ninety (90) day timeframe, any organization may elect to remove or pay for removal of the Artwork themselves.

If you choose not to exercise your option to remove or pay for removal of the Artwork, and no organization indicates their interest in removing the Artwork or you or any organization expresses interest in removing the artwork and fails to remove or pay the cost of removal of the Artwork within the ninety (90) day period, the City of Berkeley may remove, relocate and/or destroy this artwork at its discretion and convenience.

If you wish to remove the Artwork and/or pay the cost of removal, please contact Jennifer Lovvorn at (510) 981-7533 or email [jlovvorn@cityofberkeley.info](mailto:jlovvorn@cityofberkeley.info).

Sincerely,

A handwritten signature in blue ink, appearing to read "J. Lovvorn".

Jennifer Lovvorn  
Chief Cultural Affairs Officer  
Civic Arts Program



Scott Donahue -- Public Art  
[Scott@SDonahue.com](mailto:Scott@SDonahue.com)

1420 45th St. studio 49 Emeryville, CA 94608  
[www.sdonahue.com](http://www.sdonahue.com)

May 8 2009

Maintenance Manual for Berkeley Big People (sculptures on the bridge)

Materials Description

#### Graffiti Protection

The columns have been coated with Prosoco SC1, a sacrificial graffiti protection. Graffiti can be removed by high pressure hot water, Defacer-Eraser, Graffiti Wipe, or Sure Clean. The cleaned surface must be recoated with SC1 to give future protection. Defacer Eraser is also a Prosoco product and what I recommend for spot clean up.

#### Paint

Both sculptures have been painted with Ameron 235 two-part marine epoxy paint. The paint was mixed from the following base colors: Gray, red, black, and buff. Davis pigments yellow ocher and ultramarine blue or added to create the yellow highlights and the green base colors.

#### Sealant

Polyurethane sealant caulk was used for the flex joints at the stainless steel pipes and fiberglass as well as the capitals meeting the base and columns. This caulk was also used to seal the vents.

#### Stainless steel

The exposed stainless steel sculptural elements are made with schedule 10 and schedule 40 2 1/2 inch pipe that has been electro-polished.

Jonathan Hyman did the welding of these stainless steel elements.

#### Upper Sculptures.

The upper sculptures are made from polyester resin and fiberglass. Each fiberglass casting is joined to the next one with Forton gypsum, filler and fiberglass sculpted over 1 inch hardware cloth. This hardware cloth has been bolted with stainless steel to each casting. Bondo and epoxy clay were used fill imperfections and re-sculpt some details on the surface.

#### Base for the figures and vignettes

The base parts are Forton gypsum and fiberglass castings and they were joined together with stainless steel all thread and epoxy clay.

The green patinaed vignettes are made from epoxy and 80% by weight atomized bronze powder. The interior of these parts are made with the same epoxy and aggregate. These are connected to the base part with stainless steel all thread. The brown patinaed bronze has been cast using the lost wax method and is set in place with epoxy clay. The vignettes are glued with construction adhesive and bolted to the base parts. The outside edges have been sealed with polyurethane caulk.

#### The Capitals

All eight capitals were sculpted in place. 1 inch hardware cloth was fashioned around 3/8 rebar to create the Armature and basic form. This steel and hardware cloth was sealed with Ameron 235 paint and then mortar with chop fiberglass made the basic form over this wire. Additional mortar was used to sculpt the final form.

#### The Columns

The columns were precast as half columns by Concrete Works Studio of Oakland. They used a white concrete mix reinforced with fiberglass. These half columns were connected to each other with stainless steel all-thread and epoxy clay. The seams were filled with Bondo. Perlite concrete was used to fill the space between the structural steel columns and precast columns.

#### The Plinths

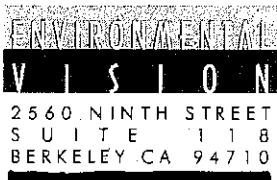
Underneath the columns, vertical patch mortar was applied over the high compression packing mortar that supports the steel plates of the steel frames.

#### Structural Steel Work

The supporting steelwork was fabricated by Alco Metals of Mayor Island and is made of A36 steel, with the exception of the 3/4" grade 5 bolts and harden washers that attach them to the bridge decking. All of this steelwork was blasted and painted with zinc primer coating and top coated with Ameron 235 two-part epoxy paint. The structural steelwork was inspected by Applied Materials and Engineering of Oakland.

#### Connectors

1 1/2" square tubing welded to half-inch rebar have been used to make a connection between the fiberglass castings and the structural steel work. Epoxy clay, Forton gypsum and stainless steel bolts were used to connect the fiberglass to the rebar. The exterior stainless steel pipes are attached to the interior structural stainless steel pipes with 5/8" stainless steel bolts with epoxy packing in between the sleeve joins.



Jennifer Lowvorn  
Chief Cultural Affairs Officer  
Civic Arts Program  
City of Berkeley  
Office of Economic Development  
2180 Milvia Street, 5th Floor  
Berkeley, CA 94704

July 22, 2019

To City of Berkeley Civic Arts Commissioners and Members of the Public Art Committee:

As a key contributor to the re-siting study for the Berkeley Big People Sculptures, I am writing to express support for the idea of deaccession regarding this pair of public art sculptures.

A variety of potential alternatives were considered for relocation during the re-siting evaluation process. I believe that deaccession is reasonable for the City given the substantial challenge of finding a feasible and appropriate new location for the two large-scale works, and in light the costs required for relocating and repairing these sculptures, which show noticeable signs of physical deterioration.

Please contact me if I can provide additional background or information regarding the re-siting evaluation.

Sincerely,

A handwritten signature in black ink, appearing to read "Marsha Gale".

Marsha Gale  
Managing Principal



**Berkeley**  
UNIVERSITY OF CALIFORNIA

**Shannon Jackson**

Associate Vice Chancellor

Berkeley Arts + Design

215 Dwinelle Annex

Berkeley, CA 94720

August 5, 2019

Dear Civic Arts Commission,

I am writing with regard to "Berkeley Big People," a double sculpture created in 2008 by Scott Donahue and sited on the I-80 bike bridge in the city of Berkeley. My understanding is that the city has the opportunity to remove, relocate, and/or replace this sculpture, a move that I heartily endorse. I strongly encourage you to move these two sculptures.

The current condition of "Berkeley Big People" clarifies that it has severe technical issues. The paint on the fiberglass figures has failed, as has its resin and bronze paint binder. The structural supports are also precarious, with cracks in its concrete base and columns. This material and systemic failure has been exacerbated by its site location where it is quite exposed to harsher weather conditions. My understanding is that the maintenance and repair of "Berkeley Big People" is significant, likely out of proportion to its value as an artistic piece.

On top of these systemic and repair issues, it is also important to consider the aesthetic quality of the piece and its responsiveness (or lack thereof) to the site in which it has been placed. "Berkeley Big People" seeks to be a symbol of and welcome to the city of Berkeley. It does so by arranging hyper-literal figures into two sets of top-heavy assemblages. One sculpture piles images of Berkeley's 'cultural' experience—mixing the Campanile with somewhat superficial representations of 'a scientist,' 'an activist,' and so on. The other ostensibly represents the 'natural' experience of Berkeley, somewhat erroneously choosing a bird watcher, a kite flyer, and a dog catching a frisbee. From my own perspective, the selection and creation of representative figures is strikingly unimaginative, almost laughably reproducing stereotype. Moreover, the arrangement of the assemblage has an odd and maladroit sense of proportion, and it is made worse by its location on the ends of the bridge. The crowd of figures does not so much welcome as block the entrance and smooth transversal from the natural Bay to the urban city. Highway drivers do not relish in this city symbol but worry that unstable figures might fall upon them as they try to drive by.

It might well be that "Berkeley Big People" would improve aesthetically in a different location, one that can withstand its scale – perhaps a site for children where hyper-literalness is perhaps more appropriate. With the best of intentions, the city commissioned this sculpture, and I am sure that Scott Donahue worked hard to create it. However, the piece's aesthetic, spatial, and technical deficiencies keep this commission from living up to the city's public art goals.

Once again, I heartily endorse any plan that seeks to remove "Berkeley Big People" from its current location.

Sincerely,

Shannon Jackson  
Associate Vice Chancellor for the Arts + Design

**Lovvorn, Jennifer**

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**From:** Scott Donahue <scott@sdonahue.com>  
**Sent:** Wednesday, August 07, 2019 8:23 AM  
**To:** Berkeley Mayor's Office; David Snippen; [REDACTED]; Santiago Casal; [REDACTED]; Lovvorn, Jennifer; Archana Horsting; John Roberts; City Council; [REDACTED]; Davila, Cheryl; Kesarwani, Rashi; Bartlett, Ben; Harrison, Kate; Hahn, Sophie; Wengraf, Susan; Robinson, Rigel; Idrost@cityofberkeley.info  
**Subject:** Berkeley Big People - Flawed Public Process

To Mayor Jesse Arreguin, Berkeley City Council Members, and Civic Arts Commission Members:

The Civic Arts Commission voted to remove my public artwork, *Berkeley Big People*, from the bicycle/pedestrian bridge over Route 80. I first received notice on a Thursday, June 18, that the Public Art Committee (a subcommittee of the Arts Commission) would consider this issue the following Monday. I also found out that the Arts Commission was meeting just two days later, on Wednesday, July 24, to decide the fate of my artwork. It was at that meeting that the Commission voted to remove my sculptures. How is it that eight members of an appointed board can make such a significant decision, on behalf of an entire city, with essentially no notice to the artist, and without any public input, expert testimony, or approval by the City Council? Public art is inherently controversial, because it's public. A full, public discussion of the artwork's meaning is necessary. My sense is that the Commission's hasty vote, without proper notice or input, was deliberate in order to avoid any resistance from me and others who believe the artwork should remain. The lack of process is shocking. In contrast to the way the Commission handled its decision to remove the artwork, the city went through a lengthy and rigorous process before approving *Berkeley Big People*. The vetting of the project spanned several years and involved the City Council and appointed officials, as well as the state of California (Caltrans). This prior approval process was not even acknowledged by the Arts Commission.

### **Structural integrity of the artwork**

The Arts Commission's decision appears to be based solely on the premise that the artwork is too expensive to maintain. This is simply not true. The technical report from the art conservator is demonstrably flawed. For example, the conservator cites potential seismic safety hazards without any supporting information. The conservator (who told the city it would charge an outrageous \$1,280 a day to supervise maintenance of the sculptures) could not point to any structural deficiencies, and even misidentified the sculpture's surface material that is flaking as fiberglass (it is mortar).

The Arts Commission claims the artwork removal will cost more than \$60,000.

As I have told the Commission, I can make all the repairs, returning the sculpture to its original state, for \$15,000. After that, it would cost the city only \$1,000 a year to maintain.

I ask that at the very least, the city consult a qualified, impartial structural engineer regarding the integrity of the sculptures. This artwork should be thought of like the bridge itself, requiring some maintenance. I can say definitively, as I built the sculptures, that they are at no risk of breakage or collapse and simply require some external refurbishing.

**Alternative sites**

Finally, if the city, after consulting experts and properly vetting the issue, decides the sculptures must be removed from the bridge, I ask that it make a sincere and concerted effort to find an alternative location in Berkeley. At the Public Art Committee meeting, one of the commission members asked if the sculptures could be relocated to Emeryville or some other city. Of course, that would make no sense, as the sculptures depict (and celebrate) Berkeley's unique history and culture, including movements that championed rights to free speech and more equitable treatment of the disabled, as well as UC Berkeley's significant contribution to scientific research.

Thank you for your consideration.

Scott Donahue  
Public artist and Emeryville City Council member

[REDACTED]

**Lovvorn, Jennifer**

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**From:** Allison Smith <[REDACTED]>  
**Sent:** Friday, August 16, 2019 12:39 PM  
**To:** Lovvorn, Jennifer  
**Subject:** Scott Donahue sculptures, I-80 bridge

I'd like to express my support of the removal of these works. As an artist I understand how painful a deaccession can be, and I am generally opposed to censorship in the arts. However, as faculty at California College of the Arts I heard Scott speak about these works relatively soon after their creation to students and faculty in an artist talk. I was totally disgusted by his lack of sensitivity to local communities (in this and other works) and his boasting pride at how he'd intentionally misled the commissioning agency to believe these sculptures were bronze when in fact they were made of a cheap resin and faux bronze material. Much of his talk consisted of advising students in ways they could take advantage of public art opportunities, among people who do not understand material properties or process, to the point that I raised concerns afterwards with faculty and the chair at that time as to why we were spending budget funds supporting an artist who could do negatively influence our students. I'm not surprised they'd be too expensive to maintain. They've looked like hell since shortly after they were installed. I do not respect the integrity of this artist or the work.

Allison Smith  
Associate Professor  
Dean of Fine Arts  
California College of the Arts

--  
Allison Smith  
[REDACTED]  
[REDACTED]  
[REDACTED]



**Lowvorn, Jennifer**

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**From:** Richard Kalman [REDACTED]  
**Sent:** Tuesday, August 20, 2019 3:41 PM  
**To:** Lowvorn, Jennifer  
**Cc:** [REDACTED]  
**Subject:** Maintenance or Removal of Sculpture at Pedestrian Bridge

Members of the Art Commission;

Please refrain from a decision to remove the sculpture at both ends of the bridge.

The sculptor has offered to provide repairs at a cost far below the estimates of whatever outside contractors you have hired.

It seems to me the artist who made it is more familiar with the materials needed to update his work. And were he to do so, it would save considerable funds from expenditure. No decision to remove should be made until the sculptor has had a chance to present his proposed repairs and have them reviewed for satisfaction of standards of safety and aesthetic presentation.

Some of the objections to the installation are unfounded or easily refuted. I doubt that many persons using the 580/880 corridor under the bridge are very worried or frightened that the sculpture may topple over onto the freeway. And even so, it behooves the artist and the city to have securely installed it in the first place and to ensure it remains secure.

Some people object to the style of the sculpture. It is certainly not a "traditional" sculpture, honoring some military hero mounted on a horse holding a flag or local state standard. It is done in an avant-garde, innovative, daring style that suggests movement, conflict, and change. As such it is in keeping with the spirit of the city of Berkeley and is an admirable tribute to Berkeley's history of vision, scholarship, and leadership in areas of social change.

Removal of these sculptural pieces would diminish a little bit of that element that gives Berkeley a unique niche in the artistic flavor of this town. I am proud that Berkeley stands out in many ways and especially in ways that encourage individual accomplishment in arts, the environment, science, and human relations. Please strive to preserve this sculpture as part of Berkeley's innovative traditions.

Sincerely,

Richard Kalman  
Berkeley Resident Forty Years.  
[REDACTED]

**Lowvorn, Jennifer**

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**From:** Zach Cowan [REDACTED]  
**Sent:** Tuesday, August 20, 2019 11:20 AM  
**To:** Lowvorn, Jennifer  
**Cc:** All Council  
**Subject:** Big people sculptures

Jennifer,

Please convey to the CAC my very enthusiastic support for removing the "Big People" sculptures (I generally refer to them epithetically, if you know what I mean) from the pedestrian bridge. I hope the new potential locations are as inconspicuous as possible.

While we're on the subject, Deborah Chernin, the city staffer who managed the design, approval and construction of the bridge, sadly passed away last year. Although she was too polite to say so, she was, shall we say, not fond of the statues. Moving them, *and* renaming the bridge in her honor would be a fitting conclusion to the matter.

Zach Cowan

**Lovvorn, Jennifer**

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**From:** Sarah Gill [REDACTED]  
**Sent:** Wednesday, August 21, 2019 7:28 PM  
**To:** Lovvorn, Jennifer  
**Subject:** Removing the Big People sculptures?

Please don't remove these charming sculptures that illustrate some of the many facets of Berkeley life. I used to take my grandson to see them up close. He had a wonderful time identifying what all these people were doing. Can't say if the sculpture was the deciding factor, but he did apply to go to UC Berkeley, graduating the past year.

Why don't you negotiate with the artist to repair and maintain them?

Best,  
Dr. Sarah Gill

Sent from my iPhone

**Lovvorn, Jennifer**

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**From:** stuart baker [REDACTED]  
**Sent:** Tuesday, August 20, 2019 9:41 AM  
**To:** All Council  
**Cc:** Lovvorn, Jennifer  
**Subject:** The decommissioning of the "Big People" statues

Dear councilmembers and arts commission members,

While I serve in the capacity of Executive Director of the TBID, I am writing to you as a Berkeley resident residing in West Berkeley.

I understand the main reason for the removal of the sculptures relates to maintenance issues. This unfolding scenario reminds me of the saga of the macramé piece that grace the Embarcadero BART station in San Francisco in the 80's and 90's. It was clear to all who researched the design and material that the piece had reached the end of it's life. But because of the insistence of the artist and a vocal minority community members, BART threw tens of thousands of dollars try to maintain a piece that was never going to look like it did when it was unveiled. In the end BART took it down and disposed of the piece. Prolonging the process made no one happy. The money was wasted that could have gone to other artists with new ideas. Not all art has the resiliency of a Rodin bronze.

The parallels with Big People and the BART piece are extremely apparent. Please consider the common sense approach and don't let emotions and attachments alter the pragmatic decision made by the commission.

Sincerely,

Stuart Baker  
1433 Addison

**Lovvorn, Jennifer**

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**From:** Arlene Immerman <[REDACTED]>  
**Sent:** Wednesday, August 14, 2019 5:51 PM  
**To:** Lovvorn, Jennifer  
**Subject:** Berkeley overpass sculpture

Dear commissioners:

I read with interest an Article in Berkeleyside that reported that the Arts Commission has voted to deaccession the Berkeley Big People sculpture currently occupying the I80 pedestrian overpass between Aquatic Park and the Berkeley shoreline.

I think that the overpass and sculpture are important gateways to Berkeley that should be maintained and kept in place. The controversy surrounding this piece of public art is what makes it so very Berkeley. Controversy, lively discussion and free speech are what make Berkeley, Berkeley.

Please reconsider your decision.

Sincerely,  
Arlene Immerman

Sent from my iPad

**Lowvorn, Jennifer**

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**From:** Marti Mogensen [REDACTED]  
**Sent:** Monday, August 19, 2019 11:30 AM  
**To:** Lowvorn, Jennifer  
**Subject:** the beauty of the bridge!

Good morning,

I just want to say I agree with the decision to remove the sculptures at the Eastshore Pedestrian Overcrossing. To have them there in bad repair is certainly a physical and visual liability.

Additionally, I have always thought they altered the beauty and clean design of the overcrossing. This six-million dollar wonder is clearly a work of art!

Thanks for your attention to this—and all your good work.

All the best,  
marti mogensen

**Lowvorn, Jennifer**

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**From:** Sharron/Sherry Poff [REDACTED]  
**Sent:** Monday, August 19, 2019 1:56 PM  
**To:** Lowvorn, Jennifer  
**Cc:** Dan Poff  
**Subject:** Removal of "Big People" sculptures from either end of the pedestrian overpass

I favor *removal* of the two "Big People" sculptures.

The sculptures were inappropriately sited in the first place:

1. The whole context favors movement: bicycling, walking, gazing at the views - not staring at a conceptual work of art.
2. That overpass, unadorned, is a work of art in itself. The magnificent scenery, while crossing, hardly needs "improving."
3. The subject matter is not so beloved by mature liberals like myself. Very adolescent, white, entitled.
4. The costs from the start to the now necessary maintenance were not worth it, especially given other options/sites for public art.
5. The placement of those two large, heavy pieces is a tragedy waiting to happen: earthquake(s), high winds, wildfire smoke reducing visibility, etc.
6. The laws of physics don't make exceptions for human ideals or aesthetics. Heavy things, precariously placed, fall when they're sufficiently stressed.

Thank you for your consideration,

Sharron L.W. Poff  
1803 Cedar Street  
Berkeley CA 94703



**Lowvorn, Jennifer**

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**From:** Frank Jaffe [REDACTED]  
**Sent:** Wednesday, August 14, 2019 5:44 PM  
**To:** Lowvorn, Jennifer  
**Subject:** Big People sculptures

I would like to express my support for keeping Scott Donahue's big people sculptures exactly where they are. I have lived in the Berkeley Oakland area since 1978 and I go for a run every Saturday and Sunday at the Berkeley Marina, and have been doing that for many years ever since those sculptures were there, and I always finish my run by walking up the bridge, and I can say that I never tire of seeing those sculptures.

I understand that there was recently a vote to deaccession these pieces out of concern for the cost of maintenance. I truly find it hard to believe that this is an insoluble problem! I think the city needs to find other contractors to give more competitive estimates, which will result in a better long-term and financially feasible solution.

I think that the sculptures really capture of the spirit of Berkeley, particularly the political activism the city is known for as well as the recreational joy to be found at the Berkeley Marina.

I thank you for your attention to this matter.

Yours sincerely,  
Frank Jaffe  
Emeryville CA

**Lowvorn, Jennifer**

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**From:** Martha Richards [REDACTED]  
**Sent:** Monday, August 19, 2019 5:37 PM  
**To:** Lowvorn, Jennifer  
**Subject:** Sculptures on walking bridge

Ms. Jennifer Lowvorn  
Chief Cultural Affairs Officer  
Civic Arts Program  
City of Berkeley

Dear Ms. Lowvorn,

I was extremely pleased to read that the Berkeley Public Arts Commission has decided to remove the large sculptures that flank the walking bridge at University Ave and highway 80. The bridge is so lovely in its simple design and it creates a kind of entry to our city. The sculptures look out of place and only detract from the lovely bridge. I was truly dismayed when they were installed and I've been annoyed and embarrassed by them every time I've driven or walked past them. I gather that they are supposed to represent us, but I've not been able to make any sense of them—not from the freeway and not when I'm walking or biking on the bridge. To me, they are each a mish-mash of every cliché I hear about Berkeley. After several years of wear, they look even worse.

I've lived in Berkeley since 1966 and have owned a home in Berkeley since 1980. I'm very attached to my city and proud of many, many things about Berkeley. I am not very proud of our city art. When I see public art in other cities, I wish we were more selective. I know there must be a way to express our city without being trite or silly, and I would love to see an improvement in our public art installations overall. To me, those sculptures on the bridge represent the worse of us and not the best.

I sincerely hope the Arts Commission is not dissuaded from its decision to remove the sculptures.

Sincerely,

Martha Richard  
1528 Hopkins St.  
Berkeley 94707

**Lowvorn, Jennifer**

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**From:** Marla Koss <[REDACTED]>  
**Sent:** Tuesday, August 20, 2019 9:23 PM  
**To:** Lowvorn, Jennifer  
**Subject:** A comment on the sculptures on the footbridge at University Ave. and I-880

Hi Jennifer,

Lisa Bullwinkel asked me to send my comment to you re those sculptures at each side of the footbridge over I-880.

As a onetime Berkeley resident and sometime passerby on I-880, I'd be very relieved to see those sculptures removed. Regardless of the cost issue, every time I have ever passed them on the freeway I have felt chagrin and a pang of embarrassment for Berkeley. I think they make Berkeley a laughingstock by playing to stereotype (thanks to its unfortunate echo of the Soviet aesthetic and those stupid protest sign details).

I have a friend who bicycles on that bridge frequently who has learned to appreciate the sculptures because she sees them up close. In which case, they should be moved to where they don't disintegrate further (if that's even possible) and where people can actually appreciate them up close.

Thanks for reading this.

Sincerely,  
Marla Koss  
1133 Pearl St.  
Alameda CA 94501

**Lowvorn, Jennifer**

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**From:** Civic Arts  
**Sent:** Tuesday, August 20, 2019 3:19 PM  
**To:** Lowvorn, Jennifer  
**Subject:** FW: We support removing the art on overpass

Forwarded from the Civic Arts inbox and saved to the G drive.

-----Original Message-----

**From:** Lisa Wahl [mailto:████████████████████]  
**Sent:** Tuesday, August 20, 2019 1:53 PM  
**To:** Civic Arts <civicarts@cityofberkeley.info>  
**Cc:** Davila, Cheryl <CDavila@cityofberkeley.info>  
**Subject:** We support removing the art on overpass

My husband and I, and every Berkeley resident we know, fully support your decision to remove the pair of 11-year-old sculptures on the overpass. So ugly.

Thank you!

Lisa & Ken Wahl  
2334 Roosevelt Ave  
Berkeley

**Lovvorn, Jennifer**

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**From:** David Snippen <[REDACTED]>  
**Sent:** Tuesday, August 20, 2019 11:44 AM  
**To:** Lisa Bullwinkel; Lovvorn, Jennifer  
**Cc:** Scott Donahue  
**Subject:** Berkeley Big People... what else?

Lisa and Jen:

Now that the criticism and possible fate of these sculptures has hit the front page of the SF Chronicle, let me reiterate my recommendation that these artworks ought to be renovated and moved to a new site in Berkeley, but at ground level to enhance the greater possibility of public viewing and appreciation. My only objection to these sculptures is that their siting on the pedestrian bridge was faulty (sorry, Scott, if you disagree) and that public engagement with these remarkably creative works was made far less possible than if they were positioned at the touchdown level on both sides of Mark Ketcham's elegant bridge structure.

Unfortunately, a space at the East side of the bridge is no longer possible due to the new configuration of the walkway and bike pathway, but other sites in the Marina, or alongside the proposed realignment of University Avenue, could be considered for the pair of sculptures. Perhaps a site near the Tom Bates ball fields would be a possibility, since the former Mayor's image is part of one of the sculptures.

I just want to be clear that I am still very interested seeing the sculptures restored in a proper manner, and that they be placed where people will be able to appreciate the artistry of Scott Donahue, one of the Bay Area's most creative artists. I am sure that you hold the same feelings for the creativity and skill involved in these works, but at the same time having to resolve the issues of the existing conditions in a responsible way.

I hope that you will find a satisfactory relocation site, and that Scott will be adequately compensated and appreciated for his work. Public Art is often criticized, but when mistakes are made, as in this case, a correction ought to be made to satisfy the artist and the public interest.

David Snippen

**Lovorn, Jennifer**

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**From:** 33rd Flat [REDACTED]  
**Sent:** Thursday, August 15, 2019 2:42 PM  
**To:** Lovorn, Jennifer  
**Subject:** Berkeley Big People should stay

Why remove a piece that was already vetted by the council and has been celebrated and paid by the people of Berkeley?

Why not make it a public decision?

Its removal would be unfair both to the artist that submitted his time and effort, and to the public that ultimately fronted the money.

If the original artist can organize and provide a sustainable and economical maintenance plan --as stated-- why not give it a chance?

The Commission should be consistent with itself and honor the previous vetting it had issued. The maintenance excuse --altogether with its flawed and overinflated estimate--is quite suspect to be an exit strategy.

Please let the impressive art piece stay!

Thank you.

Adolfo Cardes.

**Lowvorn, Jennifer**

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**From:** April Gilbert [REDACTED]  
**Sent:** Thursday, August 15, 2019 2:10 PM  
**To:** Lowvorn, Jennifer  
**Subject:** Support for Removal of Berkeley Big People

Dear Arts Commission,

I am a Berkeley native who grew up and have lived much of my adult life in Berkeley. I care about the beautification our city and support public art, parks and median maintenance, and appropriate architecture to achieve this beautification. However, I strongly support the removal of the Berkeley Big People sculptures on either side of the pedestrian bridge. Ever since the piece was installed, I have found it both hideously ugly and inappropriately sized for its location. I have no interest in the city spending any money maintaining this monstrosity in future years and would be very relieved to see it gone from such a prominent (or really any) location in our city. And while you're at it, maybe you could get the city to paint the pedestrian bridge some color other than Johnny On The Spot Green. :)

Thank you for your consideration.

April Gilbert  
2512 Russell Street  
[REDACTED]



**Lowvorn, Jennifer**

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**From:** John Roberts <[REDACTED]>  
**Sent:** Wednesday, August 07, 2019 9:12 AM  
**To:** Scott Donahue; Berkeley Mayor's Office; David Snippen; [REDACTED]; Santiago Casal; [REDACTED]; [REDACTED]; Lowvorn, Jennifer; Archana Horsting; City Council; [REDACTED]; Davila, Cheryl; Kesarwani, Rashi; Bartlett, Ben; Harrison, Kate; Hahn, Sophie; Wengraf, Susan; Robinson, Rigel; ldrost@cityofberkeley.info  
**Subject:** RE: Berkeley Big People - Flawed Public Process

The Staff Report and justification for the deaccessioning action of Scott Donahue's Berkeley Big People artwork reads as though a thorough and fair process was followed, in which I simply (but erroneously) assumed that the artist was fully engaged. This is clearly not the case, and that is outrageous. If Scott Donahue, the highly respected and talented artist who created the work, was not consulted in a timely manner on the issues of deaccessioning or repairs or given a chance to offer his expert recommendations in an appropriately peer reviewed venue, the process followed by the Arts Commission was deeply flawed. Its actions should be rescinded until all avenues have been fully explored in concert with the artist. The steps taken by the Arts Commission carry the stench of arbitrariness and capriciousness, fundamentally threatening the credibility of the entire public art program that has so enriched the City in recent years.

**John N. Roberts**

John Northmore Roberts & Associates

[REDACTED]

**Lovvorn, Jennifer**

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**From:** Robert Cheasty <[REDACTED]>  
**Sent:** Tuesday, August 20, 2019 6:40 PM  
**To:** Lovvorn, Jennifer  
**Cc:** Lisa Bullwinkel  
**Subject:** Re: art on pedestrian bridge

Hi Jennifer,

I support the decision of the Arts Committee to not spend the funds to rehabilitate the two sculptures on the Pedestrian Bridge over I-80. I appreciate how this can be controversial but I think the Arts Committee made the correct decision.

Sincerely,  
Robert Cheasty  
Attorney at Law  
Cheasty, Cheasty & Malek, LLP  
1604 Solano Avenue  
Berkeley, CA 94707  
Tel: [REDACTED]  
Fax: [REDACTED]

**Lowvorn, Jennifer**

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**From:** Anita Medal <[REDACTED]>  
**Sent:** Thursday, August 15, 2019 3:33 PM  
**To:** Lowvorn, Jennifer  
**Subject:** Sculptures on i80 bridge

I've lived in Berkeley since 1960, 59 years. I LOVE these two pieces. It is tragic to loose them for financial reasons! If we can afford to take care of our homeless and underserved, we can afford to take care of our art, our collective community creativity and history, that those two pieces represent.

Keep the scultures!!!!!!!!!!!!!!!

Anita Medal - homeowner

LL [REDACTED] C [REDACTED]

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**Lowvorn, Jennifer**

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**From:** jos sances [REDACTED]  
**Sent:** Wednesday, August 07, 2019 3:30 PM  
**To:** John Roberts  
**Cc:** Scott Donahue; Berkeley Mayor's Office; David Snippen; Santiago Casal; [REDACTED]@gmail.com; [REDACTED]@comcast.net; Lowvorn, Jennifer; Archana Horsting; City Council; gregharper@harperarmstrong.com; Davila, Cheryl; Kesarwani, Rashi; Bartlett, Ben; Harrison, Kate; Hahn, Sophie; Wengraf, Susan; Robinson, Rigel; Idrost@cityofberkeley.info; Robbin Henderson  
**Subject:** Re: Berkeley Big People - Flawed Public Process

It's mind blowing to us, that Scott was not part of this "deaccessioning" action. We really hate that term. There was a very involved public process and many people worked hard to overcome all the difficulties to put the piece up. The artwork had to pass tough structural standards to be installed. What changed?

We've been involved trying to stop the destruction of the 1935 Victor Arnautoff Murals in San Francisco. It's good to see some sanity emerging to save these important murals. It's hard to except the liberal Bay Area has decided Cultural Revolution is the way to go.

It's too bad the Art Commission let the artwork fall into such disrepair, but Scott's offer to refurbish seems very generous and that should be done. The very expensive removal seems a bit vindictive on the part of the Art Ministers, especially when they don't have a plan what to do with it.

Robbin Henderson and Jos Sances

**Lowvorn, Jennifer**

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**From:** luke cypress [REDACTED]  
**Sent:** Thursday, August 15, 2019 1:52 PM  
**To:** Lowvorn, Jennifer  
**Subject:** Berkeley Big People MUST Stay

I live the sculptures and they represent the soul of the city I love. They are a bright spot in a dreary commute every day.

**Lovvorn, Jennifer**

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**From:** Patricia Donnelly <[REDACTED]>  
**Sent:** Thursday, August 15, 2019 12:54 PM  
**To:** Lovvorn, Jennifer  
**Subject:** removing Scott Donahue's art

Hi -

My name is Patricia Donnelly and I have lived in Berkeley for over 30 years. I beg you to NOT remove Scott Donahue's art. It's okay if you don't restore it. It is a welcome towering testimony to the spirit of Berkeley. My family and friends relish our bike rides to the Berkeley Marina and the chance to pass by it. Whether the art commission likes it or not, it's part of Berkeley's history. We will be so sad to see it removed. I am also disturbed about the art commission's process to make this decision. I think you should erect a huge sign on the Pedestrian Bridge asking people to write in their thoughts about removing it. Whatever advertisement you did for the City Council meeting where this was discussed: we didn't get the memo.

Please reconsider your decision. I was appalled to read some of the comments about the sculpture such as "a new black eye on the already battered face of public art in the Bay Area." Oh please! Kenneth Baker can stay in San Francisco - we don't really care what he thinks about Berkeley's art.

Thanks in advance for reversing your decision.

Patricia Donnelly  
1318 Derby Street  
Berkeley, CA 94702  
[REDACTED]

**Lowvorn, Jennifer**

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**From:** Bronson Frick [REDACTED]  
**Sent:** Thursday, August 15, 2019 12:22 PM  
**To:** Lowvorn, Jennifer  
**Subject:** Big People Statue

I am writing in to voice my strong support for keeping the Big People statue on the bridge or otherwise in a very prominent location of honor. I wanted to share what the statues mean to me and what I tell my kids about them when we bike across the bridge.

Berkeley's claim to fame (for me) is having found so many ways to change the world over the years through local action and local policy change. You can't have the "happy side" statue of kids flying kites at the park without going through the hard work of activism to make those policy changes possible - such as the Save the Bay effort to stop the in-fill (without which there wouldn't be a park or a bay or place for my kids to fly kites or play there) which led to the modern environmental movement.

Also I share how Berkeley was the first city in the country (and the world) with smokefree indoor air law (fighting Big Tobacco), one of the first US recycling programs, a leader for farmers market (fighting industrial food), one of the first US city with cut curbs on sidewalks for wheelchairs, which was a huge change. Even now, there is the work of Oxford Elementary youth to reduce disposable waste in the school and the city - leading to other cities across the country considering the issue. All those things can be easy to take for granted especially in hindsight, but NONE of them were easy and none of these issues are never "done." You don't just arrive to the happy statue - you have to go through the activism of the other one.

I hope these statues can help inspire the next generation to make a connection that a healthier and more vibrant future for the city and world- IS possible. But it means speaking up, and doing the hard work. It means going through a sometimes uncomfortable process of taking on powerful interests and not giving up. My own name for the combined statues is "Change is Real."

Best Regards,  
Bronson Frick

**Lovvorn, Jennifer**

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**From:** Sheila Jordan <[REDACTED]>  
**Sent:** Thursday, August 15, 2019 11:44 AM  
**To:** Lovvorn, Jennifer  
**Subject:** Please allow for more public discourse before any removal of statues

These statues stand as a tribute to an important time in Berkeley that gentrification is eroding. The push to eliminate the statues reflects the attitudes of the cleansing of the past and dismissal of Berkeley's rich history.

Please designate \$15,000 and allow the statues to maintain their statuesque welcome.

Sheila Jordan  
Alameda County Superintendent of Schools Emerita



**Lovvorn, Jennifer**

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**From:** Shawna Hartman Brotsky [REDACTED]  
**Sent:** Thursday, August 15, 2019 11:41 AM  
**To:** Lovvorn, Jennifer  
**Subject:** Sculptures on pedestrian bridge

Hi-

I am a long time Berkeley resident/homeowner.

I'm writing to express my "vote" to remove the 2 art installations on the I-80 pedestrian bridge. I agree with everything that Shannon Jackson expressed in her letter to the arts commission. I am not in the arts field, so I can not express myself as well. But, I will say, that those 2 pieces of art have made me sad every time I see them since they were installed, just because I feel that they are really ugly pieces of art. They are not uplifting in any way to me, and I dread walking by them every time.

I also really do not want the city to spend any of my tax dollars on repairing/restoring those pieces of art.

Quite simply, I think their time is over. I would be more than happy to see the pedestrian bridge have no pieces of art at all, and have the city spend money on other things that are sorely needed in this city - paving roads, money for schools/libraries, dealing with the homeless situation, etc., etc.

Thanks very much for taking the time to read this!

Best,  
Shawna Hartman Brotsky  
451 Kentucky Ave, Berkeley

**Lovvorn, Jennifer**

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**From:** M 064 Freeman [REDACTED]  
**Sent:** Thursday, August 15, 2019 11:32 AM  
**To:** Lovvorn, Jennifer  
**Subject:** Keep the I-80 bridge art!

Commissioners-

When art and architectural works are too new to be historic, and too old to be considered "new," they are at great risk of being destroyed or changed due to changing styles and politics. That is nearly always a mistake. That tendency is a major reason why we have lost so many great works of art and architecture in the Bay Area.

Keep the art at the pedestrian bridge, it provides fun and amusement and provokes thought for those viewing it. That is more than most publicly funded works of art manage to do.

Although it is not the stated reason for removing the art, I am concerned that this piece may actually be slated for removal because free speech is currently unfashionable. This trend started in response to far-right protests in our town and elsewhere. Free expression is not free when it excludes people whose views we don't like. Berkeley should continue to support, and publicly express its support, for free expression. Without free expression, the public is powerless to openly express their opinions or address their grievances.

The artists says he can maintain the piece for \$15,000. That is a reasonable amount to invest in protecting the work.

Future purchases of public art should include consideration of maintenance costs and those costs should be included in the budgeted from the beginning of the process. Otherwise, maintenance costs can be used as an excuse to get rid of art that has temporarily fallen out of style.

Thank you,  
Mike Freeman

**Lowvorn, Jennifer**

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**From:** Edward West <[REDACTED]>  
**Sent:** Thursday, August 15, 2019 11:14 AM  
**To:** Lowvorn, Jennifer  
**Subject:** Please don't remove the Berkeley Big People!

It is a beloved and quintessentially Berkeley piece of public art.

I hope you can reconsider this decision.

I would consider contributing to a crowdfunding campaign to support its repair.

Thank you!  
Edward

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Edward West  
mobile [REDACTED]  
[Facebook](#) [Twitter](#) [LinkedIn](#)

**Lowvorn, Jennifer**

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**From:** Martin Nicolaus [REDACTED]  
**Sent:** Thursday, August 15, 2019 11:10 AM  
**To:** Lowvorn, Jennifer  
**Subject:** Big People statues

The statues on the pedestrian bridge assert important themes about Berkeley's history and about the recreational opportunities at the Berkeley Marina. The points cited so far about the claimed repair costs do not appear convincing, and a second opinion about maintenance expenses, particularly compared with maintenance of other assets, appears called for before taking action. But if the Commission determines to remove the statues, there are several sites within Cesar Chavez Park where these works of public art would be appropriate and welcome. The Park is City of Berkeley Property, contains other works of public art, and has ample space within its 90 acres to host a couple more.

Martin Nicolaus  
<https://chavezpark.org>

Lowvorn, Jennifer

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**From:** Tim Murphy [REDACTED]  
**Sent:** Thursday, August 15, 2019 9:46 AM  
**To:** Lowvorn, Jennifer  
**Subject:** Bridge sculptures opinion

Hi I'm a Berkeley resident and property owner and, hence, tax payer. I've hated those sculptures since the day they were installed. I agree it's time to remove them and dedicate arts budget to other projects.

Up close the sculptures are somewhat interesting. But on the bridge they are an eyesore from the freeway and do pose a risk in an earthquake. They also make Berkeley a laughingstock. Just one of many reasons. But if we can remove just one reason it's progress.

Tim Murphy  
1248 MLK, Berkeley

**Lowvorn, Jennifer**

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**From:** Jerome Parmer [REDACTED]  
**Sent:** Thursday, August 15, 2019 9:42 AM  
**To:** Lowvorn, Jennifer  
**Subject:** Berkeley Big People Sculpture

It needs to go. As a craftsperson I think the choice of materials that were not robust, thereby creating excessive maintenance costs, was unfortunate. The composition is visually chaotic, and as others note indulges in hackneyed stereotypes. While Berkeley can justly be proud of it's historical contributions to change and protest, it is much more than that aspect and this gateway memorial is dismissive of that truth.

Also it's aesthetically unappealing, and in terms of being emotionally or intellectually provocative is rather sophomoric.

Jerome F Parmer

**Loworn, Jennifer**

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**From:** Grindle [REDACTED]  
**Sent:** Thursday, August 15, 2019 8:43 AM  
**To:** Loworn, Jennifer  
**Subject:** I-80 pedestrian bridge sculptures

Greetings,  
I live in Berkeley not too far from the controversial sculptures.

Please leave them where they are. They are perfect for Berkeley and because of their location they announce to everyone passing through Berkeley:  
"This is who we are"

The statutes help to make Berkeley unique in the eyes of people on the freeway who will get only that fleeting glance.

Thank you,  
-Jerri Grindle Pelletier.  
1320 67th Berkeley, CA 94702  
[REDACTED]  
[REDACTED]

**Lowvorn, Jennifer**

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**From:** Delia Taylor [REDACTED]  
**Sent:** Thursday, August 15, 2019 7:19 AM  
**To:** Lowvorn, Jennifer  
**Subject:** Approve removal of bridge statue

1. By far more motorists see it than up close and it conveys nothing 2. Up close you can't even see the whole sculpture because it is jammed in a corner 3. It has too much going on 4. It should be placed in a park with space around it. Let a rich art lover or go fund me drive provide for it

Thanks for making this removal happen.

Please find a simple beautiful symbol for Berkeley, the cities name is an idea or words such as Peace Companionship or Flowers and leaves - plants are the basis of all life

Delia Taylor

Sent from my iPhone



**Lovvorn, Jennifer**

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**From:** Janice Murota <[REDACTED]>  
**Sent:** Thursday, August 15, 2019 12:54 AM  
**To:** Lovvorn, Jennifer  
**Subject:** Donahue sculpture

Dear Ms Lovvorn - i appreciate how difficult this deaccession is for the artist. I also appreciate how open and forthcoming the arts commission has been in handling the situation . I trust the arts commission and their process. I am certain they considered every aspect of the problem before arriving at their decision. I am a native and lifelong resident of berkeley. i know the commission members are strong supporters of the arts and as a citizen accept their decision with deep respect for their integrity.

Sincerely,

Janice Murota  
785 Peralta Ave  
Berkeley 94707  
[REDACTED]

**Lovvorn, Jennifer**

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**From:** [REDACTED]  
**Sent:** Thursday, August 15, 2019 5:30 AM  
**To:** Lovvorn, Jennifer  
**Cc:** Stuart Cohen; 'Jason Meggs'; 'Eric L Blossom .'; Chuck Siegel; Bhima Sheridan; Pat Adler; Ron Adler; Peter Sussman; Pat Sussman; John Steere; 'Robert Chung'  
**Subject:** Removal of sculptures on I-80 bike/ped bridge

To the Berkeley Art Commission:

I played a key role, as a founder and leader of the Bicycle-Friendly Berkeley Coalition, in getting the I-80 bicycle/pedestrian bridge approved and installed. I was invited to speak at the opening ceremony, where Mayor Shirley Dean and city councilmembers acknowledged that the bridge would not have been a reality if not for the involvement and support of the bicycling community. All of us were especially proud that we'd pushed hard for an exceptional design that would be a gateway to Berkeley. It was much more expensive than a conventional viaduct would have been, and what we got was a true work of art, an elegant and beautiful structure. Then, years later, when the sculptures were installed, I was aghast that our magnificent bridge had become home to these two hideous eyesores. I no longer live in Berkeley, but I return annually for a visit, and I always bike across the bridge. Seeing the sculptures there is painful. I'm thrilled about the decision to remove them. They should never have been put there in the first place. Please do not back down from this decision. It's the right thing to do.

Hank Resnik  
Former Chairman, Bicycle-Friendly Berkeley Coalition

Every time I see an adult on a bicycle I no longer despair for the future of the human race. — H.G. Wells

Mobile: [REDACTED]

**Lowvorn, Jennifer**

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**From:** [REDACTED] on behalf of Donya Saied [REDACTED]  
**Sent:** Wednesday, August 14, 2019 9:53 PM  
**To:** Lowvorn, Jennifer  
**Cc:** Robinson, Rigel  
**Subject:** I-80 Sculpture PUBLIC COMMENT

In regards to: "There is a 90-day waiting period from the July 24 vote before any removal process can begin, during which the public can comment. Email the arts commission at: jlowvorn@cityofberkeley.info."

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Dear Jennifer,

Thank you for taking my comment. As a concerned member of the Berkeley public, living on Parker Street in Berkeley, I would like to submit the following comments regarding the I-80 art:

(1) Since public dollars were overspent by the commission to the tune of \$200,000 for this art, the commission should make an effort to make use of it or recoup costs.

(2) What a sad failure that the citizens were forced to pay for outdoor art that is apparently falling apart, and could fall over and kill someone in an earthquake, if what the consultant alleges is true.

How is the commission/City of Berkeley changing its procedures to avoid a repeated failure of crumbling, weather-susceptible, seismically unsafe public art ?

(3) Repairs and moving the sculpture should out to open bid; others beside the artist should be allowed to propose moving or repairing the sculptures.

(4) If the allegations that these sculptures are failing due to being subject to weather are true, and it is a fact they might fall in an earthquake, then the costs, benefits, and feasibility of moving these items to an indoor location -- on loan, on lease, or sold -- where they are reinforced should be explored.

(5) Should the repair, re-location, and seismic reinforcement cost more than \$30,000, then the commission/City should attempt to recoup the cost of the unused sculptures by putting them up for sale.

Thank you for your consideration of my comments. I look forward to your confirmation that my comments have been received and reviewed.

Respectfully,  
Donya

CC: Rigel Robinson, District 7 Council Member

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Donya (Delilah) Saied

**Lowvorn, Jennifer**

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**From:** dianne lam [REDACTED]  
**Sent:** Wednesday, August 14, 2019 9:08 PM  
**To:** Lowvorn, Jennifer  
**Subject:** Berkeley Big People Statue

I never thought I'd leave New Orleans, my family going back five generations. But Katrina changed all that and I moved to Oakland in 2006.

Everything good seems to start here in the Bay Area and oh so slowly works it way across the nation.

Driving on I-80 approaching the Big People Statue was very meaningful for me, a perfect symbol of all that Berkeley represents!

I am stunned to learn the statue is to be taken down. What an insult to me. This is my first taste of ignorance in Berkeley. Please reconsider keeping this proud monument right where it is, where it can be seen, a testament to all that is good in Berkeley.

Dianne Lam

**Lowvorn, Jennifer**

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**From:** Nat Kane [REDACTED]  
**Sent:** Wednesday, August 14, 2019 8:48 PM  
**To:** Lowvorn, Jennifer  
**Subject:** Keep Berkeley big people!

Hello,

I was dismayed to learn that the arts commission has voted to remove the Berkeley Big People statues over i-80. Those sculptures have become classic icons of Berkeley in the 10 years they have served as a gateway to our City.

It is surprising to me that the Commission would vote to remove public art that was approved through a lengthy public process and only a decade ago. It is also surprising to me that the local City Councilperson felt that the process and notice was insufficient.

Keep Berkeley from becoming boring. Keep the sculptures.

Nathaniel Kane & Cynthia McMurry  
Berkeley residents and taxpayers

Sent from Android

**Lowvorn, Jennifer**

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**From:** Mayumi Zelechoski [REDACTED]  
**Sent:** Wednesday, August 14, 2019 8:47 PM  
**To:** Lowvorn, Jennifer  
**Subject:** artwork

Hi,  
In regards to the artworks mentioned here:

<https://www.berkeleyside.com/2019/08/14/berkeley-arts-commission-votes-to-remove-controversial-sculptures-on-i-80-bridge>

I've always found them ugly. If there is a good excuse to remove them and save the money that would be spent on maintenance, I'm all for it.

Since the concern seems to be about them falling onto the freeway, why not offer to move the artwork to another location at ground level? If no one wants the pieces, that would just prove the point that they are not wanted by the community the artist claims they represent.

BTW, I live in Emeryville.

Sincerely,  
Mayumi Zelechoski  
Emeryville, CA

**Lowvorn, Jennifer**

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**From:** Dana BUNTROCK <[REDACTED]>  
**Sent:** Wednesday, August 14, 2019 6:22 PM  
**To:** Lowvorn, Jennifer; Dröste, Lori  
**Subject:** Good riddance Berkeley Big People!

I think it's terrific that Berkeley Big People is on its (their?) way out. What an awful piece of work to greet drivers every day! Scott Donahue should also be reminded not to abuse his political role in this fight; he was not elected to defend his work.

Thanks!

Dana

--

Dana Buntrock  
Professor, Dept. of Architecture  
Chair, Center for Japanese Studies

Univ. of California, Berkeley

Cell: [REDACTED]

**Lovvorn, Jennifer**

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**From:** L Stone [REDACTED]  
**Sent:** Wednesday, August 14, 2019 6:14 PM  
**To:** Lovvorn, Jennifer  
**Subject:** Re: Berkeley's Big People Sculptures

Dear Berkeley Civic Arts Commission,

I wrote much of this in a comment to Berkeleyside and just wanted to share with you directly as well.

I was delighted, no ecstatic, to hear of the removal of the Big People sculptures on both sides of i-80.

While I really wish this project would never have been approved, I commend you for at least recognizing that the cost of maintenance of this structure is not worth it's artistic merit.

If you happen to read the Berkeleyside article, please pay close attention to the words of Shannon Jackson, the Associate Vice Chancellor for the Arts and Design Department at UC Berkeley. I feel she has a good handle on a nice chunk of what makes this artwork so truly awful for so many of us.

I lived in Poland doing Peace Corps for two years. While there I saw a lot of such "artwork" in special galleries in Poland devoted to propaganda art of the Soviet Union. Too often, when government officials select artwork they go for this "hyper-literalness" as Shannon Jackson calls it above. It is a way of conveying a message that is not at all subtle and really not art. Additionally, its position on either side of the highway where it did not blend in at all with any of its surroundings just made it all the worse. Government curated artwork is a tricky business. I'm not against your purpose with the Civic Arts Commission but do want to make you aware of the all too common pitfall of similar commissions in that commissions such as yours have a sense of purpose to send a message but may not have the background to appropriately select works with true artistic merit. My advice, should you ever decide to replace the artwork in this location is to go for something much more subtle in harmony with the environment around it.

It is my hope that this removal will go through. Thank you for taking public comment so I could share.

Of course, if you ever want input in the future, I'm always around ☺

Linda Stone  
Berkeley Resident and Taxpayer



**Lowvorn, Jennifer**

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**From:** JERRY Cooper [REDACTED]  
**Sent:** Wednesday, August 14, 2019 6:01 PM  
**To:** Lowvorn, Jennifer  
**Subject:** deaccessioning

I am appalled that the city intends to remove the wonderful Donahue sculptures on the pedestrian bridge. Public art should be cherished and maintained, not removed to avoid maintenance costs. If the artist is willing to do the maintenance for \$15,000, there should be no financial barrier to keeping and restoring the sculptures. But even if the cost is considerably more, it should be done. These are iconic images that capture what is great and wonderful about Berkeley.

**Lowvorn, Jennifer**

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**From:** Carmen Goodell [REDACTED]  
**Sent:** Wednesday, August 14, 2019 5:41 PM  
**To:** Lowvorn, Jennifer  
**Subject:** Berkeley Big People Removal Comment

Hello,

As a Berkeley resident, I support the removal of Berkeley Big People.

The artwork poses an earthquake safety hazard and additional long term maintenance costs beyond the initially approved price of the work. Both of these factors make the work an unacceptable liability.

I request my personal details be withheld from public record.

Thank you,

Carmen Goodell

[REDACTED]  
Berkeley

**Lowvorn, Jennifer**

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**From:** Steven Lipson [REDACTED]  
**Sent:** Wednesday, August 14, 2019 5:40 PM  
**To:** Lowvorn, Jennifer  
**Subject:** Berkeley Big People Statues

Dear Arts Commission,

Thank you for taking the steps necessary to remove the two "Berkeley Big People" statues flanking I 80. They are certainly terrible art and not worth the very high, ongoing maintenance expenses associated with their conservation. This is money which could be spent on much more worthwhile acquisitions or maintenance of other pieces.

Again, thank you for your action!

Steven Lipson  
634 Woodmont Avenue  
Berkeley, CA 94708

**Lovvorn, Jennifer**

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**From:** Piero Rocca [REDACTED]  
**Sent:** Wednesday, August 14, 2019 5:38 PM  
**To:** Lovvorn, Jennifer  
**Subject:** Re: Donahue piece

\*love it

**From:** piero.rocca@gmail.com  
**Sent:** August 14, 2019 5:13 PM  
**To:** jlovvorn@cityofberkeley.info  
**Subject:** Donahue piece

Live it. Always smile when I drive by. [REDACTED]  
[REDACTED]



**Lowvorn, Jennifer**

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**From:** Erich Valo <[REDACTED]>  
**Sent:** Wednesday, August 14, 2019 5:37 PM  
**To:** Lowvorn, Jennifer  
**Subject:** Keep the pedestrian bridge statues

I love seeing them when I get back to the Bay Area after a trip away. They're a welcoming gateway.

**Lowvorn, Jennifer**

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**From:** Mark Petrofsky <[REDACTED]>  
**Sent:** Wednesday, August 14, 2019 5:37 PM  
**To:** Lowvorn, Jennifer  
**Subject:** Remove the excrescences

I realize the money was the moving factor in the Art Commission's vote to get de-accession the sculptures on the fwy pedestrian bridge but I can say how happy I am to see them go. I've been in Berkeley my whole life, since 1946, and was active politically in the 1960's but those things are too ugly for words. They just mar an otherwise rather graceful bridge.

In any case they are too big to be viewed up close and too small and disjointed to be viewed from far away...and there is not middle viewing distance.

Yours, Mark Petrofsky

**Lowvorn, Jennifer**

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**From:** Yulia Krashennaya <[REDACTED]>  
**Sent:** Wednesday, August 14, 2019 5:34 PM  
**To:** Lowvorn, Jennifer  
**Subject:** Berkeley Big People

Hi,

I just read that this is the address to use when sending public comment about the proposal to remove Berkeley Big People from the University St. bridge on Berkeleyside (<https://www.berkeleyside.com/2019/08/14/berkeley-arts-commission-votes-to-remove-controversial-sculptures-on-i-80-bridge>)

If the article is accurate in stating that the real reason to remove the sculptures is a financial one, and that the artist disputes both the estimate of the needed repairs and the underlying assumptions made by a third party contractor in their evaluation, I think that it is completely fiscally irresponsible to remove the sculptures without a second opinion.

I understand that there are people who don't like the art - but removing sculptures that were installed after a multi-year review simply because some people don't like them is akin to the way Republicans continue to pass laws that restrict access to abortion - without new information or changes in circumstances, there is no reason to go back on a decision that has already been thoroughly evaluated.

And if the decision is truly financial, I would expect that the cost of removal of the sculptures is greater than the \$15,000 in repairs and the only fiscally responsible path is to validate what the cost of repair actually is prior to spending thousands of dollars.

The value of art isn't just to be "liked", and removing art from a public space is a disservice to everyone - decisions like that should only be made in truly dire circumstances, and the discrepancy between the contractor's estimate and the artists needs to be bridged before any decision can be made.

Sincerely,  
Yulia Krashennaya  
Berkeley District 2



**Lovvorn, Jennifer**

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**From:** Robert J. Cohen [REDACTED]  
**Sent:** Wednesday, August 14, 2019 5:28 PM  
**To:** Lovvorn, Jennifer  
**Subject:** sculptures on I-80 bridge

Dear Berkeley Arts Commission,

I am pleased with your recent vote to remove these sculptures, and support your position.

<https://www.berkeleyside.com/2019/08/14/berkeley-arts-commission-votes-to-remove-controversial-sculptures-on-i-80-bridge>

As for the original concept of serving as a gateway to the City: I think that we (and Caltrans) should be focusing on removing the encampments and improving the landscaping near the University Avenue I-80 ramps. That's probably the most common point of entry to Berkeley, and we certainly are not now showing visitors and newcomers the best of Berkeley.

Thank you,

Robert J. Cohen  
2424 West Street  
Berkeley, CA 94702-2140  
[REDACTED]

**Lowvorn, Jennifer**

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**From:** Carl Bass <[REDACTED]>  
**Sent:** Wednesday, August 14, 2019 5:28 PM  
**To:** Lowvorn, Jennifer  
**Subject:** Thank you

Thank you and the other commission members for voting to remove the sculptures from the bridge

**Lowvorn, Jennifer**

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**From:** Chris Watters [REDACTED]  
**Sent:** Wednesday, August 14, 2019 4:56 PM  
**To:** Lowvorn, Jennifer  
**Subject:** Keep Berkeley Big People sculptures

Hello,

I am writing in support of the Big People structures on the I-80 pedestrian bridge. I really enjoy these sculptures and the strength with which they represent Berkeley values and community. I believe they are worth the cost of maintenance and are a valuable part of our artistic city.

Thank you,  
Chris Watters

2925 Ellis St.  
Berkeley, CA

Regarding Berkeley Big People


I have been asked to give my opinion about the disposition of Scott Donahue's "Berkeley Big People" sculptures on the pedestrian bridge over the 880 FWY in Berkeley. My position is a delicate one. First I must tell you that Scott Donahue is a close friend and neighbor of ours in the Emeryville Artists Co-op where my husband and I live. I also know well, and vigorously support the work of the Berkeley Civic Art Commission. I actively advocate for better policy and more support for the arts in Berkeley through the Berkeley Cultural Trust, and I direct a non-profit 501-C3 arts organization, Kala Art Institute, in Berkeley. I have dear friends and colleagues on each side of this question.

The Berkeley artwork on the bridge has many detractors and just as many admirers. The controversy parallels the recent discussion of the George Washington Mural sequence in San Francisco. Some people have been offended by the murals and others argue for their historic significance and value as public works that stimulate discussion, represent history and a specific artist's point of view. From a practical point of view, in Berkeley, removing the sculptures from the bridge will displease as many people as it pleases.

Philosophically, I fall into the camp that prefers to retain artworks from different eras that have been in the public view for a period of time, before seriously considering that an artwork be removed.

I understand the sculptures have maintenance issues (as do all public works) and I would recommend the Commission work with the artist to develop a cost-effective maintenance plan. Assuming all questions of safety have been resolved, then a new decision could be made to retain the refurbished sculptures. There was a long and arduous planning and permission process that took a great deal of the city's time as well as the artist's time before he could build his artwork in the public realm. Before anything is permanently changed, I believe more time is needed to fully air any concerns on both sides and work out a successful solution. If the sculptures must be moved, then find a home for them somewhere in Berkeley that is acceptable to the commission and to the artist.

Sincerely yours,

Archana Horsting  


**Lovvorn, Jennifer**

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**From:** Sarah Gill <[REDACTED]>  
**Sent:** Saturday, August 17, 2019 5:24 PM  
**To:** Lovvorn, Jennifer  
**Subject:** Removal of Berkeley art over 80

Dear City of Berkeley,

Please don't take down those fascinating Berkeley sculptures over Highway 80! I loved to take my grandson up there and use them tell him all the stories about Berkeley. He ended up with a BA from UCB.

Best,  
Dr. Sarah Gill  
1653 Scenic Ave.  
Berkeley, CA94709

Sent from my iPhone

**Lovvorn, Jennifer**

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**From:** Civic Arts  
**Sent:** Monday, August 19, 2019 9:23 AM  
**To:** Lovvorn, Jennifer  
**Subject:** FW: De-accession of I-80 bridge sculptures should be reversed

Forwarded to you from the Civic Arts inbox and saved to the G drive.

**From:** parker barnum [mailto:████████████████████]  
**Sent:** Saturday, August 17, 2019 11:18 AM  
**To:** Berkeley Mayor's Office <mayor@cityofberkeley.info>; Kesarwani, Rashi <RKesarwani@cityofberkeley.info>; Civic Arts <civicarts@cityofberkeley.info>  
**Subject:** De-accession of I-80 bridge sculptures should be reversed

To:  
Jennifer Lovvorn, Secretary, Berkeley Civic Arts Commission  
Jesse Arreguin, Mayor, City of Berkeley  
Rashi Kesarwani, Berkeley District 1 City Council Representative

I am writing to question the decision by Berkeley's Civic Arts Commission to "de-accession" the I-80 Berkeley Bike/Pedestrian Bridge sculptures. It appears that the decision was based on incomplete or biased data for costs of repair and maintenance, and the decision was also made without appropriate consultation with the community. Given the sculptures received approval by the city and state and have been in place now since 2008, why seek to remove the sculptures now with little community input and based on inaccurate information as to costs of repairs and maintenance, and condition? In the interests of honesty and accountability (as well as respect for the artist and the community) the Commission should reverse its decision and commence an open and transparent process to decide on preservation of these sculptures, whether in place or at another appropriate location.

Thank you,  
Parker Barnum and Kathleen McGowan  
1406 Holly Street  
Berkeley, CA 94703

**Lowvorn, Jennifer**

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**From:** [REDACTED]  
**Sent:** Monday, August 19, 2019 8:25 AM  
**To:** Lowvorn, Jennifer  
**Subject:** FW: Big People sculptures

Forwarded from my inbox. Saved to the G drive.

[REDACTED]

**From:** Frank Jaffe [mailto:[REDACTED]]  
**Sent:** Sunday, August 18, 2019 10:54 AM  
**To:** Engelson Mara [REDACTED]  
**Subject:** Fwd: Big People sculptures

I would like to express my support for keeping Scott Donahue's big people sculptures exactly where they are.

I have lived in the Berkeley Oakland area since 1978 and I go for a run every Saturday and Sunday at the Berkeley Marina, and have been doing that for many years ever since those sculptures were there, and I always finish my run by walking up the bridge, and I can say that I never tire of seeing those sculptures.

I understand that there was recently a vote to deaccession these pieces out of concern for the cost of maintenance. I truly find it hard to believe that this is an insoluble problem! I think the city needs to find other contractors to give more competitive estimates, which will result in a better long-term and financially feasible solution.

I think that the sculptures really capture of the spirit of Berkeley, particularly the political activism the city is known for as well as the recreational joy to be found at the Berkeley Marina.

I thank you for your attention to this matter.

Yours sincerely,  
Frank Jaffe  
Emeryville CA

**Lowvorn, Jennifer**

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**From:** Carol Northrup <[REDACTED]>  
**Sent:** Monday, August 19, 2019 6:56 AM  
**To:** Lowvorn, Jennifer  
**Subject:** Keep the I-80 Sculptures

I'm told that the City of Berkeley plans to remove the Berkeley Big People sculptures. I've lived in the Bay Area and worked in Berkeley for decades after leaving the armed services. That public art says "Home" to me. I'm quite sure I am not alone in that. Surely the City can find the resources to restore and preserve the work that so elegantly speaks to an important time in history - of the city, the Bay Area and the nation.

--  
**Carol**

[REDACTED]  
[REDACTED]



**Lowvorn, Jennifer**

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**From:** Scott K <[REDACTED]>  
**Sent:** Sunday, August 18, 2019 2:07 PM  
**To:** Lowvorn, Jennifer  
**Subject:** Berkeley Big People mess

I strongly support removal of those cheaply-made yet dearly-expensive eyesores. They ruin the graceful lines of the suspension bridge, in addition to being shouty and grotesque. They remind me of the shapeshifting monster from the 1982 movie "The Thing" trying to be too many things at once.

Their physical deterioration is really noticeable up close. If it was made as a Burning Man installation I'd think it was great, but as a permanent public sculpture it wasn't built to last, nor should it. I think they would look cool out among the rocks at Albany Bulb park where they could further deteriorate in peace, though that may create a hazard.

I work in Berkeley, lived there 15 years until moving to nearby El Cerrito. I ride my bike across that bridge often, and just try to ignore the statues.

My 2¢, thanks.

Scott Kimball, artist

**Lowvorn, Jennifer**

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**From:** KAY SPRINGER [REDACTED]  
**Sent:** Saturday, August 17, 2019 9:15 PM  
**To:** Lowvorn, Jennifer  
**Subject:** Big People Sculpture

This is to voice my opposition to the removal of the two pieces of artwork on the pedestrian bridge over hwy 80. As a long time resident of the East Bay and a graduate of UC Berkeley, I think the artwork is extremely appropriate to its location and to the history of the City of Berkeley. Despite what some have said, I have never feared that it would "topple" over me when driving underneath the bridge which I frequently do.

I am a big supporter of public art through out cities and feel that once the decision has been made to commission a piece, there should also be the commitment to maintain it. Before I retired I worked for a public agency that commissioned various works of art and those pieces remain in place and are properly maintained. The City of Berkeley should do the same.

Kay Springer

Sent from my iPhone

**Lowvorn, Jennifer**

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**From:** eyespiced . [REDACTED]  
**Sent:** Saturday, August 17, 2019 7:54 PM  
**To:** Lowvorn, Jennifer  
**Subject:** RE: Big People "art"

Hi there,

I am a lifelong Berkeley resident, and I just wanted to give some feedback regarding the sculptures looming over I-80. I am ecstatic that they have been slated for removal. I ! was immensely displeased when they were first installed because I felt (and still feel) that they utterly ruin the lines of what is an otherwise stunning footpath crossing over I-80.

Thanks for reading, hope you have a lovely day reader!

<https://www.berkeleyside.com/2019/08/14/berkeley-arts-commission-votes-to-remove-controversial-sculptures-on-i-80-bridge>

**Lowvorn, Jennifer**

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**From:** Karen Pollak <[REDACTED]>  
**Sent:** Saturday, August 17, 2019 7:40 PM  
**To:** Lowvorn, Jennifer  
**Subject:** Sculptures.

Please repair the sculptures. Public art is meant to be controversial and a conversation piece. Ask for donations to help with the repairs. I am willing to contribute.

Do not stick your head in the sand line the SFschool board re: artwork at the high school.

Sincerely,

Karen Pollak

Concerned citizen for freedom of press and art

Sent from my iPhone

**Lowvorn, Jennifer**

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**From:** David Coolidge [REDACTED]  
**Sent:** Saturday, August 17, 2019 8:19 AM  
**To:** Lowvorn, Jennifer  
**Subject:** Re: Berkeley Big People

Forgot to sign this: David Coolidge, 2226 MLK, 94704.

On Sat, Aug 17, 2019 at 8:17 AM David Coolidge [REDACTED] wrote:  
I STRONGLY SUPPORT the REMOVAL of these two eyesores. As a taxpayer I'm appalled at the high cost of both accession and "deaccession" but I would not want to waste a dime on maintaining them, that would just be throwing good money after bad. I'm sorry the artist's feelings are hurt, but unfortunately these things are plain old-fashioned UGLY. He blew it, we paid for it, sorry performance all around, time to close the books on it and move on.

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DAC  
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DAC

**Lowvorn, Jennifer**

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**From:** Andrea Garcia [REDACTED]  
**Sent:** Friday, August 16, 2019 7:15 PM  
**To:** Lowvorn, Jennifer  
**Subject:** Sculptures

As a native born east bay citizen, I wanted to have my say on the future of the sculptures on the pedestrian bridge. I was a student at Cal in 1962 and can remember how proud I was to be part of the energy there. As a 74 year old retired teacher, I enjoy looking at these sculptures. Please do not remove them; they are a part of history.  
Sincerely,

Andrea Garcia

Sent from my iPhone

**Lovvorn, Jennifer**

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**From:** Elisabeth Pine <[REDACTED]>  
**Sent:** Saturday, August 17, 2019 8:01 AM  
**To:** Lovvorn, Jennifer  
**Subject:** Sculptures

These are wonderful but their placement is terrible. Nobody on the highway can see them properly or knows what they are there for. They should be placed where they can be appreciated. Do not destroy them.

**Lovvorn, Jennifer**

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**From:** Adelaide Jenkins [REDACTED]  
**Sent:** Friday, August 16, 2019 5:13 PM  
**To:** Lovvorn, Jennifer  
**Subject:** I80 Bridge sculpture

My vote is: Yay!!! Take them down. Such unattractive, visually complicated and awkward art set on top of an elegant, simple -if not perfect- bridge.

Addie Jenkins  
961 Jones St. Berkeley



**Lovvorn, Jennifer**

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**From:** joe schwarz [REDACTED]  
**Sent:** Friday, August 16, 2019 4:00 PM  
**To:** Lovvorn, Jennifer  
**Subject:** Berkeley Big People

jlovvorn,

I am attempting to respond to an article about the decommissioning of the Berkeley Big People sculptures. I thought it was sending me to a survey or poll.

Anyway, I think it would be a terrible loss to our community to take down those sculptures. I recognize the financial realities, but consider how many views, figuratively speaking (likes or dislikes) from passing motorists. It has to be the most visible public art I know. Therefore, more use per dollar.

Has anyone considered deliberately letting it flake apart and age like an ancient gem in order to save money? A skeleton budget would maintain repairs necessary to safety.

Thanks,  
Joe Schwarz

**Lovvorn, Jennifer**

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**From:** Civic Arts  
**Sent:** Friday, August 16, 2019 2:12 PM  
**To:** Lovvorn, Jennifer  
**Subject:** FW: Scott Donahue sculptures on Berkeley Bike Bridge

Forwarded from the Civic Arts inbox and saved to G drive.

**From:** Robin Graubard [mailto: [REDACTED]]  
**Sent:** Friday, August 16, 2019 11:25 AM  
**To:** Civic Arts <civicaarts@cityofberkeley.info>  
**Subject:** Scott Donahue sculptures on Berkeley Bike Bridge

To Jennifer Lovvorn

Please reconsider and have a hearing for Scott Donahues sculptures on the Berkeley Bike Bridge. As the letter from Scott says the maintenance for the sculptures is a far less cost than taking the sculptures down. The sculptures add history, beauty and a reminder to all to think about culture, free speech and art. Obviously a lot of work, money, time, energy and thought went into the creation of the sculptures. It would be undemocratic and against the rights of the artist and fellow citizens to knock these sculptures down without a fair hearing.

thank you,  
Robin Graubard

--  
Robin Graubard  
[REDACTED]  
[REDACTED]

**Lowvorn, Jennifer**

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**From:** alan dimen <[REDACTED]>  
**Sent:** Friday, August 16, 2019 11:38 AM  
**To:** Lowvorn, Jennifer  
**Subject:** Sculpture over I 80

Yay! They are so ugly. I wondered who okayed them. Take them down.  
Thanks,  
Bev

Sent from my iPad

**Lovvorn, Jennifer**

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**From:** Sarah Stone [REDACTED] >  
**Sent:** Friday, August 16, 2019 10:54 AM  
**To:** Civic Arts; Lovvorn, Jennifer  
**Subject:** Keep Berkeley Big People!

Dear Civic Arts Commission,

Please keep the wonderful Berkeley Big People in its iconic location on the pedestrian bridge.

These sculptures provide a marvelous visual entry into Berkeley in general and the waterfront in particular. I grew up going to the Berkeley Marina before the sculptures were there, and I love what the art adds. Now I want to be able to talk about the artwork with my wife and kids when we visit the marina as a family. (I'll admit that I'm a big art dork with a degree in art history but I imagine other families do this too.)

Moneywise, Donahue says the repairs won't be as expensive as the commission's current estimate, and I think it's worth at least a second opinion. Especially if the current estimate is based on thinking it is fiberglass when it isn't.

Furthermore, has the commission, and the city of Berkeley, thought about what would happen without Berkeley Big People there? Without art marking it as a special place, the bridge is much more likely to become a source of blight (graffiti, trash, dumping, needles, etc.) or encampment site for people experiencing homelessness--and all of that requires lots of money to deal with.

Please don't deaccession Berkeley Big People!

Sincerely,

Sarah Stone (and my two Little People: Nico, age 3, and Reed, age 4 months)

**Lovvorn, Jennifer**

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**From:** Lydia Shiozaki [REDACTED]  
**Sent:** Friday, August 16, 2019 10:40 AM  
**To:** Lovvorn, Jennifer  
**Subject:** "Big People" sculptures

Good morning:

I would like to encourage the Arts Commission to reconsider their decision to remove the public sculptures from the I-80 pedestrian/bicycle bridge. So much time (five years?) went into the process before the art was finished and installed that it seems hasty to remove the pieces without more deliberation. I actually think that it is a good sign that the work is controversial as so much public art is so bland as to be almost invisible. Here people look and look again and think about what the various parts mean. It gets people talking. There is always something new to notice on both the large and small scale.

It is almost impossible to please everyone, especially in a town like Berkeley, but I am particularly unhappy when I think about the waste involved in commissioning, building, installing and then suddenly removing these sculptures. Maintaining them would surely be less wasteful.

Thank you for your consideration,  
S. Lydia Shiozaki

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"Light is the carrier of information that binds us."  
- Jacob Bronowski

**Lovvorn, Jennifer**

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**From:** [REDACTED]  
**Sent:** Friday, August 16, 2019 10:34 AM  
**To:** Lovvorn, Jennifer  
**Subject:** Yea! Lose the sculptures

I was delighted to read in Berkeleyside that the sculptures adulterating the otherwise elegant Ketchum-designed bridge are to be removed. I'm sure a more appropriate location can be found for these two sculptures. Thank you!

Every time I ride over the bridge on my bike or drive under in a car, I shake my head in wonder at how the sculptures could have been approved for this location. It was so very apparent that they marred the bridge's aesthetic--awful!

I'm surprised at the delight I take in reading this news. Makes me feel a bit silly. But it's as if a wrong will be righted.

**Lowvorn, Jennifer**

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**From:** Nancy Cayton [REDACTED]  
**Sent:** Friday, August 16, 2019 9:54 AM  
**To:** Lowvorn, Jennifer  
**Subject:** Pedestrian bridge statues

Hello,

This email address was given as the contact for the Berkeley Arts Commission in a Berkeleyside article about the two statues on the pedestrian bridge across the freeway at aquatic park. I must say that I have never really noticed or paid attention to the one on the west side, but I have never been able to stand the one on the east side, the so-called Big People. When it was first installed, I thought it was unfinished and waited for some time to see what it would finally look like until I realized that was it; it was done. I like the idea of the what is being portrayed, but find the execution to be overly literal and aesthetically displeasing.

If it is true that the maintenance of this work will also be quite expensive, I see no reason to keep it. Too bad all the maintenance issues have only come to light 10 years after the installation and not prior to selecting it.

This email is for information to the commission and not for quotes or publication.

Nancy Cayton

**Lovvorn, Jennifer**

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**From:** Civic Arts  
**Sent:** Friday, August 16, 2019 9:31 AM  
**To:** Lovvorn, Jennifer  
**Subject:** FW: Berkeley Sculptures

Forwarded from the Civic Arts inbox.

-----Original Message-----

**From:** Gaynell [mailto: [REDACTED]]  
**Sent:** Thursday, August 15, 2019 2:14 PM  
**To:** Civic Arts <civicarts@cityofberkeley.info>  
**Subject:** Berkeley Sculptures

Attn: Civic Arts Commission Members

I find it impossible to believe removal/decommissioning of Scott Donohue's sculptures has moved so significantly forward without public input prior to what now amounts to the 11th hour. It's a shame the Commission has backdoored this significant event, regardless of what the City rules allow. A public hearing must be held on the matter of this public art. Citizens deserve to know the options before a final, irrevocable action is taken. Otherwise a chill will be sent through the artist community that will reverberate for years to come.

Gaynell Chase  
Oakland, CA

Sent from my iPhone



**Lovvorn, Jennifer**

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**From:** Civic Arts  
**Sent:** Friday, August 16, 2019 8:13 AM  
**To:** Lovvorn, Jennifer  
**Subject:** FW: Reconsider the Berkeley Big People decision and keep the sculpture

Forwarded from the Civic Arts inbox. Saved to the G drive.

**From:** mary white [mailto:████████████████████]  
**Sent:** Thursday, August 15, 2019 8:48 PM  
**To:** Civic Arts <civicarts@cityofberkeley.info>  
**Subject:** Reconsider the Berkeley Big People decision and keep the sculpture

Dear Lisa Bullwinkel, Chair and members of the Civic Arts Commission,

I am writing to express my shock and disappointment with the Civic Arts Commission decision to hastily remove Scott Donahue's sculpture.  
Please reconsider.

As a west Berkeley resident who was here when the sculptures were built and have biked by them many times, it seems inappropriate to not give the public more time to decide.  
Also, if the repairs could be done for \$15,000 i think quite a few residents, including myself, would contribute to a fund to do some of the work. How much did it cost for the LA art conservator report? Is their evaluation correct? There seem to be huge discrepancy between cost quoted by the firm and the artist.

I agree with Santiago Casall, the Berkeley artist who created the solar calendar at Cesar Chavez Park. He, said discussing whether Berkeley Big People is appropriate for its location shouldn't even be up for debate in Berkeley Side.

"That battle was fought and won a long time ago," Casal said. "Civic Arts (Commission) and the state of California completely vetted the sculptures through a rigorous process."

Your unconsidered decision will have repercussions that will cost more than the repairs.

Please reconsider.

Mary White  
Educator  
2327-5th Street  
Berkeley, CA 94710

**Lovvorn, Jennifer**

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**From:** Gillian Fynn <[REDACTED]>  
**Sent:** Friday, August 16, 2019 8:06 AM  
**To:** Lovvorn, Jennifer  
**Subject:** Sculptures

I love those sculptures - I think they are a social statement on the nature of Berkeley.  
gillian fynn

Sent from my iPhone

**Lowvorn, Jennifer**

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**From:** Wendy Cosin <[REDACTED]>  
**Sent:** Friday, August 16, 2019 8:06 AM  
**To:** Lowvorn, Jennifer  
**Subject:** Keep the sculpture on the bridge

I strongly support leaving the sculpture on the bridge. I enjoy it every time I cross the bridge on my bicycle. The cost of the maintenance can be minimized to doing only what is necessary. Or try "go fund me".

I think it is outrageous to remove an art piece that cost so much and that provides enjoyment for many.

Sincerely,

Wendy Cosin

Sent from my iPad

**Lovvorn, Jennifer**

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**From:** Jim Thornton <[REDACTED]>  
**Sent:** Thursday, August 15, 2019 9:41 PM  
**To:** Lovvorn, Jennifer  
**Subject:** Big people sculpture

Dear Ms. Lovvorn,

I'm writing in support of the Berkeley Big People. I understand that the sculptures need maintenance, but the artist has made reasonable proposals to maintain them which were rejected. There are no legitimate structural concerns, as the initial work went through rigorous structural design and approval. Any degradation is superficial. I'm afraid that the commission is making a retroactive aesthetic decision, a small handful of people essentially overturning the city's choice to erect these monuments 12 years ago. This lack of stability concerns me. I believe this work of art is a valuable public asset and should remain.

James Thornton

**Lovvorn, Jennifer**

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**From:** jean marie <[REDACTED]>  
**Sent:** Thursday, August 15, 2019 8:42 PM  
**To:** Lovvorn, Jennifer  
**Subject:** Keep Big People where it is

Dear Arts commission,

I think the art piece big people should stay where it is at the bridge. It cost a lot of money and time to create the piece, approve the piece, install the piece. Why are you deciding you don't like it now, years later? Art is always controversial.

Leave the piece where it is and start dealing with issues of the present.

Thanks,  
Jean Walsh

**Lovvorn, Jennifer**

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**From:** D Dorenz [REDACTED]  
**Sent:** Thursday, August 15, 2019 6:47 PM  
**To:** Lovvorn, Jennifer  
**Subject:** Re: Sculpture on the crossover bridge

Dear arts commission members,

It seems that you have gone about the process of considering what to do about the two sculptures in the wrong order. You owe it to the public to ask our opinions before you make your decision. Instead you have acted in an autocratic manner without complete transparency about the reason you want to take the sculptures down.

I suggest that you listen to the artist who says that the repair bill is exaggerated and that the repairs can be done for

much less. He also pointed out that the company you consulted didn't even know how to identify the material that was used in the pieces. Therefore you should be extremely skeptical about any estimate that they give you for repairs .

The sculptures are a positive depiction of Berkeley history. They should be repaired at a much lower rate and you should give Berkeley residents a long time to weigh in on this matter. Just because you don't have to answer to the City Council doesn't mean you can act in an autocratic manner

Thanks for hearing my concerns.

Dorothea Dorenz  
Berkeley Ca

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Dorothea Dorenz

**Lovvorn, Jennifer**

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**From:** Ken Worthy [REDACTED]  
**Sent:** Thursday, August 15, 2019 4:26 PM  
**To:** Lovvorn, Jennifer  
**Subject:** Remove the two artworks from the pedestrian overpass

I fully support the removal of the two Donahue sculptures.

Like others, I find them too literal and not quite beautiful.

Thank you,  
Ken

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Ken Worthy  
My book: *Invisible Nature*  
My co-edited book: *After the Death of Nature*

**Lowvorn, Jennifer**

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**From:** Joanne Cohn <[REDACTED]>  
**Sent:** Thursday, August 15, 2019 3:10 PM  
**To:** Lowvorn, Jennifer  
**Subject:** I-80 bridge statues

Hi!  
I really like them. But I gather it is expensive to maintain them. If it is possible to have them in a different material or otherwise to keep them there, I would be glad for that. The contrasting statues are really wonderful.  
Thank you,  
Joanne (94709)



IMAGES OF ARTWORK AT TIME OF INSTALLATION

Images by Artist (2008)



IMAGES OF CURRENT ARTWORK CONDITION

Images by City Staff (2018)



Berkeley Big People by Scott Donahue – Artwork Condition Images

Image by RLA Conservation (2019)



Images by Paul Kuroda (San Francisco Chronicle 2019)







Office of the City Manager

41

INFORMATION CALENDAR  
September 24, 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: Pathways STAIR Center: First Year Data Evaluation and Results-Based Accountability Dashboard

SUMMARY

On June 27, 2018, the City of Berkeley, in partnership with Bay Area Community Services (BACS), welcomed the first guests into the STAIR Center, the first Navigation Center for people experiencing homelessness in the East Bay. June 30, 2019 marked the end of the first full fiscal year of the program.

This report is part of our effort in the Health, Housing and Community Services Department to increase transparency and accountability about agency performance. Included as an attachment is an initial dashboard for STAIR using a Results-Based Accountability (RBA) framework, which distills program performance down to three categories: How much did we do? How well did we do it? Is anyone better off?

During the program's first year, 170 individuals accessed a STAIR Center bed, with 128 having exited the shelter and 95 of those receiving flexible funding/rapid rehousing assistance. Nearly 4 in 5 of those individuals slept in an encampment the night before entering the STAIR Center. 101 clients exited to permanent housing by June 30, 2019; this includes 82 clients housed from the STAIR Center shelter (64% of all exits) and 19 clients housed directly from the streets via outreach. On average, clients exiting a STAIR Center bed to housing took just under 3 months (88 days) to do so.

Thirty clients (23% of all exits) left the STAIR Center back to homelessness. Among those who exited to permanent housing, 22% eventually returned back to homelessness. This percentage includes 3 individuals who were unable to graduate the STAIR Rapid rehousing program and returned back to homelessness before the end of case management and partial rent subsidy. Too little time has passed to draw conclusions about the long-term success of the rapid rehousing component of the program.

Moving forward, HHCS intends to provide such performance dashboards on the STAIR Center on a quarterly basis and extend the dashboard to other homeless programs.

## CURRENT SITUATION AND ITS EFFECTS

### *The Pathways STAIR Center: An Overview*

On any given night in Berkeley in 2019, 1,108 people experience homelessness, with nearly three quarters of them (813) living without shelter, in places not meant for human habitation. The City has experienced an increase in the number of people living in encampments, most of whom are unable to access traditional homeless services such as emergency shelters. To address this problem, the City opened the STAIR Center in June, 2018. The STAIR Center is a comprehensive Housing First program with three components:

- A *street outreach* component, with two full-time outreach workers, maintains a consistent presence in Berkeley's encampments, builds relationships with their residents, and offers vacant STAIR Center beds to individuals with the highest-needs.
- A *shelter* component offers 45 beds in a low-barrier, service-rich environment. At the STAIR Center, located on a block of 2nd Street between Cedar and Virginia in West Berkeley, program guests receive intensive housing search and application assistance and live in a shelter environment with no curfews, one meal a day, laundry, showers, and accommodations for pets and possessions.
- A *rapid rehousing* component provides access to flexible funding to help overcome housing barriers. The amount and duration of the funding is tailored to the specific needs of each recipient; while some may need only security deposit assistance to regain housing, for example, others may need several months of partial or full rent subsidy. Rapid rehousing recipients also receive ongoing case management services to ensure their tenancy and transition to housing self-sufficiency is successful. While not everyone will succeed in rapid rehousing, no one is placed into a housing situation that they have no hope of maintaining on their own within one year.<sup>1</sup>

### *Measuring Program Performance with Results-Based Accountability*

The Health, Housing and Community Services Department is working closely with staff and community based partners to deepen our positive impact on the community, especially for those most vulnerable. Central to this effort is using a highly regarded framework called Results Based Accountability (RBA). RBA has a proven track record in improving the quality of life for people and communities. The STAIR Center is the City's first homeless program to be included in this effort. This report and the attached dashboard summarize data using this organizational framework.

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<sup>1</sup> For more information on rapid rehousing in Berkeley, please see City staff's 2018 Information Report on Rapid Rehousing ([https://www.cityofberkeley.info/Clerk/City\\_Council/2018/04\\_Apr/Documents/2018-04-24\\_Item\\_39\\_Rapid\\_Rehousing\\_What\\_it\\_Can.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2018/04_Apr/Documents/2018-04-24_Item_39_Rapid_Rehousing_What_it_Can.aspx)) and the 1000 Person Plan to Address Homelessness in Berkeley ([https://www.cityofberkeley.info/Clerk/City\\_Council/2019/02\\_Feb/Documents/2019-02-26\\_Item\\_20\\_Referral\\_Response\\_1000\\_Person\\_Plan.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/02_Feb/Documents/2019-02-26_Item_20_Referral_Response_1000_Person_Plan.aspx)).

Within the RBA framework, we first define the outcome or results we hope to achieve to have the greatest positive impact in the community. Next we decide how we can measure progress on that result. Data are collected and reported on an ongoing basis to guide our understanding and inform efforts to enhance progress towards those results. Performance measures answer three key questions:

- How much did we do?
- How well did we do it?
- Is anyone better off?

RBA is a new way of accounting for our work. Moving forward, HHCS intends to provide quarterly RBA Performance dashboards on the STAIR Center, and eventually extend this to other homeless agencies and programs. Through these reports, we hope to increase transparency and accountability on how public dollars are being spent to serve the City's mission to end homelessness. The ultimate goal is to improve the impact we are having and the quality of our work.

#### *STAIR Center: Summary of Year One (June 27, 2018 – June 30, 2019) Performance*

##### **How much did we do?**

Since the program's opening, 170 individuals have spent at least one night in a STAIR Center shelter bed, with 128 having exited the shelter. A total of 95 people have received rapid rehousing (RRH) or flex fund assistance to date. Among those, and as of June 30, 2019, 54 were still being supported with a RRH subsidy.

Demographics and characteristics among STAIR bed users are as follows:

- The average client age is 48.
- 64% of clients identify as male, 35% as female, and 1% as transgender.
- 58% of clients identify as Black or African-American; 28% as White; 3% as American Indian or Alaska Native; and 1% as Asian. 9% identified with more than one race, and 1% refused to state their racial identity. 12% of all clients identify as Latinx.
- 77% of all clients at STAIR report receiving a source of income, for an average monthly income of \$898. This includes 11% of clients who report earned income, at an average of \$1,458 per month. 44% of clients at STAIR receive disability income (SSI or SSDI), receiving \$896 per month on average. An additional 21% were receiving County General Assistance (\$337/month on average).

##### **How well did we do?**

The STAIR Center is targeted to Berkeleyans living in encampments. Among those who ever used the STAIR Center shelter during the first year (170 individuals total), 79% (135 individuals total) had spent their prior night sleeping in an encampment. An additional 13% (22 individuals) spent their prior night in another shelter or transitional

housing bed, and 8% (13 individuals) spent their prior night in a temporary or institutional setting (such as a hospital or detox center).

On average, all clients who have exited the STAIR Center took 84 days to do so. Those who exited to permanent housing took 88 days to do so on average. Clients who are currently active in the program have been in their beds for an average of 82 days.

The STAIR Center has maintained an average nightly occupancy rate of 89% since opening, but as of this writing it is 96% full. Large vacancy rates have coincided with a large number of residents exiting the shelter to permanent housing destinations, creating bed turnover that sometimes takes a few days to fill.

### **Is anyone better off?**

Of those who exited the STAIR Center shelter during the first year (128 total):

- 30 have exited back to homelessness (23%);
- 101 clients have exited to permanent housing. This includes 82 clients housed from the STAIR Center shelter (64% of all STAIR Center shelter exits) and 19 clients housed directly from the streets via outreach. 15 clients exited to permanent supportive housing, 63 exited to rapid rehousing programs with an ongoing partial subsidy, 7 reunited with family or friends, 8 moved into a rental with another form of subsidy (i.e., a Section 8 voucher or equivalent), and 8 moved into housing units with no ongoing financial assistance.
- 13 clients exited to institutional or temporary settings, including other homeless programs, jail, or hospitals (10%)
- 1 client was deceased, and 2 exited to unknown destinations.

Of the 95 people who have received RRH or flex fund assistance,

- Five clients graduated from RRH, taking on the cost of the rental themselves, while an additional 33 transitioned to some other subsidy not funded through the STAIR's budget.
- Three exited to homelessness before case management had ended, and three more eventually returned to homelessness after graduating the program into permanent housing. We will continue to assess how this return rate compares to that of other rapid rehousing programs.

Among everyone who has accessed one or more component of the STAIR Center's programming (outreach, shelter, and/or rapid rehousing) and exited to a permanent housing destination, 22% have returned back to homelessness. Among those who received rapid rehousing assistance and exited to a permanent housing destination, only 3 (8%) returned back to homelessness. Again, we will continue to monitor this count to determine an accurate reflection of the program's true recidivism rate.

BACKGROUND

On April 4, 2017, Council voted unanimously to refer the creation of the STAIR Center, as part of the Pathways Project to Address Homelessness in Berkeley, to the City Manager. Council allocated the funding for the capital creation of the program on June 27, 2017, and the allocated program funds on December 5, 2017. Roughly 7 months later, the City and BACS opened the STAIR Center, on June 27, 2018, and the program's first full fiscal year of operations concluded on June 30, 2019.

ENVIRONMENTAL SUSTAINABILITY

Some individuals who had been living in encampment areas with considerable environmental impacts have moved into the STAIR Center, but the overall environmental impact of the program overall cannot be quantified with the data available.

POSSIBLE FUTURE ACTION

HHCS staff will continue to provide quarterly dashboard updates on the STAIR program, and intends to expand this framework to other homeless programs as well.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Staff time.

CONTACT PERSON

Peter Radu, Homeless Services Coordinator, HHCS, (510) 981-5435.

Laura Schroeder, Community Services Specialist III, HHCS, (510) 981-5411.

Attachments:

- 1: Pathways STAIR Center Program: Results-Based Accountability Year One Performance Dashboard.

# PATHWAYS STAIR CENTER PROGRAM

June 2018-June 2019



The City of Berkeley has experienced an increase in the number of people living in encampments, most of whom are unable to access traditional homeless services such as emergency shelters. To address this problem, the City opened the STAIR Center in June of 2018. The STAIR Center has three components: (1) street outreach, (2) a 45-bed, low-barrier, service-rich shelter, and (3) rapid rehousing, which includes time-limited financial assistance (including rent subsidies) to help overcome housing barriers. At the STAIR Center shelter, located on a block of 2nd Street between Cedar and Virginia in West Berkeley, program guests receive intensive housing search and application assistance and enjoy no curfews, one meal a day, laundry, showers, and accommodations for pets and possessions.

## How Much Did We Do?

45

NUMBER OF BEDS AT STAIR SHELTER

170

NUMBER OF CLIENTS SERVED AT THE STAIR SHELTER

95

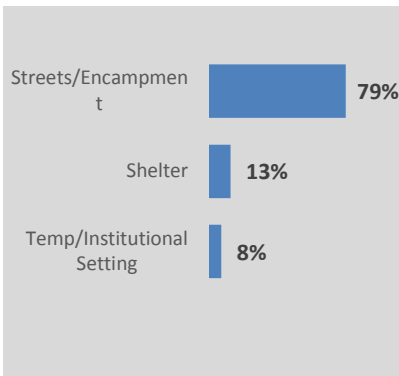
INDIVIDUALS RECEIVING RAPID REHOUSING ASSISTANCE

## How Well Did We Do It?

% of STAIR Shelter clients from the Streets/Encampments

79%

Where Clients Resided Prior to the STAIR Shelter



Average Occupancy Rate of STAIR Shelter

89%

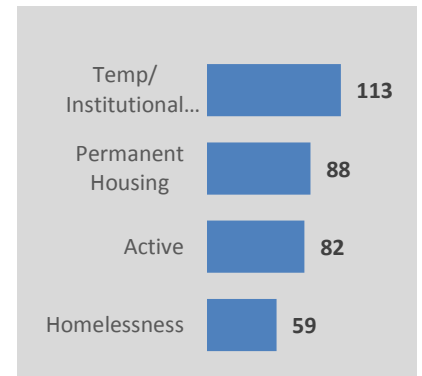
Occupancy Rate of STAIR Shelter by Month



Average Length of Stay at STAIR Shelter To Date in Days

84 days

Average Length of Stay at STAIR Shelter by Selected Exit Destinations



## Is Anyone Better Off?

64%

EXIT TO PERMANENT HOUSING FROM STAIR SHELTER

23%

EXIT TO HOMELESSNESS FROM STAIR SHELTER

22%

RETURN TO HOMELESSNESS FROM PERMANENT HOUSING



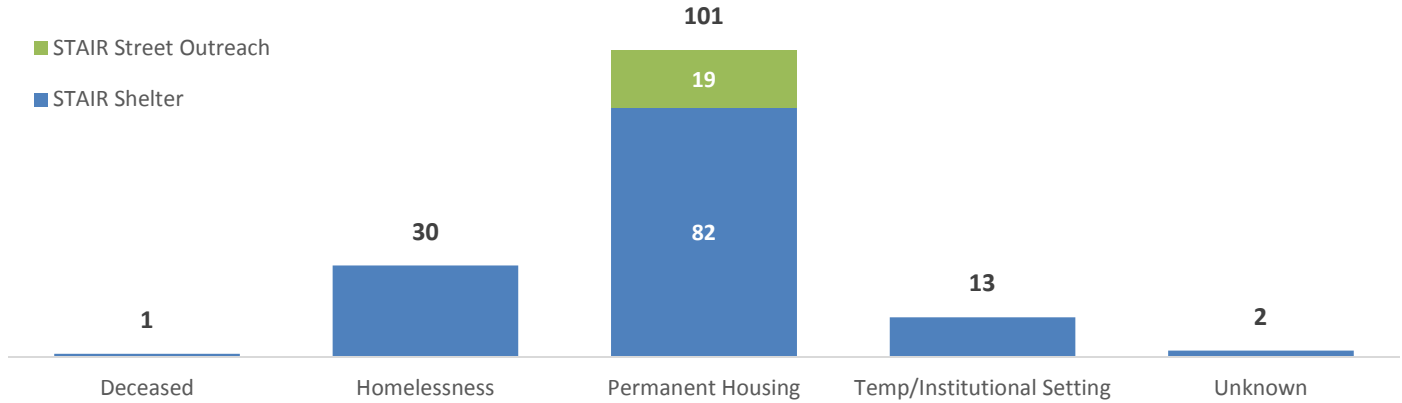
# PATHWAYS STAIR CENTER PROGRAM

June 2018-June 2019



**Number of Exits by Destination from STAIR Center Program**  
(Includes those that obtained permanent housing from street outreach)

N:147

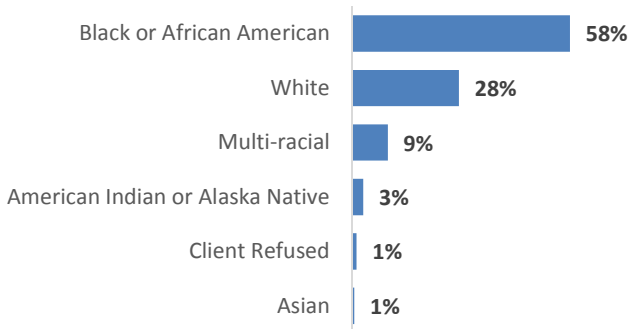


## STAIR SHELTER DEMOGRAPHICS

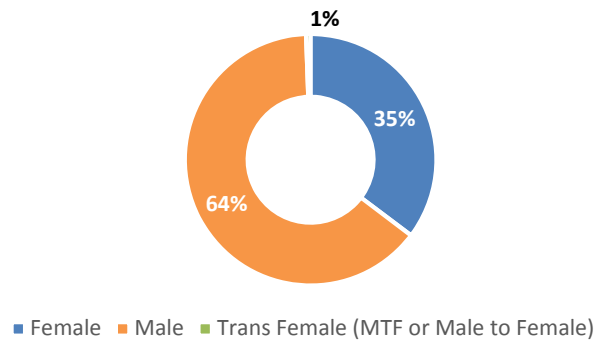
All Clients to Date

N:170

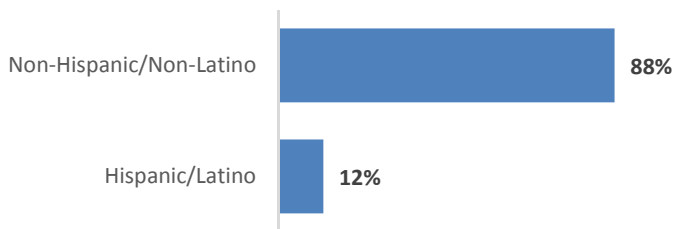
### Race



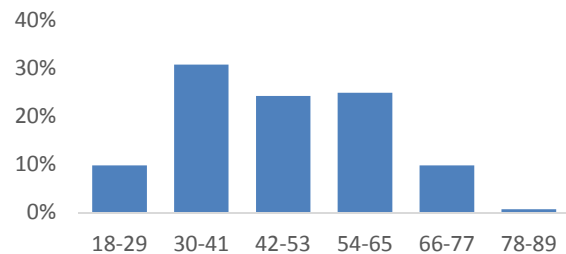
### Gender



### Ethnicity



### Age



**Notes**

<sup>1</sup> Permanent Housing includes clients that receive rapid rehousing assistance. Rapid rehousing connects individuals to affordable rental units with time limited financial assistance. A full description of our rapid rehousing program can be found at [www.cityofberkeley.info/Clerk/City\\_Council/2018/04\\_Apr/Documents/2018-04-24\\_Item\\_39\\_Rapid\\_Rehousing\\_What\\_it\\_Can.aspx](http://www.cityofberkeley.info/Clerk/City_Council/2018/04_Apr/Documents/2018-04-24_Item_39_Rapid_Rehousing_What_it_Can.aspx)

<sup>4</sup> Return to Homelessness from Permanent Housing is the % of those that obtained permanent housing but were unable to maintain housing during the time period and returned to homelessness, as indicated by a re-enrollment in another homeless program.





Housing Advisory Commission

INFORMATION CALENDAR  
September 24, 2019

To: Honorable Mayor and Members of the City Council  
From: Housing Advisory Commission  
Submitted by: Xavier Johnson, Chairperson, Housing Advisory Commission  
Subject: 2019 Housing Advisory Commission Work Plan

INTRODUCTION

The HAC discussed the updated Work Plan at its July meeting this year. The following vote was taken at the July 11, 2019 meeting:

Action: M/S/C (Tregub/Sharenko) adopt a work plan that includes the items submitted by Commissioners Lord, Mendonca, and Wolfe and additions by Lewis.

Vote: Ayes: Johnson, Lewis, Lord, Sargent, Sharenko, Tregub, and Wright. Noes: None. Abstain: None. Absent: Mendonca (excused), Owens (unexcused), Simon-Weisberg (excused), and Wolfe (excused).

CURRENT SITUATION AND ITS EFFECTS

The strategies in this Work Plan are a Strategic Plan Priority Project, advancing our goal to create affordable housing and housing support service for our most vulnerable community members. The Housing Advisory Commission received Work Plan suggestions from four commissioners. All of these were approved at the July 11, 2019 meeting.

Commissioner Thomas Lord:

- Smoke-free housing ordinance recommendations
- Social housing
- Housing summit (related to social housing)
- Consideration of housing and the climate emergency
- Council's referral regarding gentrification and racial equity issues
- HAC's code enforcement oversight role
- "for the good of order" - meta-concerns about our Commission processes

Commissioner Marian Wolfe:

- Program Activity - Fall U1 Report that the Vice Chair and Chair will draft and bring to the full HAC for review.

Resources needed: Staff time to provide information on actual U1 General Fund expenditures and commitments of funds for 2019.

Intended Results, include the following:

Output – Report on expenditures and commitments of U1 General Funds and provision of recommendations of how the City can should establish and fund programs to increase the supply of affordable housing and protect Berkeley residents from homelessness.

Outcome – Second 2019 Bi-Annual Report for the November meeting

- Program Activity – Develop additional strategies using local funds to expand the supply of permanent affordable housing with funding proposals to provide to the City Council.

Resources needed – Based on volunteer work and fact-finding, most of the work will not require additional resources. The only exception could be staff assistance in estimating potential costs for each strategy (based on realistic goals).

Intended Results - Suggested new programs (including scale of the programs) for the City Council to consider using local affordable housing funds (e.g., use of local funds for BUSD housing development).

- Program Activity – Review 2018 Work Plan to see if there are useful activities to add to the 2019 Work Plan

Resources needed – HAC members to bring in their recommendations. The only assistance needed from staff could be in estimating potential costs for each strategy (based on realistic goals).

- Intended Results - Additional work plan items to add to the 2019 Work Plan in this new format adopted for the 2019 Work Plan.

Commissioner Mari Mendonca:

- Program Activity - Develop a program/structure for supporting low income homeowners and landlords to navigate/find funding that will facilitate the implementation of actual construction/repairs needed for them to keep their properties safe, livable affordable and up to code.

Resources needed - Meet with staff and the Inspections office to see how they deal with this process currently. Consider procedural changes to accomplish improvements in processes for low income homeowners.

Intended results - Development of a program in which low income homeowners receive support in navigating and obtaining financial, repair/construction resources as opposed to being threatened by the consequences of enforcement tactics.

- Program Activity - Reviewing agency applications for City funding

Resources needed - Staff assistance to guarantee that members of the commission carefully review applications and conduct site visits to the agencies whose applications are being considered. Applicants must be invited to address the HAC concerning their needs/requests and their accomplishments.

Intended results - To guarantee that funding decisions are based on community needs and the actual performance of agencies being reviewed.

Commissioner Matthew Lewis:

- Register all rental units in the city.
- Allocate funding to Community Land Trusts and other democratized forms of housing.

### BACKGROUND

This year's work plan reflects the Commission's engagement with housing affordability and ongoing responsibilities of the Commission. The Commission is contemplating non-traditional housing ownership, tenancy, and development models.

### ENVIRONMENTAL SUSTAINABILITY

There are no direct environmental effects associated with the content of this report.

### POSSIBLE FUTURE ACTION

The HAC will continue to work on this Work Plan in order to refine potential outputs, outcomes, activities, and required resources.

### FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Adoption of the Work Plan in itself does not create fiscal impacts. However, it is possible that adoption of new programs, revised programs, or need for staff time could result in some fiscal impacts to the City. Additional discretionary funds may be necessary to fund activities in response to Council referrals including outreach, videography and space.

### CONTACT PERSON

Mike Uberti, Commission Secretary, HHCS (510) 981-5114





Planning Commission

43

INFORMATION CALENDAR  
September 24, 2019

To: Honorable Mayor and Members of the City Council

From: Planning Commission

Submitted by: Chris Schildt, Chairperson, Planning Commission and Jeff Vincent,  
Chairperson, Workplan Subcommittee of the Planning commission

Subject: Planning Commission Workplan 2019-2020

INTRODUCTION

The City of Berkeley Planning Commission (PC) hereby submits its work plan for Fiscal Year 2019, pursuant to the Berkeley City Council's request.

CURRENT SITUATION AND ITS EFFECTS

Unlike other city commissions, the PC's workload is almost exclusively dictated by referrals from the City Council. Each year, the Council goes through an extensive referral ranking process, which shapes the prioritization of work for the PC. Thus, by design, the PC has far less latitude than other city commissions in setting its agenda. As of October 2019, the PC has a workload of more than 40 referrals from the City Council.

The PC's workplan organizes the referrals around three strategic areas of PC interest/outcome, as described below. Across these strategic outcome areas, the PC aims to **demonstrate state-wide leadership in promoting social equity, affordability, and climate resilience issues**. In some cases, this requires action to comply with new state laws, and in some cases, this may involve going "beyond" state laws to recommend local land use policy policies that the PC feels will achieve more equitable results than state requirements.

***Strategic Outcome Areas:***

1. **Increase affordable housing.** This includes retaining and expanding the stock of affordable housing available throughout the city. The commission has identified three mechanisms by which we can advance this strategic outcome:
  1. Modify development standards to create more affordable housing;
  2. Revise administrative procedures and levels of discretion to streamline affordable housing;
  3. Develop community benefits and other value capture mechanisms in order to maximize affordability in new development.

2. **Promote healthy, livable communities.** This includes ensuring Berkeley residents live in safe, healthy, and accessible communities with parks, schools, local businesses, and cultural institutions, and promoting healthy mobility options for all residents.
3. **Support community economic development and commercial vitality.** This includes preserving and enhancing Berkeley's thriving neighborhood commercial areas and ensuring a vibrant downtown.

**Resources:** Significant staff time is required to conduct the research, write reports, and draft zoning language. In some cases, consultants are brought on board to assist staff.

**Activities:** For each referral, the PC's action requires staff time for substantive reports on each topic within each referral as well as developing draft zoning language changes. Often the draft zoning language goes through multiple revisions across multiple PC meetings.

**Outputs:** On nearly all referrals, the PC output consists of recommendations to the City Council.

#### BACKGROUND

City Council has requested that each commission provide a workplan that explains the mission and goals of each appointed body. The mission of the PC, as outlined in the City Charter, reads:

*"The Commission recommends modifications to the City of Berkeley General Plan and related policy documents. All Zoning Ordinance amendments are developed through this Commission and recommended to the City Council. Other purviews include subdivision map consideration and review and comments on substantial projects from surrounding jurisdictions."*

Members of the PC have discussed their goals and prioritized three strategic outcomes to guide their 2019-2020 work as described above: 1) Increase affordable housing; 2) Promote healthy, livable communities; and 3) Support community economic development and commercial vitality.

At its meeting of May 1, 2019, the PC voted to adopt this workplan with Commissioner Vincent's edits and send it to City Council. [Vote: 9-0-0-0; Ayes: Beach, Fong, Kapla, Lacey, Martinot, Twu, Vincent, Wrenn, Wiblin. Noes: None. Abstain: None. Absent: None. Motion/Second: Kapla/Vincent]

The attached Planning Commission Workplan Table 2019-2020 (see Attachment 1) shows prioritized referrals, referrals awaiting action from other commission(s), referrals ranked by City Council that are slated for PC action to begin after the current work planning period (ending June 2020) based on resources and capacity, and referrals not



ranked by City Council for 2019-2020 work plan but which will be added to PC work schedule in priority order once ranked by Council.

The PC's pace in working through City Council referrals is determinant on staff support. The Long Range Policy Group has just hired three fulltime staff planners that will support the workload of the PC.

ENVIRONMENTAL SUSTAINABILITY

The PC's workplan aids in advancing the city's goals around sustainability and greenhouse gas reduction.

CONTACT PERSON

Alene Pearson, Commission Secretary, Land Use Planning Division, 510-981-7489

Attachments:

1: Planning Commission Workplan Table 2019-2020

| REFERRALS to Planning Commission by the City Council                                    |                      | RANKING* - RRV & HAP |  | STRATEGIC OUTCOME AREAS        |                                         |                                                         |                                           |
|-----------------------------------------------------------------------------------------|----------------------|----------------------|--|--------------------------------|-----------------------------------------|---------------------------------------------------------|-------------------------------------------|
| A. Referrals Prioritized by PC for 2019-2020 Workplan                                   |                      |                      |  | 1. Increase Affordable Housing | 2. Promote Healthy, Livable Communities | 3. Support Economic Development and Commercial Vitality | Waiting on other Commission or Department |
| Moderate Impact Home Occupations                                                        | started              |                      |  |                                |                                         | x                                                       |                                           |
| Cannabis Package                                                                        | started & short-term |                      |  |                                | x                                       | x                                                       |                                           |
| Density Bonus Package / Objective Standards                                             | started              |                      |  | x                              |                                         |                                                         | JSISHL                                    |
| Student Housing Package                                                                 | started              |                      |  | x                              |                                         |                                                         |                                           |
| Adeline Plan (Community Benefits/Land Value Capture/Auto Uses/Opportunity Zone Overlay) | started              |                      |  | x                              | x                                       |                                                         |                                           |
| Streamline Permitting for Affordable Housing                                            | started              |                      |  | x                              |                                         |                                                         |                                           |
| Zoning Ordinance Revision Project Phase 1 & 2                                           | started              |                      |  |                                | x                                       |                                                         |                                           |
| Parking Reform (GAH & Green Dev Stds)                                                   | started              |                      |  | x                              | x                                       |                                                         |                                           |
| Flexible Ground Floor Uses                                                              | started              |                      |  | x                              |                                         |                                                         |                                           |
| Housing Linkage Fees                                                                    | started (short-term) |                      |  | x                              |                                         |                                                         |                                           |
| Toxic Remediation Regulations                                                           | started              |                      |  |                                | x                                       |                                                         |                                           |
| North Berkeley BART Zoning                                                              | started              |                      |  | x                              | x                                       |                                                         |                                           |
| Fee Waivers for Housing Trust Fund Projects                                             | started (short term) |                      |  | x                              |                                         |                                                         |                                           |

| B. Referrals Awaiting Action by Other Commission(s) |              |  |  | 1. Increase Affordable Housing | 2. Promote Healthy, Livable Communities | 3. Support Economic Development and Commercial Vitality | Waiting on other Commission or Department |
|-----------------------------------------------------|--------------|--|--|--------------------------------|-----------------------------------------|---------------------------------------------------------|-------------------------------------------|
| Green Stormwater Requirements from CEAC             | CEAC started |  |  |                                | x                                       |                                                         | CEAC                                      |
| Air Pollution Performance Standards from CEAC       | CEAC started |  |  |                                | x                                       |                                                         | CEAC                                      |
| Expand boundaries of Downtown Arts District         | OESD started |  |  |                                |                                         | x                                                       | OED                                       |

| REFERRALS to Planning Commission by the City Council | RANKING* - RRV & HAP | STRATEGIC OUTCOME AREAS |   |  |      |
|------------------------------------------------------|----------------------|-------------------------|---|--|------|
| ADUs in very high fire zones                         | 43                   |                         | x |  | Fire |
| Denial of Permits to Violators                       | 52                   |                         | x |  | HAC  |

| C. Referrals ranked by City Council, work to begin after end "started" projects, based on resources and capacity |             | 1. Increase Affordable Housing | 2. Promote Healthy, Livable Communities | 3. Support Economic Development and Commercial Vitality | Waiting on other Commission or Department |
|------------------------------------------------------------------------------------------------------------------|-------------|--------------------------------|-----------------------------------------|---------------------------------------------------------|-------------------------------------------|
| Gentrification/Displacement Research & Workshop                                                                  | 1           | x                              | x                                       |                                                         |                                           |
| Residential Development Standards (Missing Middle Research)                                                      | 2           | x                              | x                                       |                                                         |                                           |
| AHMF modifications to calculations                                                                               | 4           | x                              |                                         |                                                         |                                           |
| San Pablo Ave Specific Area Plan                                                                                 | 6           |                                | x                                       |                                                         |                                           |
| Junior ADUs                                                                                                      | 8           |                                |                                         |                                                         |                                           |
| Development Agreements                                                                                           | 10          |                                |                                         | x                                                       |                                           |
| Urban Forestry Ordinance                                                                                         | 15          |                                | x                                       |                                                         |                                           |
| Demolition Ordinance                                                                                             | HAP 16      | x                              |                                         |                                                         |                                           |
| ADA Improvements in ADUs                                                                                         | 18          |                                | x                                       |                                                         |                                           |
| AHMF modifcaiton: condo conversion existing tenants                                                              | 24          | x                              |                                         |                                                         |                                           |
| ADU Mods                                                                                                         | 30 / HAP 13 |                                | x                                       |                                                         |                                           |
| Inclusionary Requirement for Live/Work                                                                           | 33          | x                              |                                         |                                                         |                                           |
| Lower discretion for internal remodeling                                                                         | 42          |                                | x                                       |                                                         |                                           |
| Beer and wine service in the M-districts                                                                         | 46          |                                |                                         | x                                                       |                                           |
| ADUs for Homeless                                                                                                | 59          | x                              |                                         |                                                         |                                           |

| REFERRALS to Planning Commission by the City Council                                                                          | RANKING* - RRV & HAP | STRATEGIC OUTCOME AREAS        |                                         |                                                         |                                           |
|-------------------------------------------------------------------------------------------------------------------------------|----------------------|--------------------------------|-----------------------------------------|---------------------------------------------------------|-------------------------------------------|
| D. Referrals not ranked by City Council for 2019-2020 work plan; will be added to work schedule once ranked based on ranking. |                      | 1. Increase Affordable Housing | 2. Promote Healthy, Livable Communities | 3. Support Economic Development and Commercial Vitality | Waiting on other Commission or Department |
| Mini Dorms (student housing)                                                                                                  | NR                   | x                              |                                         |                                                         |                                           |
| Arcade Uses in Elmwood                                                                                                        | NR                   |                                |                                         | x                                                       |                                           |
| Cannabis Use in Live/Work                                                                                                     | NR                   |                                |                                         | x                                                       |                                           |

\* "started" is a referral on which substantive work began before last Council RRV, thus not subject to re-ranking. If blank, the referral has not yet been ranked by the City Council

NOTE: Many of these referrals touch on all 3 strategic outcome areas.

- Key:
- ADU = Accessory Dwelling Unit
  - AHMF = Affordable Housing Mitigation Fee
  - GAH = Green Affordable Housing
  - HAP = Housing Action Plan
  - NR = Not Ranked in 2019

## **Communications – 09/24/19**

*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.*

### **Item #4: IKE Smart City Kiosk Locations, Phase One**

1. Andy Kellogg, on behalf of the Lorin Business Association

### **Item #31: ZAB Appeal: 2325 Sixth Street**

2. Jenkins Family, owners of 2325 Sixth Street
3. Mary Beth Thomsen
4. Toni Mester
5. Bacilia Macias Architecture

### **Item #40: Deaccession of Berkeley Big People**

6. Chuck Cornwall
7. Matthew Passmore, Chair of the Public Art Subcommittee

### **ZAB Appeal: 0 Euclid – Verizon Cell Tower**

8. Paul Teicholz
9. Bronwyn Hall
10. Angelina DeAntonis

### **Youth Spirit Works – Tiny House**

11. Sally Hindman, on behalf of Youth Spirit Artworks

### **Aquatic Park – E Coli**

12. Barbara Gilbert
13. Eric Friedman

### **Public Safety Cameras**

14. David Lerman

### **ADU Laws**

15. Paul Rubin

### **RV's**

16. Cymbre Potter
17. Eric Friedman

### **Opportunity Zone**

18. Barbara Gilbert

### **Berkeley Housing Cooperative Village**

19. Tom Minogue Hastings

**5G**

- 20. Phoebe Anne Sorgen (2)
- 21. Stephanie Thomas
- 22. 19 form letters

**City Vehicle Emissions Audit**

- 23. Dave Margulius

**Marijuana Use**

- 24. Lynn Silver, on behalf of the public Health Institute

**Adeline Plan**

- 25. South Berkeley Now!

**Housing for a Diverse, Equitable and Creative Berkeley**

- 26. Abigail Gutmann-Gonzalez and Keith Brower Brown, on behalf of the East Bay Democratic Socialists of America

**Berkeley Police Department Bicycle Enforcement Policies**

- 27. Liza Lutzker, Ben Gerhardstein, Ben Paulos and Robert Prinz, on behalf of Walk Bike Berkeley and Bike East Bay

**Homelessness**

- 28. Juli Dickey
- 29. Diana Bohn
- 30. Erwan Illian

**Facial Recognition**

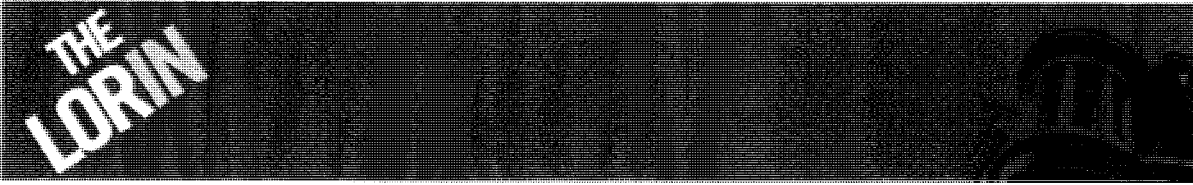
- 31. Diana Bohn
- 32. Carol Denney

**Non-Emergency Berkeley Police Department Phone Line**

- 33. David Lerman

**Smoking in Multi-Unit Housing**

- 34. Carlos Rivas



Lorin Business Association  
<https://www.lorinberkeley.org/home>  
[businesslorin@gmail.com](mailto:businesslorin@gmail.com)

To City Council members,

The Lorin Business Association approves of the IKE project and planned initial locations within the district at Woolsey ave. and Adeline St.(Ashby Bart) & Alcatraz Ave. and Adeline St. We believe the Kiosks will provide a stimulating display of information that will hopefully attract more patrons and visitors to our commercial district.

Andy Kellogg  
LBA President

**Benado, Tony**

---

**From:** msseymourd@gmail.com  
**Sent:** Tuesday, September 03, 2019 9:12 AM  
**To:** City Clerk  
**Subject:** Written Communication for Council Agenda - 2325 Sixth Street – Use Permit#ZP2017-0146  
**Attachments:** Jenkins Family - Ltr to Berkeley City Council\_090219.pdf

Hello City Clerk,

As the applicant party, we are submitting the attached correspondence to be included in the agenda packet for the City Council hearing on September 24th.

Thank you,  
Denise Seymour

--



September 2, 2019

City Clerk Department  
Berkeley City Council  
2180 Milvia Street, 1<sup>st</sup> floor  
Berkeley, CA 94704

RE: 2325 Sixth Street – Appeal ZAB Decision Use Permit#ZP2017-0146

Dear City Council Members,

Due to the controversy our application for a use permit for 2325 Sixth Street has initiated, we regretfully write this letter to clarify our intent and to bring closure to any inaccurate and non-neighborly comments expressed by surrounding residents.

We are the Jenkins family. Our family moved to the neighborhood in 1957 when Lee and Gladys Jenkins purchased the property as their first home. Since this time, the home has remained in our family making us Berkeley tax payers for 62 years and counting. In fact, it is our belief we are one of the oldest families remaining on our block.

When our parents, Mr. and Mrs. Lee Jenkins, (now great-great grandparents) moved into the house on sixth street, they were a family of nine living in a three-bedroom/one-bathroom home. Although having additional bedrooms and bathrooms to accommodate their family would have allowed them to live more comfortably, they were proud to be homeowners. Room sharing (three to four to a room) was a familiar arrangement for their children, so they managed with the space they could afford.

Once all their children graduated and moved away from home, Gladys Jenkins continued to live in the house many years after until an unfortunate day in early 2005 when she experienced a life-threatening condition that partially paralyzed her among other lingering conditions. Although she slowly and later regained most of her mobility and faculties with therapy, her family decided she needed amenities and services that could best be provided by senior housing.

Now, fast-forward to September 18, 2017 when we submitted our application and design plans for a permit, our intent was pure. It was, and still is, our greatest desire to bring our family story full circle by enabling Gladys Jenkins to return home accompanied by members of her family who also need accommodations and can watch and care for her. Our second intent is to upgrade the existing structure by expanding the overall livable space, making the home technologically smart and green, and making the lower level 100% handicapped accessible. Our plans also include utilizing the available land that is part of our lot, which has been underutilized for years, to provide covered parking and a workspace perfect for a work-from-home situation.

Unfortunately, however, the driving force to care for our aging parent and grand-parent, Gladys Jenkins, and to provide accommodations for our extended family, has been lengthen and challenged by a discouraging and controversial permitting process. Prior to the ZAB hearing on May 9<sup>th</sup> 2019, several measures were taken to ensure we were within the zoning guidelines.

The City Planner, Alison Lenci, took great care with reviewing our plans. She was thorough and very meticulous. As a result, our architect, Bacilia Macias, revised our design plans five times. As the applicants, we have also taken the process seriously. At the suggestion of the City Planner and our architect, we reached

out to the neighbors to discuss their concerns with no resolve. The permit process, although designed with good intentions, does not seem to foster good neighborly relations.

After adjusting the plans based on the City Planner's feedback and the change request subsequently made at the ZAB hearing, we are confident our plans are well within the zoning requirements and guidelines and are adjusted to accommodate legitimate neighbor concerns. However, we're concerned, this does not seem to be enough of a consideration for our neighbors even though our structure is sandwiched between two (2) two-story structures: 2321/2323 Sixth Street (Mary Beth Thomsen) and 2339 Sixth Street (April Schirmer).

Having our intentions questioned, innuendos made regarding the use of our property and land, which is our legal right to use, is not only disheartening but the manner in which it is being done is also insulting, disappointing and hurtful to experience and hear. In so many words, the neighbors have expressed having greater rights than we do, but we know this is not the case.

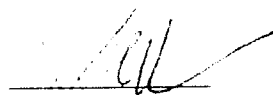
If they can take advantage of their space and land to build 8ft plus fencing, non-legal height, to provide privacy and greater comfort to enjoy their lifestyle in a two-story structure with a backyard unit or two, utilizing a two-story custom-built structure as a multi-purpose space and allow their extended family to move in, then we too have the same rights. Anything less is double-standard.

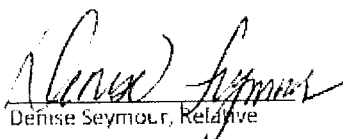
Therefore, we urge the council to fairly evaluate our project. If we are not violating any zoning or renovation guidelines or perimeters, then we ask you, the City Council Members, to support the ZAB's decision by approving our use permit requests. When we started this project, we had hoped to be well into the construction phase within the thirteenth latest fifteenth month. Instead, 24 months later, we're still trying to get through the permitting process which is beginning to create a hardship on our ability to provide home-assisted care and meet the needs of our family timely and in the best possible way.

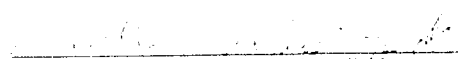
Sincerely,

The Jenkins Family

  
Taifa (Gladys) Jenkins, Co-Owner      Date      9/2/2019

  
LaShan Jenkins, Co-Owner      Date      9/2/2019

  
Denise Seymour, Relative      Date      9/2/2019

  
Barbara Jenkins-Jacobs, Daughter/Sibling      Date      9/2/2019

CITY OF BERKELEY  
 CITY CLERK DEPT  
 September 9, 2019  
 2019 SEP -9 PM 1: 16

Berkeley City Council  
 City Clerk Department  
 City Hall  
 2180 Milvia Street, 1<sup>st</sup> Floor  
 Berkeley, CA 94704

Dear Council Members,

I am writing to add to my appeal of the Zoning Adjustments Board's decision of May 9, 2019, in regards to the proposed project at 2325 Sixth Street, Berkeley, Use Permit #ZP2017-0145.

I recently learned that the City Council might not be able to mandate mediation with the applicants, as I was requesting. As a result, to be sure that my appeal conforms with the options available to the Council, I am submitting this supplemental statement. Although my neighbors and I have previously submitted quite voluminous material documenting our objections to this project, we intended to discuss specific mitigations during mediation. In case that cannot occur, I will briefly review our concerns and detail necessary mitigations here. We ask that these mitigations become conditions for approval of this Use Permit or that you remand this matter to the ZAB with directions to approve them.

While I feel that the ZAB's actions on May 9, 2019, were a promising and very welcomed start, the Board was contending with a short time frame and the need to hear another complicated matter later that same night and was thus not able to adequately address many of this proposal's problems and adverse impacts. The following issues remain:

- 1.) The proposed location of the north wall of the main building. Although I documented this issue in my written statement to the ZAB dated May 9, 2019, neither the written nor verbal Planning Department staff report described the demolition and rebuilding of this north wall, which will be cantilevered 1'4" to create a larger second story (see proposed east/rear elevation). This unnecessary expansion of the second floor increases the shadowing, noise, and privacy impacts on me, at 2321 6<sup>th</sup> Street., by reducing the setback from 5'5" to 4'1". Since the ZAB did act to reduce the rear mass of this building and to improve fenestration, recognizing the impact of this imposing bulk on my privacy and sunlight, I think they would not have ignored this additional intrusion if they had been made aware of it. I ask that the cantilever be removed and that the north wall of the main building stay in its current location.
- 2.) The large number of bedrooms on the second floor. The ZAB approved a reduction of the second story by 203 square feet, to allow for some sunlight to continue to reach my property to the north. Combining that reduction with removing the cantilever (approximately 85 square feet) will result in a second story area of approximately 1151 square feet (a reduction of 288 square feet from the current proposal of 1439 square

feet). Reducing this top-heavy massing would create a smaller second story that would be much more in harmony with our surrounding neighborhood.

- 3.) The potential for this development becoming a mini-dorm. The current configuration of four equally sized bedrooms with four bathrooms (three and three, with ZAB modifications), allows for the easy establishment of a mini-dorm. We already had a preview of that possibility in June and July of this year, when 6+ students rented this property, meeting the definition of a mini-dorm as specified in Berkeley Ordinance No. 7,455-N.S. I described the first weeks of their noisy and inebriated tenancy in my appeal dated June 14, 2019. Their pattern of late-night drinking and singing and yelling continued through the end of July, resulting in a total of at least 8 complaints by neighbors, either to the owners, the occupants, or the police. Consequently, to avoid this becoming the de facto arrangement, we request that the interior configuration of the second story adhere to the master-bedroom-plus-smaller-bedroom(s) model.
- 4.) The two-story accessory building in the south east corner. David and Althaea Greenstone have eloquently detailed the impact of this accessory building on their home at 2324 7<sup>th</sup> Street, making impassioned objection to the erection of this large box (averaging a height of 19'3") set right on their west property line with a setback of only 1'4". They furnished letters, photographs, shadowing studies, and a virtual reality presentation to illustrate the detrimental impact, especially as it is intensified and compounded by the similar effects of the two-story apartment building directly to their south. ZAB's approval of this accessory building just as proposed was devastating to them. They sold their house.

Although the Greenstones are gone, the issues with this accessory building still remain. The applicants describe the second-story as intended to be a workshop or home office, but it was established at the ZAB hearing that it can be used as a short-term rental. This seems to be its true purpose. The presence of a deck, for example, is not required by a workshop; it would, though, be an amenity in advertising a short-term rental.

I believe that the ZAB erred in approving this two-story structure with only the 1'4" setbacks from the read and side property lines. Berkeley Municipal Code 23D.08.030 allows for less than a 4' setback for an accessory building with fire protections, but I believe that Planning Department staff, upon whose factual representations the Board relied, erred in making the recommendation to approve a two-story building that can be used for short-term rentals so close to those two property lines. In justifying this miniscule setback by measuring the distance to buildings in adjacent lots, rather than to the lot lines, staff applied an inequitable and preferential practice that is unfair to other property owners who are then limited in similar use of their own properties.

Further, I believe that the discretionary Administrative Use Permits (AUPs) that allow a two-story building so close to the property lines constitutes an unintentional loophole in the code, by allowing for the establishment of a two-story short-term rental closer to

property lines than the code would allow for any other second units in the R-1A (12' to 20' rear and 6' side) or for Accessory Dwelling Units (5') in all residential zones. By approving this accessory building as is, the City Council will have established a precedent allowing two story short-term rentals, without adequate and standard setbacks, in all residential zones of the city.

- 5.) The Floor Area Ratio (FAR) of this proposal. FAR scores are a clear and simple way of calculating and comparing the built-up densities of different properties. The current FAR of #2325 is .21. The over-all square footage, even with the reduction of the second story that the ZAB already approved, would be 3523 square feet, increasing the FAR to .58. This is far in excess of the average building mass on our block, which is .25, when the two apartment complexes are omitted. (See attached FAR map.) Removing the cantilever and the second story of the accessory building would reduce the total floor area to 3067 square feet (1443 square feet for the first floor; 1151 square feet for the 2<sup>nd</sup> floor; 473 square feet for the garage) and would still result in a FAR of .51, exceeding all of the adjacent lots.

Clearly, the mitigations we are requesting would not deprive the owners of sufficient expansion to meet any reasonable needs. The level of build-up they are requesting is gratuitous and unnecessary for their enjoyment of and wish to leverage and profit from their property. It would, however, greatly interfere with our quality of life, as we have amply documented.

Thank you for the considerable time and attention to detail that this matter has required and deserved.

Sincerely,

Mary Beth Thomsen  
2321 6<sup>th</sup> Street, Berkeley, CA 94710  
510-295-8491  
[marybeth.thomsen@gmail.com](mailto:marybeth.thomsen@gmail.com)



# Floor Area Ratio (FAR) map

For Assessment Use Only

re: 2329. 6th Street

use permit # ZP 2017-0145

## ASSESSOR'S MAP 56

Code Area No. 13-000

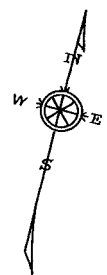
1941

Map of Tract B. Berkeley Land and Town Improvement Association  
Corrected Map of the Raymond Tract (Bk 10 Pg 12) (Bk 19 Pg 79)

Scale 1 in = 40 ft.

Bancroft 1964 Way Channing Way

REVISED 11-27-11



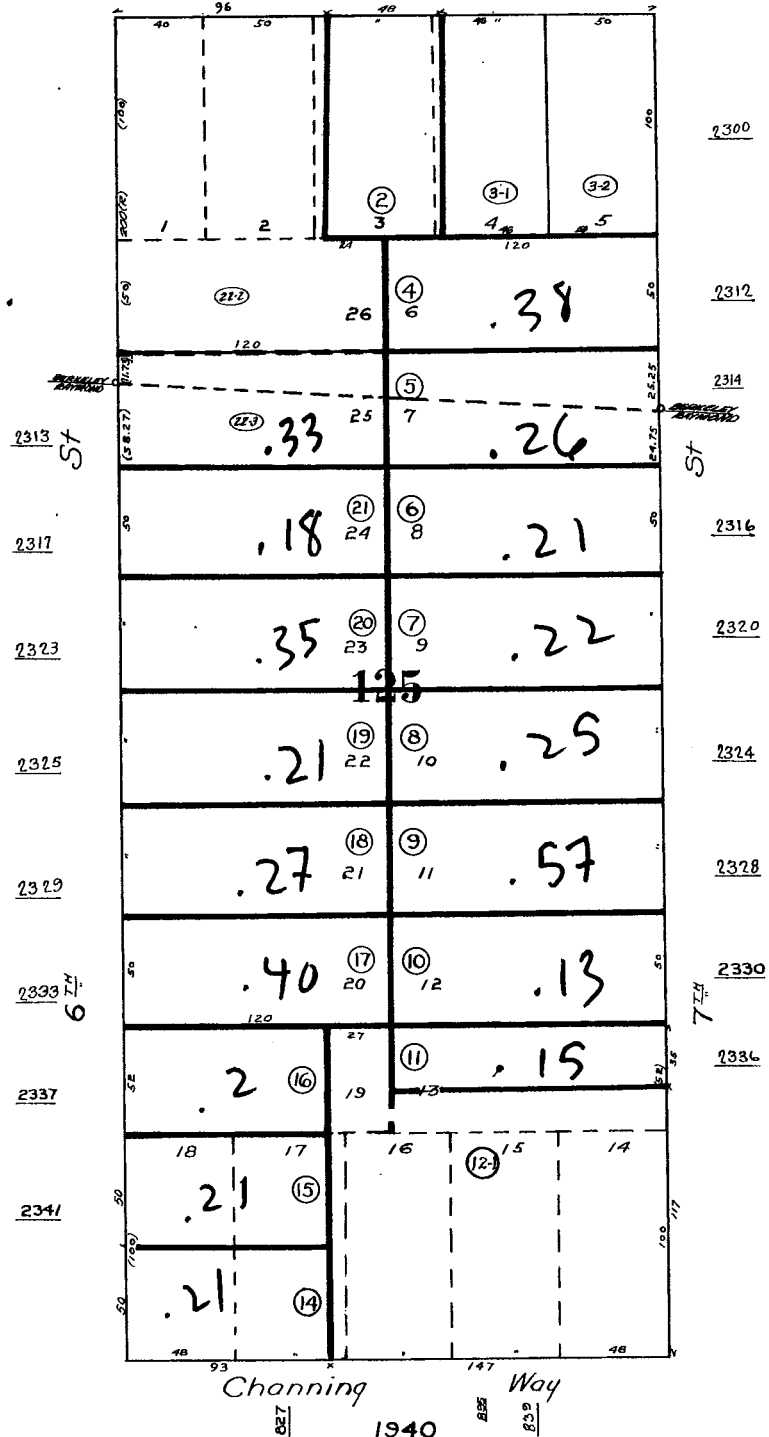
6th St.

7th St.

1942

1938

- 6 units



Mary Beth Thomsen  
9.9.2019 658  
510 295 8491

To: the Berkeley City Council  
 From: Toni Mester  
 RE: Agenda of September 24: Appeal of 2325 Sixth Street

### **Stable v. Speculative Neighborhoods**

The appeal of 2325 Sixth Street raises persistent land use policy issues that have plagued Berkeley since the inception of the current zoning in 1949 and become epidemic during periods of land value inflation. An earlier era of “unchecked demolition and inappropriate replacement construction” - in the words of the General Plan - led to the Neighborhood Preservation Ordinance of 1973, which imposed procedures to limit demolitions and promoted public vetting of proposed projects.

The current land value escalation poses similar dangers to neighborhood stability and the preservation of existing housing stock, but history suggests that we look elsewhere than ever more procedure but focus instead on improving planning and the zoning code.

The proposed project at 2325 Sixth Street is speculative, designed to sell at the highest price by including a mini-dorm on the second story of the main building that maximizes the floor area by cantilever and extension into the front yard setback and a mini-hotel, aka short-term rental, as the second story of a two-car garage.

A mini-dorm is defined as “any building in an R-1, R-1A, R-2, R-2A, or R-3 Zoning District that contains a dwelling unit that is occupied by six or more persons over the age of eighteen years...” and is regulated by chapter 13.42 of the municipal code, “Operating Standards for Mini-Dorms and Group Living Accommodations.”

These rules were meant to apply to existing residences that have been converted to mini-dorms, not the establishment of new mini-dorms. As originally proposed, the large unit on the second floor of the 2325 Sixth Street main building included four bedrooms and four baths as well as spacious common areas labeled living, dining, and family. Even with the reduction proposed by the ZAB, this plan can easily house six people. The intent is evident in that the bedrooms are of equal size, not sized for a family, featuring a master bedroom for the parents and rooms for children. Even if the tenants numbered four, each bedroom with a private bath could be rented for \$1500 each for an income of \$6,000 a month, more than a single family could afford.

The policy question raised by the size of the second story of the main building is whether the City wants to encourage the establishment of mini-dorms in stable family-oriented neighborhoods or restrict them to “co-living” arrangements in apartment buildings along the avenues? Accordingly, if the City wishes to prohibit or limit the establishment of new mini-dorms in the neighborhoods, what would be the appropriate way to do so?

The problems inherent in the proposed two-story accessory building with a height of 19'3", just 18 inches from the property line are even more profound, as they swirl around a perfect storm of various code sections that together allow a mini-hotel that violates the intent of height and setback restrictions regulating other kinds of human habitation.

The R-1A (23D.20) allows a rear house with a maximum height of 22 feet that is 6 feet from the side property line and 12-20 feet from the rear property line. An ADU (23C.24) can be 14-18 feet in height and must be set back at least four feet from the side and rear property lines, and an ADU above a garage must be setback at least five feet from both lines.

The purpose of these setbacks is to minimize negative impacts on neighboring properties. How can a short-term rental be allowed to exceed the height of an ADU and be located a mere foot and a half from the property lines when the impacts of a short-term rental - with guests coming and going - are even more extreme than the activities of stable tenants in a rear unit or an ADU?

The reason is that the allowance for a short-term rental in an accessory building considered existing structures and not the establishment of a short-term rental. The difference between an accessory building and an accessory dwelling unit essentially lies in the kitchen. A dwelling unit including an ADU requires a full kitchen, meaning a stove-top and oven either together as a range or separated and a refrigerator over 10 cubic feet in size, and a sink. An accessory building can qualify with a sink, a hot plate, a microwave, and a small refrigerator; most people in this world would consider such amenities completely adequate for their kitchen needs.

The reduction in the setback requirements for accessory buildings or structures (23D.08) is allowed by administrative use permit, regardless of whether the building can be used as a short-term rental, like the proposed 472 square feet accessory "workshop" at 2325 Sixth Street. Clearly, these allowances must be reconsidered. Approval constitutes a precedent that will foment discontent in every residential zone when owners realize they can build a two-car garage with a luxury hotel room on top, a short-term rental including a bathroom, a quasi-kitchen, a bed or convertible, and a deck that can produce an income of over \$1,000 a month.

Unless the City Council wants to encourage the establishment of short-term rentals located practically on residential property lines, the second story of the garage of this proposed project should either be eliminated or the entire structure setback five feet to conform to the ADU standards. In addition, the matter should be referred to the Planning Commission or the land-use policy subcommittee for further consideration with an eye on amending the zoning code pertaining to the establishment of short-term rentals.

Improving the Berkeley zoning code to maintain stable residential neighborhoods, to lessen time-consuming appeals, and to increase the number of units available to families should be a priority. Some ways to improve the zoning code are to create better design standards including the daylight plane, to institute FAR in all zones, and to limit the ability of staff to change requirements by the granting of administrative use permits. No other city gives staff such power so that the exceptions appear to outnumber the rules. Unfortunately such flexibility comes at the expense of neighboring homeowners.

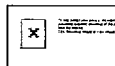
In passing the rent stabilization ordinance, Berkeley residents showed their concern for the rights of tenants. It's about time that homeowners in this City had the same assurance of stability with dependable zoning standards. That's why development rules are called standards: they apply to all lots in the zone. They are rules, not suggestions.



**Benado, Tony**

---

**From:** WeTransfer <noreply@wetransfer.com>  
**Sent:** Monday, September 09, 2019 3:38 PM  
**To:** City Clerk  
**Subject:** bacilia@bmarch.net sent you files via WeTransfer



bacilia@bmarch.net  
sent you some files

1 item, 7.72 MB in total • Will be deleted on 16 September, 2019

Dear Tony,

Here is the packet for the item #ZP2017-0146. The sheets are formatted to 11x17. Some are in color and some are in black and white.

Please let me know document is readable on your end.

Thank you and please confirm receipt.

[Get your files](#)

Download link

<https://wetransfer.com/downloads/ff8d02e9e38feaae46977d5110db6ad20190909223723-3896154970119338c684a96531756f09020190909223723-12caaa>

1 item

2325 6th Str submission for City Council 9\_9\_2019.pdf

7.72 MB

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## CODES

2019 CA FIRE CODE  
 2019 CA BUILDING CODE  
 2019 CA ELECTRICAL CODE  
 2016 CA PLUMBING CODE  
 2016 CA ELECTRICAL CODE  
 2019 ENERGY CODE  
 2019 CA GREEN CODE  
 2019 CA RESIDENTIAL CODE

## PROJECT SCOPE

PERMITS FOR CONSTRUCTION OF A NEW 2-UNIT RESIDENTIAL BUILDING WITH A 2-STORY ATTACHED GARAGE AND WORKSHOP ON TOP FLOOR.

## PROJECT DATA

TITLE: RESIDENTIAL ADDITION  
 BERKELEY, CALIFORNIA

ZONING: R1A  
 DISTRICT: 14.5  
 CONSTRUCTION TYPE: V1B  
 SHAPKILERS: NO  
 LOT SIZE: 4,600 SF

SETBACKS:  
 FRONT = 20'  
 REAR = 20'  
 SIDE = 4'

## AREA TABULATIONS

| STRUCTURE INFORMATION (EXISTING) |              | NO. OF GARAGE                   |         |
|----------------------------------|--------------|---------------------------------|---------|
| AREA                             | CONSTRUCTION | NO. OF STORIES/OCCUPANCY LIMITS | PARKING |
| 15711                            | V 8          | 1                               | 1       |
| TOTAL                            |              | 1                               | 1       |

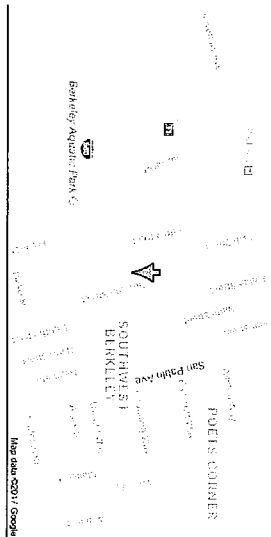
  

| STRUCTURE INFORMATION (PROPOSED) |              | NO. OF GARAGE                   |         |
|----------------------------------|--------------|---------------------------------|---------|
| AREA                             | CONSTRUCTION | NO. OF STORIES/OCCUPANCY LIMITS | PARKING |
| 15711                            | V 8          | 2                               | 2       |
| 15711                            | V 8          | 2                               | 2       |
| TOTAL                            |              | 4                               | 4       |

| CONTENTS   |                |
|------------|----------------|
| DATE       | DESCRIPTION    |
| 08/22/2019 | REVISED        |
| 08/18/2018 | DATE           |
| 07/21/2018 | BY BM          |
| 07/21/2018 | SCALE AS NOTED |

## VICINITY MAP



## RESIDENTIAL ADDITION TO CREATE DUPLEX AND NEW GARAGE/WORKSHOP

2325 6TH STREET  
 BERKELEY, CA  
 APN # 056-194-19

## BACILIA MACIAS ARCHITECTURE

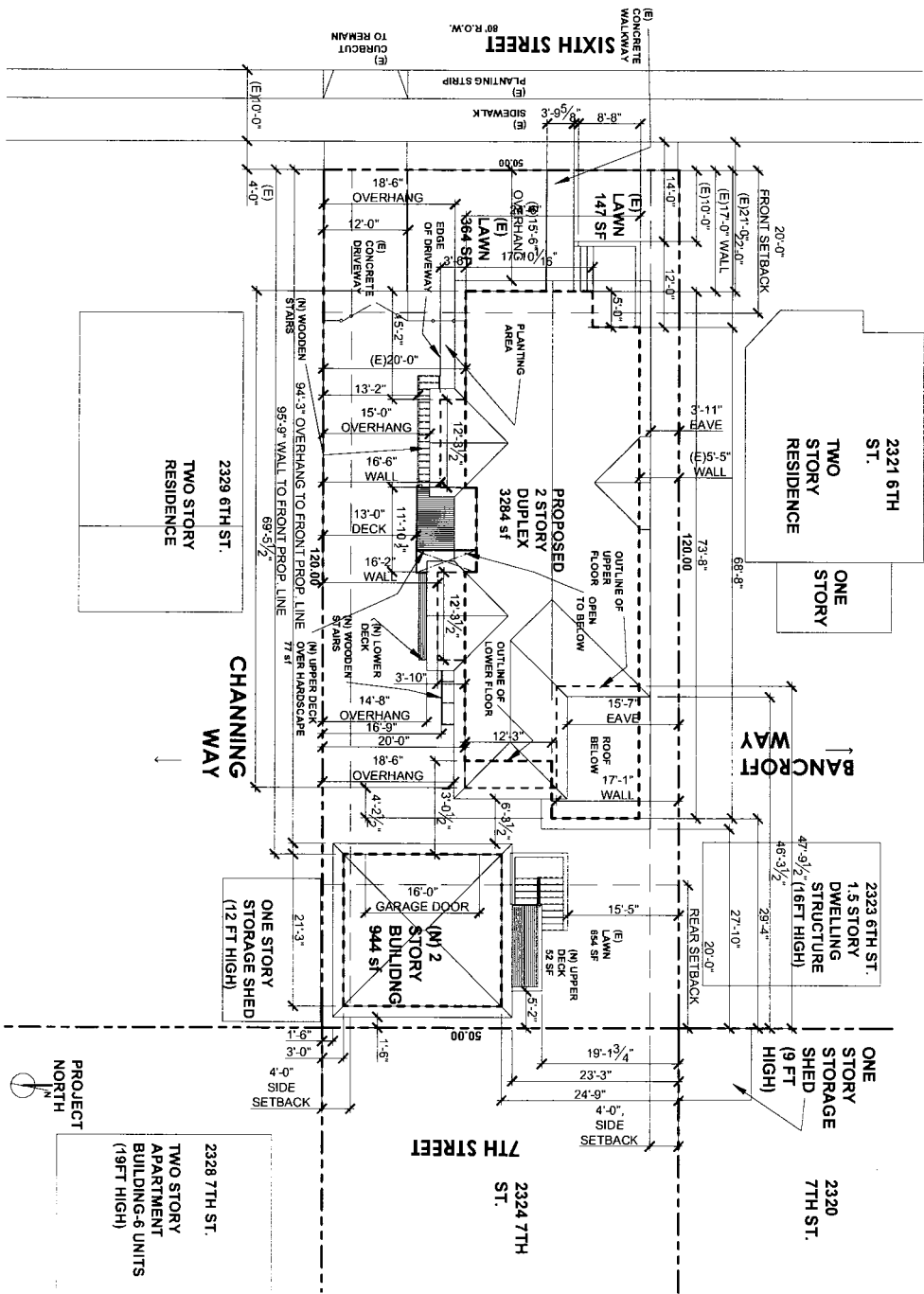
732 gilman street berkeley ca 94710  
 510.691.7910 ph bacilia@bmatch.net

REVISED AUG. 22, 2019  
 Date SEPT. 18, 2018  
 Drawn by BM  
 Scale AS NOTED

TITLE SHEET

A0.0





1 PROPOSED SITE PLAN  
1/16" = 1'-0"

**RESIDENTIAL ADDITION TO  
CREATE DUPLEX AND NEW  
GARAG / WORKSHOP**

2325 6TH STREET  
BERKELEY, CA  
APN # 056-194-19

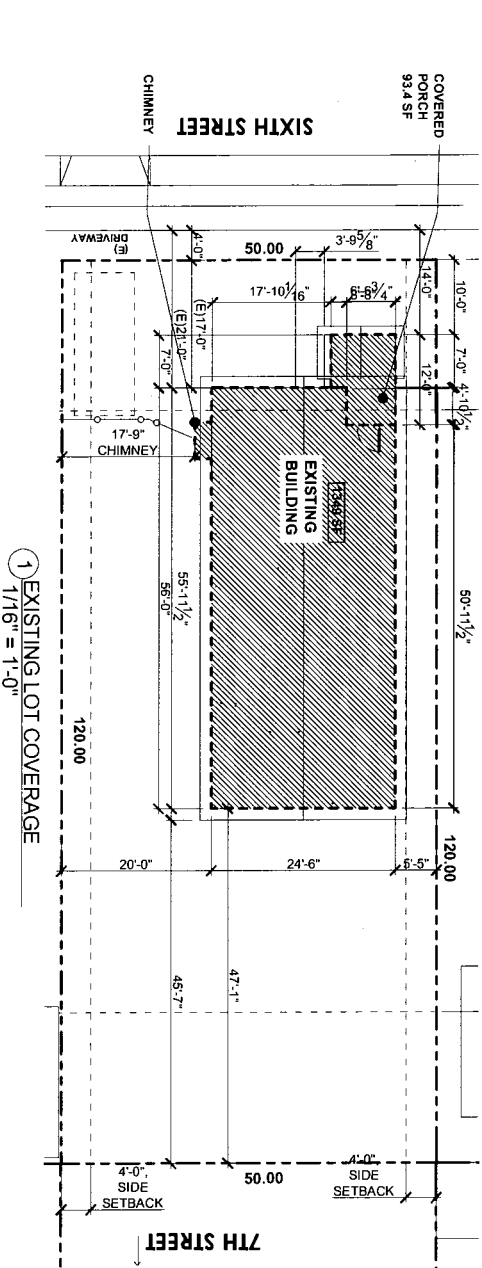
**BACILIA MACIAS  
ARCHITECTURE**

732 gilman street berkeley ca 94710  
510.691.7910 ph bacilia@bmatch.net

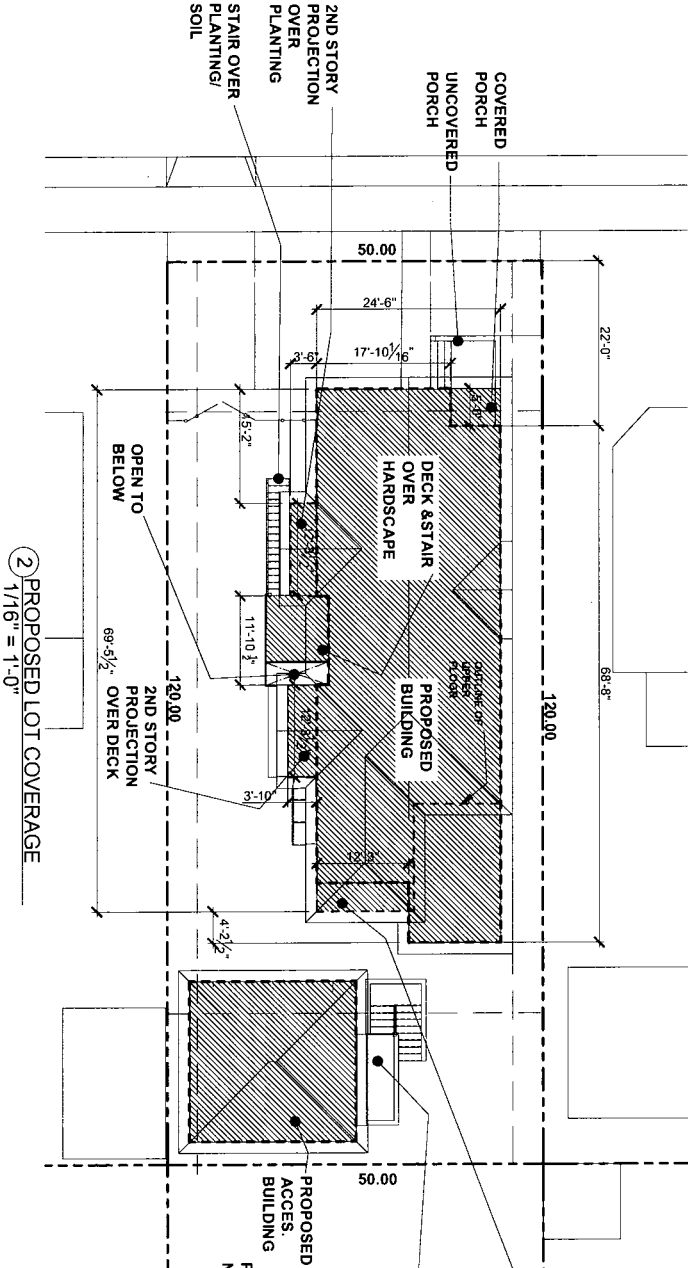
**A0.2**

PROPOSED  
SITE PLAN

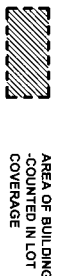
REVISED: AUG. 22, 2019  
Date APRIL 19, 2019  
Drawn by BM  
Scale AS NOTED



1 EXISTING LOT COVERAGE  
1/16" = 1'-0"



2 PROPOSED LOT COVERAGE  
1/16" = 1'-0"



HATCH LEGEND

| EXISTING      |           | PROPOSED                |         |
|---------------|-----------|-------------------------|---------|
| HOUSE         | 1389 SF   | HOUSE                   | 1789 SF |
| PORCH(THROAT) | 53.4 SF   | COVERED DECKS OR STAIRS | 77 SF   |
| TOTAL         | 1442.4 SF | PORCH(THROAT)           | 33 SF   |
| PERCENTAGE    | 24.0%     | ACCESS STRUCTURE        | 423 SF  |
|               |           | TOTAL                   | 2322 SF |
|               |           | PERCENTAGE              | 39.5%   |

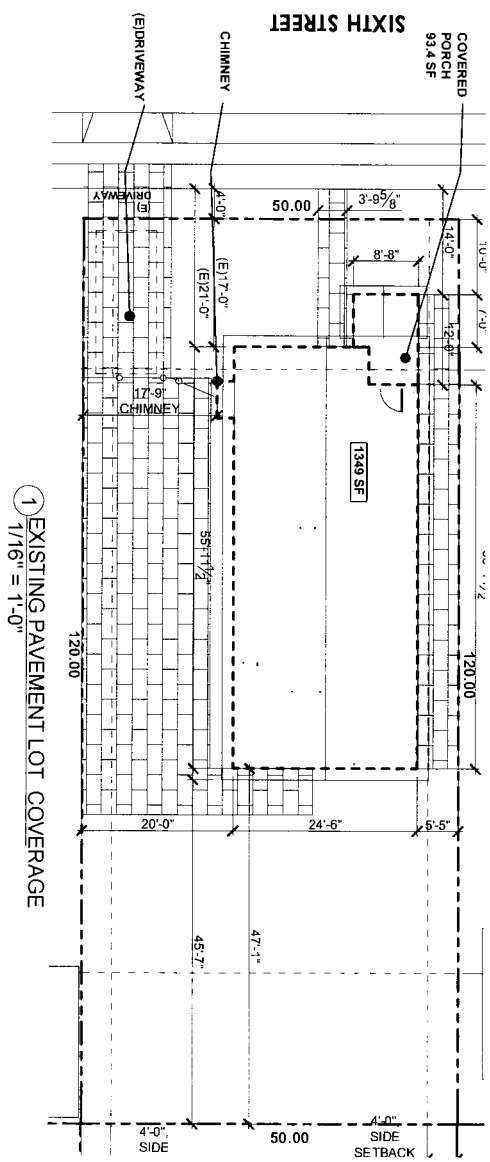
**RESIDENTIAL ADDITION TO  
CREATE DUPLEX AND NEW  
GARAG / WORKSHOP**  
2325 6TH STREET  
BERKELEY, CA  
APN # 056-194-19

**BACILIA MACIAS  
ARCHITECTURE**  
732 gilman street berkeley ca 94710  
510.691.7910 ph bacilia@bmarch.net

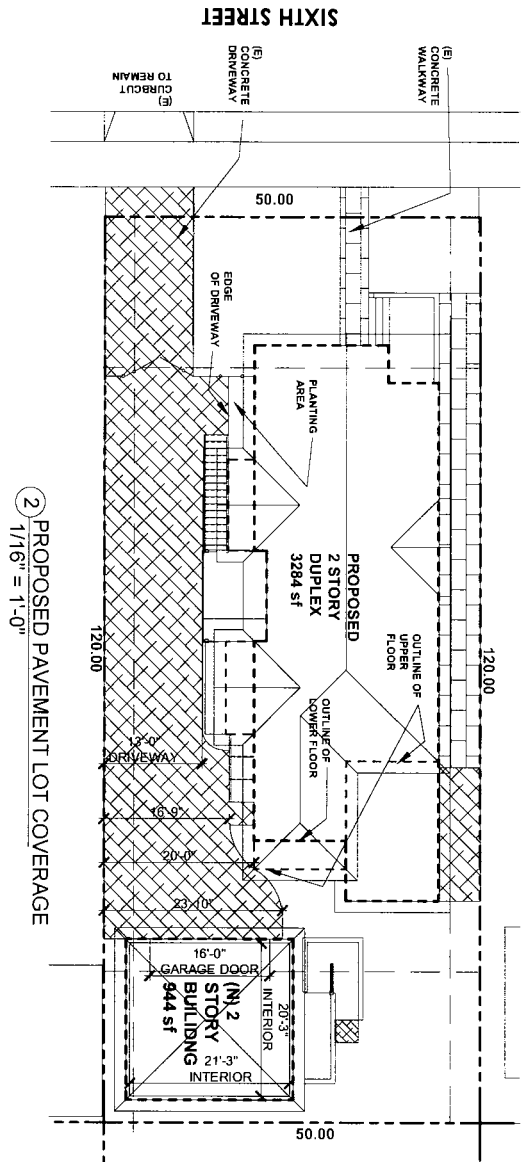
**A0.3**

EXISTING AND  
PROPOSED  
LOT COVERAGE

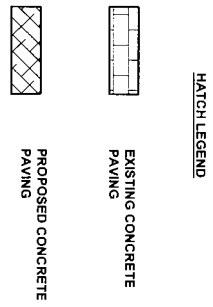
REVISED: AUG. 22, 2019  
Date APRIL 19, 2019  
Drawn by BM  
Scale AS NOTED



1 EXISTING PAVEMENT LOT COVERAGE  
1/16" = 1'-0"



2 PROPOSED PAVEMENT LOT COVERAGE  
1/16" = 1'-0"



| LOT COVERAGE |         |
|--------------|---------|
| EXISTING     | 1349 SF |
| PROPOSED     | 544 SF  |
| TOTAL        | 1893 SF |
| PERCENTAGE   | 144.4%  |
| PERCENTAGE   | 24.0%   |

| PROPOSED             |         |
|----------------------|---------|
| HOUSE                | 1602 SF |
| COVERED DECKS/STAIRS | 77 SF   |
| POOR/INSET           | 33 SF   |
| ACCESS STRUCTURE     | 479 SF  |
| DRIVEWAY             | 286 SF  |

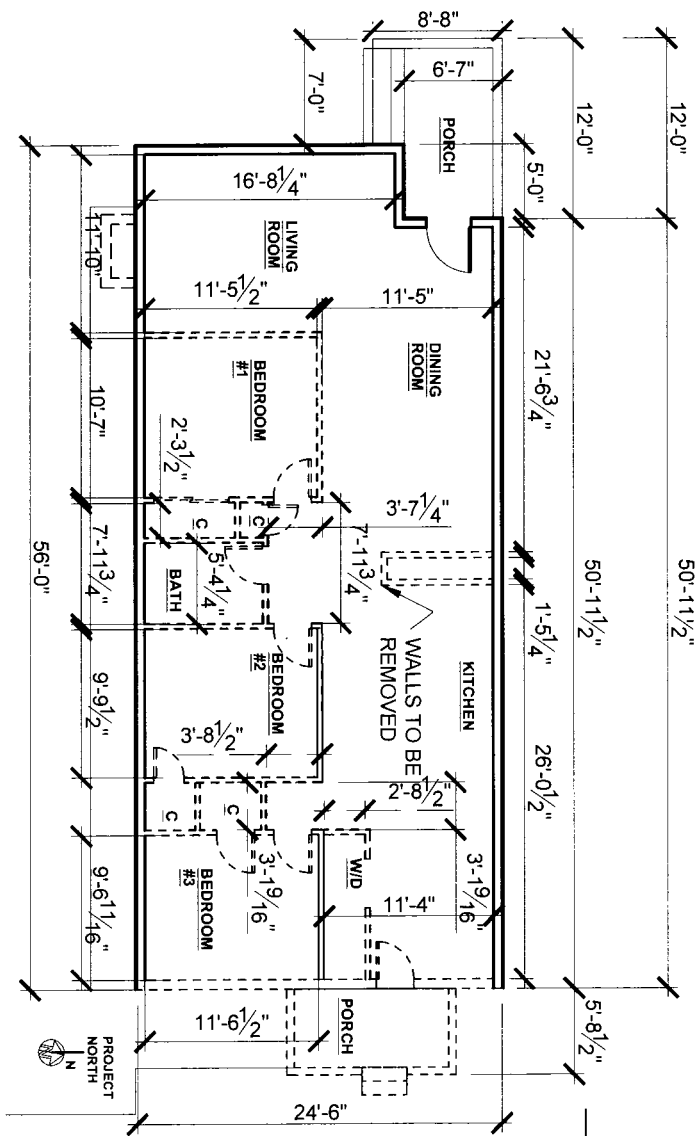
**RESIDENTIAL ADDITION TO  
CREATE DUPLEX AND NEW  
GARAG / WORKSHOP**  
2325 6TH STREET  
BERKELEY, CA  
APN # 056-194-19

**BACILIA MACIAS  
ARCHITECTURE**  
732 gilman street berkeley ca 94710  
510.691.7910 ph bacilia@bmatch.net

**A0.31**  
EXISTING AND  
PROPOSED  
PAVEMENT  
COVERAGE

REVISED: AUG. 22, 2019  
Date APRIL 19, 2019  
Drawn by BM  
Scale AS NOTED

① DEMOLITION FLOOR PLAN



RESIDENTIAL ADDITION TO  
CREATE DUPLEX AND NEW  
GARAGE/WORKSHOP

2325 6TH STREET  
BERKELEY, CA  
APN # 056-194-19

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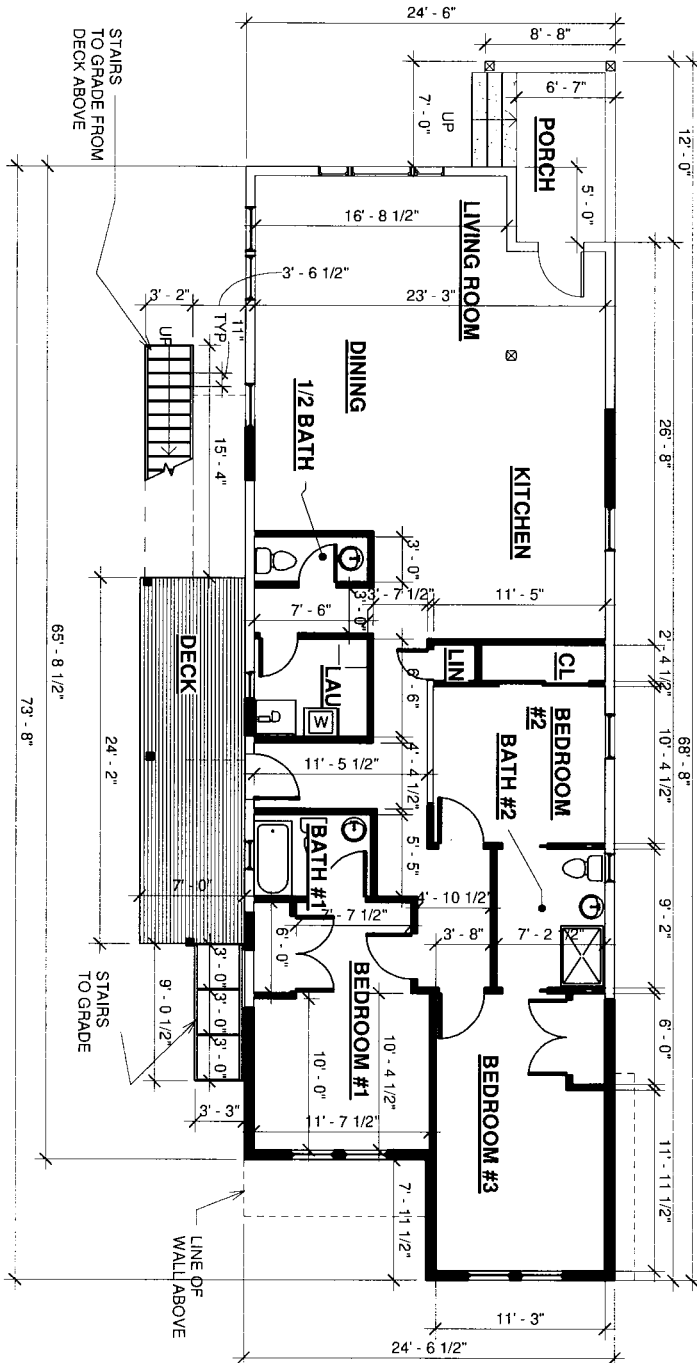
A1.0

DEMOLITION  
PLAN

Date SEPT. 18, 2018  
Drawn by  
Scale: AS NOTED



# 6TH



1 PROPOSED LOWER FLOOR  
1/8" = 1'-0"



# A2.0

PROPOSED FIRST FLOOR PLAN

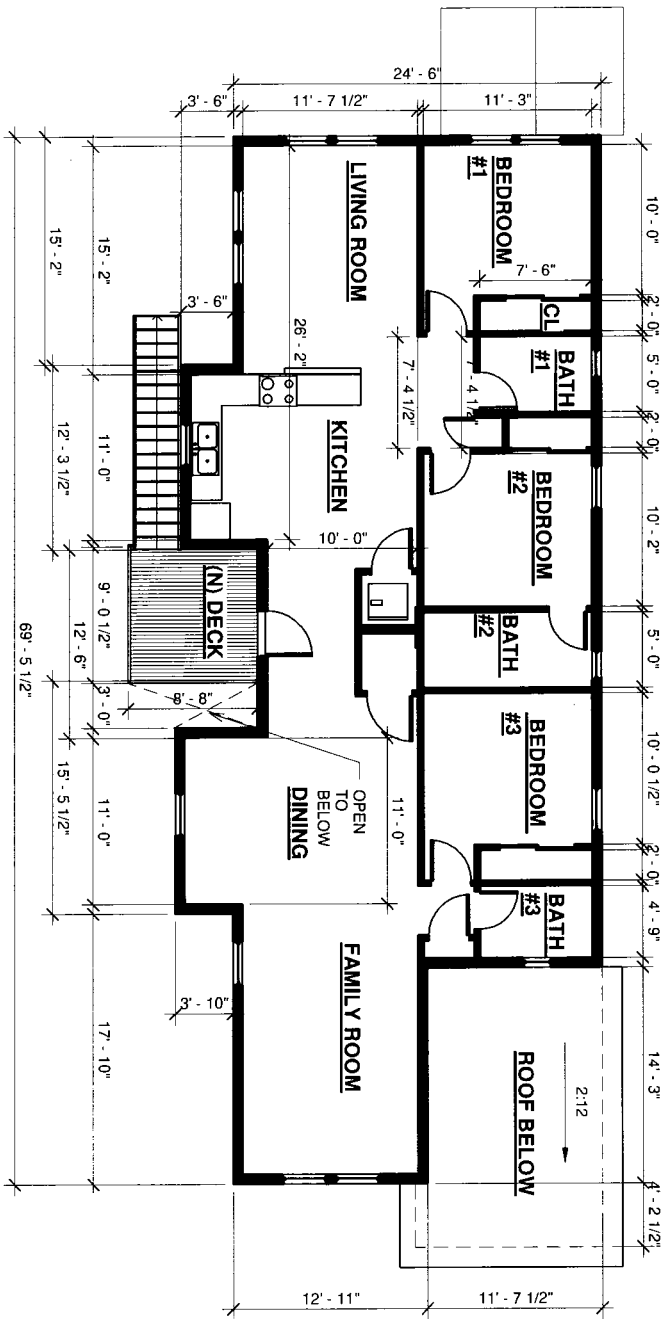
REVISION: AUG. 22, 2019  
Date SEPT. 18, 2018  
Drawn by BM  
Scale 1/8" = 1'-0"

RESIDENTIAL ADDITON TO  
CREATE DUPLEX AND NEW  
GARAGE / WORKSHOP

2325 SIXTH ST  
BERKELEY, CA  
APN # 056-194-10190

BACILIA MACIAS  
ARCHITECTURE

732 gilman street berkeley ca 94710  
510.691.7910 ph bacilia@bmatch.net



1 (N) SECOND FLOOR  
1/8" = 1'-0"



**A2.1**

PROPOSED SECOND FLOOR PLAN

REVISION: AUG. 22, 2019  
Date SEPT. 18, 2018  
Drawn by Author  
Scale 1/8" = 1'-0"

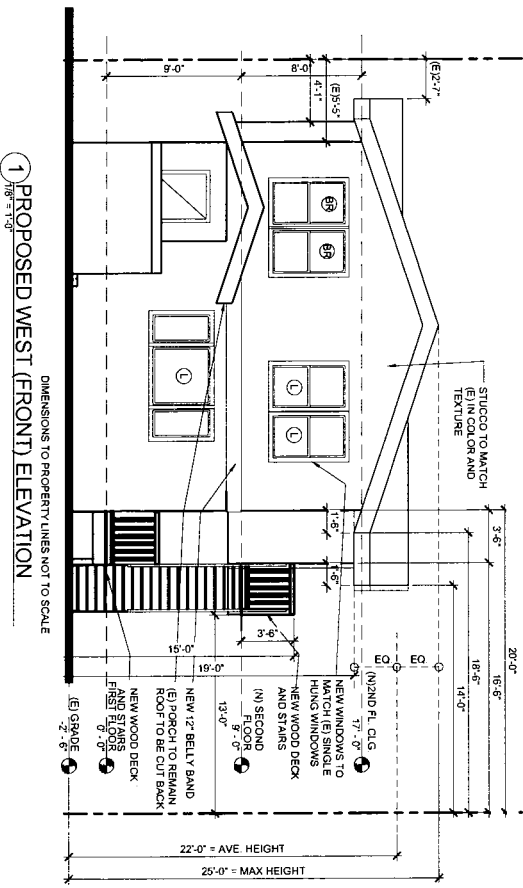
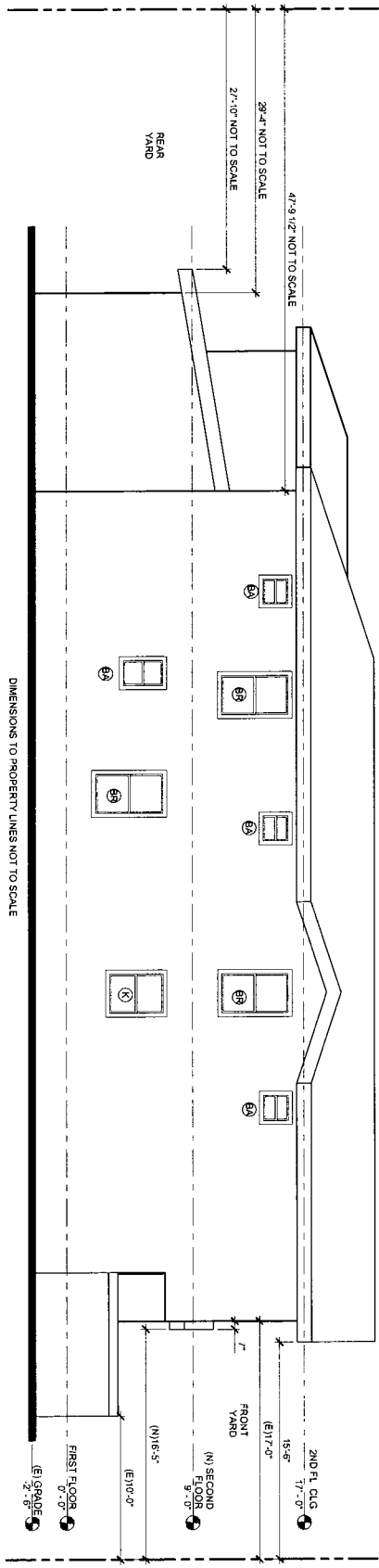
**RESIDENTIAL ADDITION TO  
CREATE DUPLEX AND NEW  
GARAGE / WORKSHOP**

2325 SIXTH ST  
BERKELEY, CA  
APN # 056-194-10190

**BACILIA MACIAS  
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510.691.7910 ph bacilia@bmatch.net





2 PROPOSED NORTH (LEFT) SIDE ELEVATION

1 PROPOSED WEST (FRONT) ELEVATION

OPENINGS LEGEND

- Ⓟ BEDROOM
- Ⓠ BATHROOM
- Ⓡ GARAGE
- Ⓢ WORKSHOP
- Ⓣ LAUNDRY
- Ⓤ FAMILY RM
- Ⓥ DINING
- Ⓦ KITCHEN
- Ⓧ LIVING
- Ⓨ BATHROOM
- Ⓩ BEDROOM

RESIDENTIAL ADDITION TO  
CREATE DUPLEX AND NEW  
GARAGE/WORKSHOP

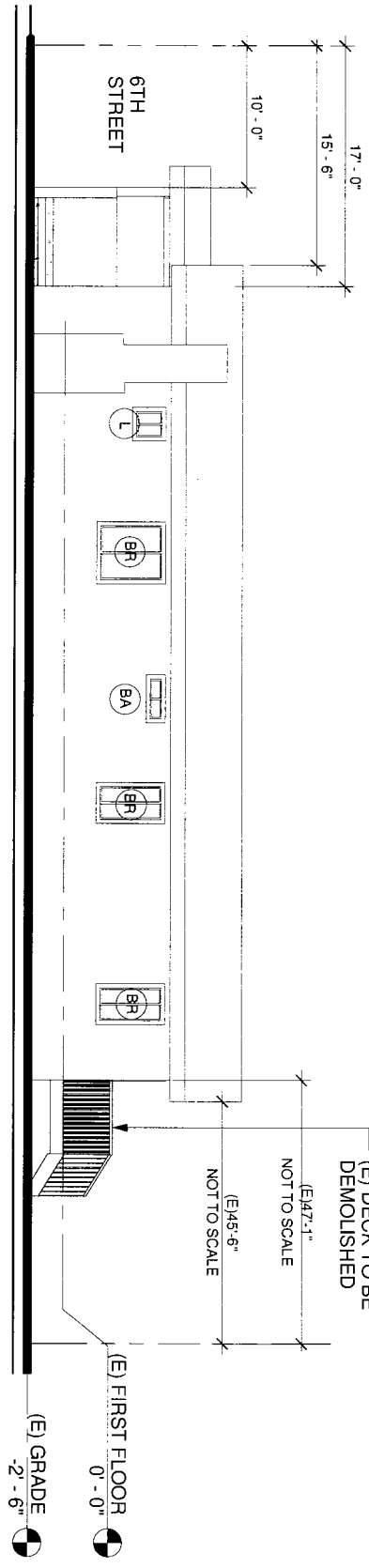
2325 6TH STREET  
BERKELEY, CA  
APN # 056-194-19

BACILIA MACIAS  
ARCHITECTURE  
732 gilman street berkeley ca 94710  
510.691.7910 ph bacilia@bmatch.net

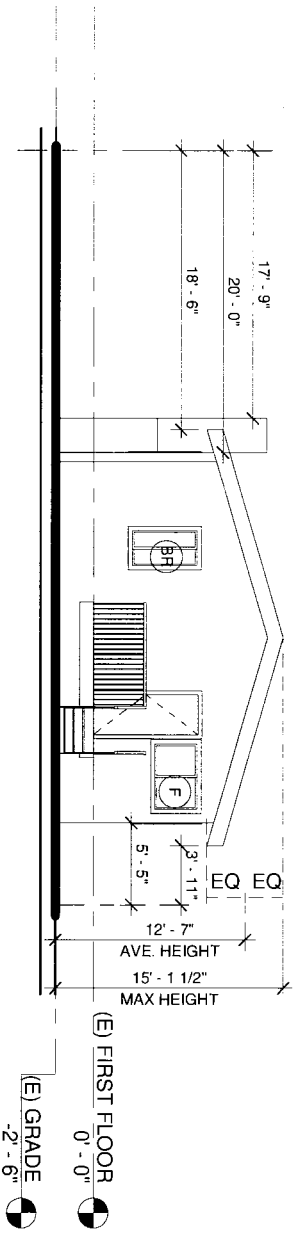
A3.2

PROPOSED  
EXTERIOR  
ELEVATIONS

REVISED AUG. 22, 2019  
Date SEPT. 18, 2018  
Drawn by BM  
Scale AS NOTED



① EXISTING SOUTH (RIGHT) SIDE ELEVATION  
1/8" = 1'-0"



② EXISTING EAST (REAR) ELEVATION  
1/8" = 1'-0"

- OPENINGS LEGEND**
- (BD) BEDROOM
  - (BA) BATHROOM
  - (L) LIVING
  - (K) KITCHEN
  - (D) DINING
  - (F) FAMILY RM.

**A3.0** EXISTING EXTERIOR ELEVATIONS

REVISION: AUG. 22, 2019  
 Date SEPT. 18, 2018  
 Drawn by Author  
 Scale 1/8" = 1'-0"

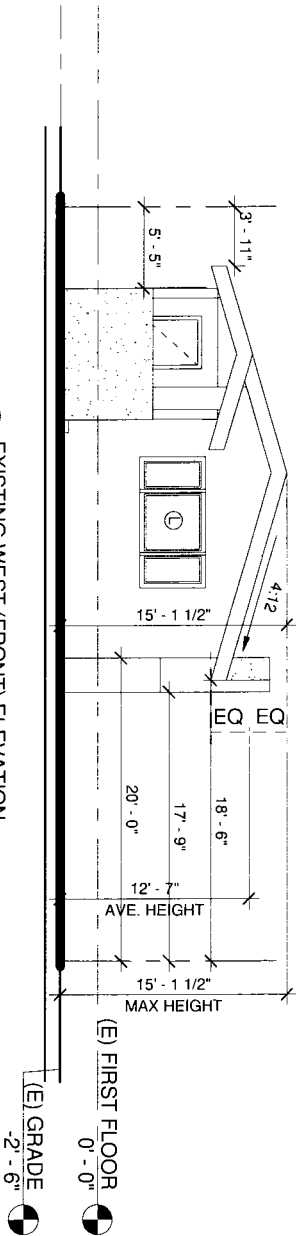
**RESIDENTIAL ADDITON TO  
 CREATE DUPLEX AND NEW  
 GARAGE / WORKSHOP**

2325 SIXTH ST  
 BERKELEY, CA  
 APN # 056-194-10190

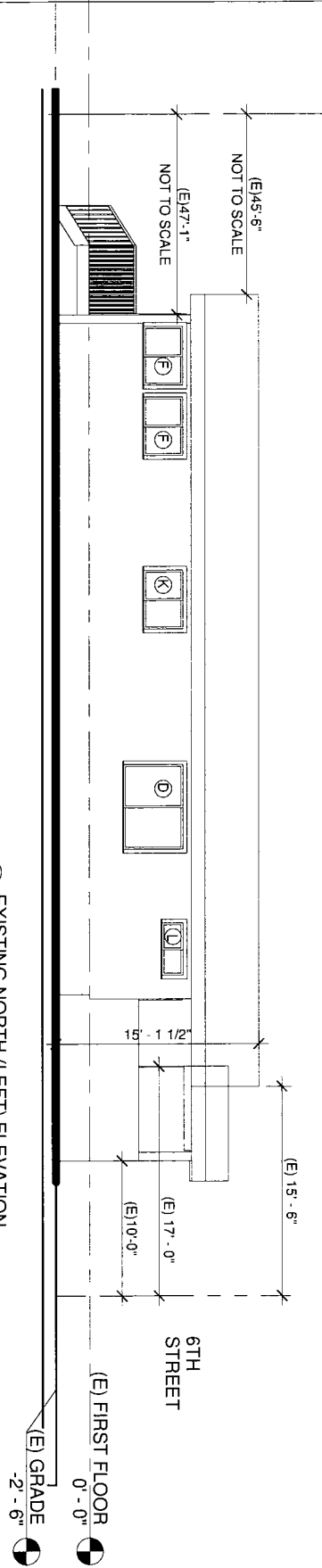
**BACILIA MACIAS  
 ARCHITECTURE**

732 gilman street berkeley ca 94710  
 510.691.7910 ph bacilia@bmarch.net

1 EXISTING WEST (FRONT) ELEVATION  
1/8" = 1'-0"



2 EXISTING NORTH (LEFT) ELEVATION  
1/8" = 1'-0"



**A3.1**

EXISTING EXTERIOR ELEVATIONS

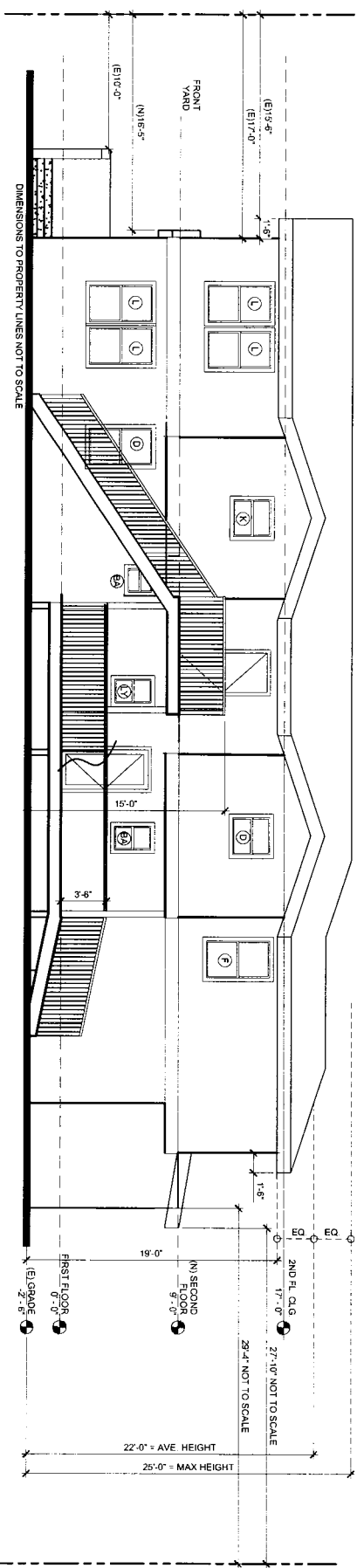
|           |                |
|-----------|----------------|
| REVISION: | AUG. 22, 2019  |
| Date      | SEPT. 18, 2018 |
| Drawn by  | Author         |
| Scale     | 1/8" = 1'-0"   |

**RESIDENTIAL ADDITON TO  
CREATE DUPLEX AND NEW  
GARAGE / WORKSHOP**

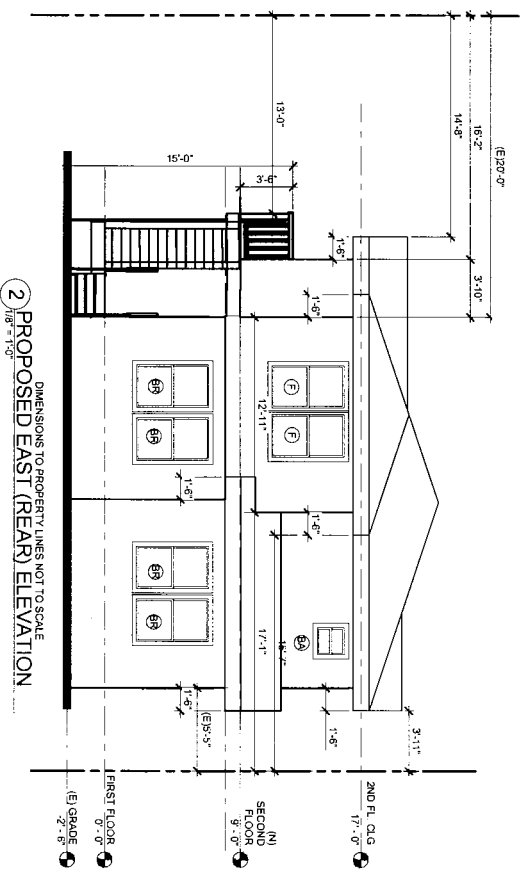
2325 SIXTH ST  
BERKELEY, CA  
APN # 056-194-10190

**BACILIA MACIAS  
ARCHITECTURE**

732 gilman street berkeley ca 94710  
510.691.7910 ph bacilia@bmatch.net



1 PROPOSED SOUTH (RIGHT) SIDE ELEVATION  
1/8" = 1'-0"



2 PROPOSED EAST (REAR) ELEVATION  
1/8" = 1'-0"

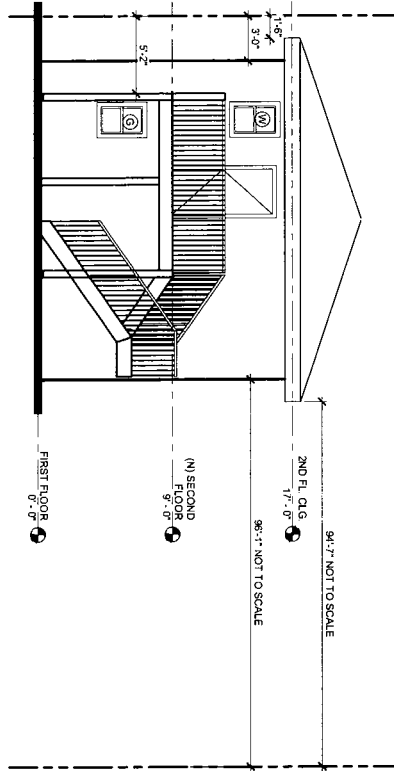
A3.3

PROPOSED  
EXTERIOR  
ELEVATIONS

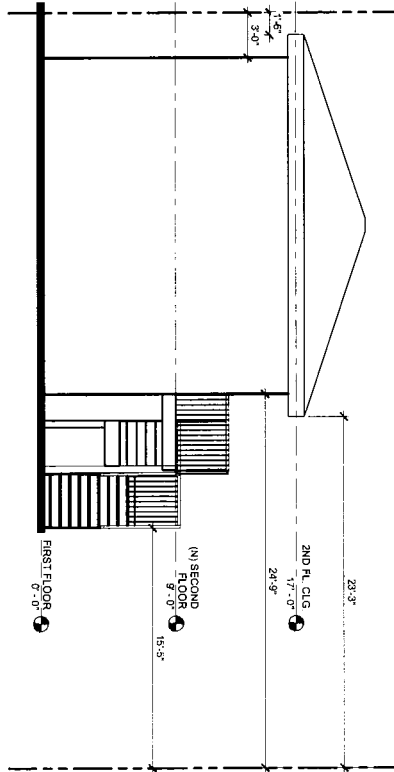
REVISED AUG. 22, 2019  
Date SEPT. 18, 2018  
Drawn by BM  
Scale AS NOTED

RESIDENTIAL ADDITION TO  
CREATE DUPLEX AND NEW  
GARAGE/WORKSHOP  
2325 6TH STREET  
BERKELEY, CA  
APN # 056-194-19

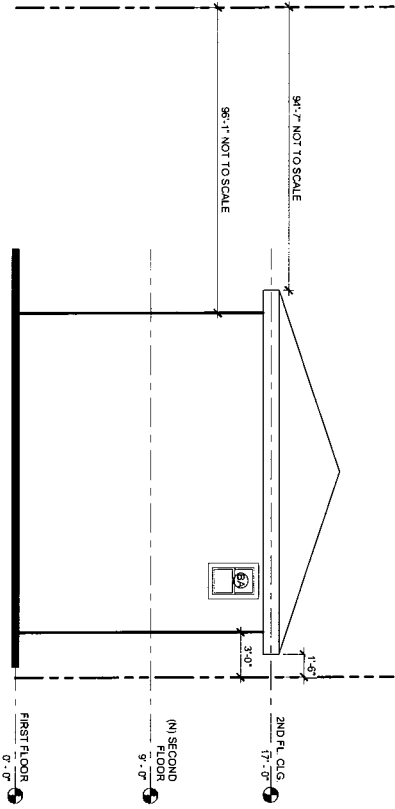
BACILIA MACIAS  
ARCHITECTURE  
732 gilman street berkeley ca 94710  
510.691.7910 ph bacilia@bmarch.net



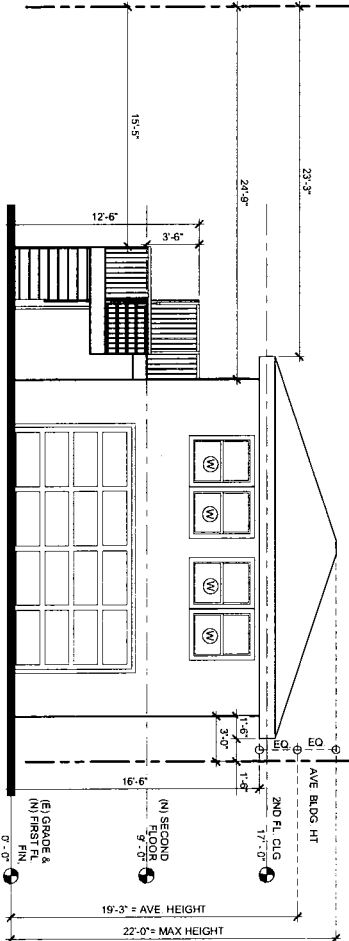
4 PROPOSED NORTH (LEFT) SIDE ELEVATION  
1/8" = 1'-0"



2 PROPOSED EAST (REAR) ELEVATION  
1/8" = 1'-0"



3 PROPOSED SOUTH (RIGHT) SIDE ELEVATION  
1/8" = 1'-0"



1 PROPOSED WEST (FRONT) ELEVATION  
1/8" = 1'-0"

**RESIDENTIAL ADDITION TO  
CREATE DUPLEX AND NEW  
GARAGE/WORKSHOP**

2325 6TH STREET  
BERKELEY, CA  
APN # 056-194-19

**BACILIA MACIAS  
ARCHITECTURE**

732 gilman street berkeley ca 94710  
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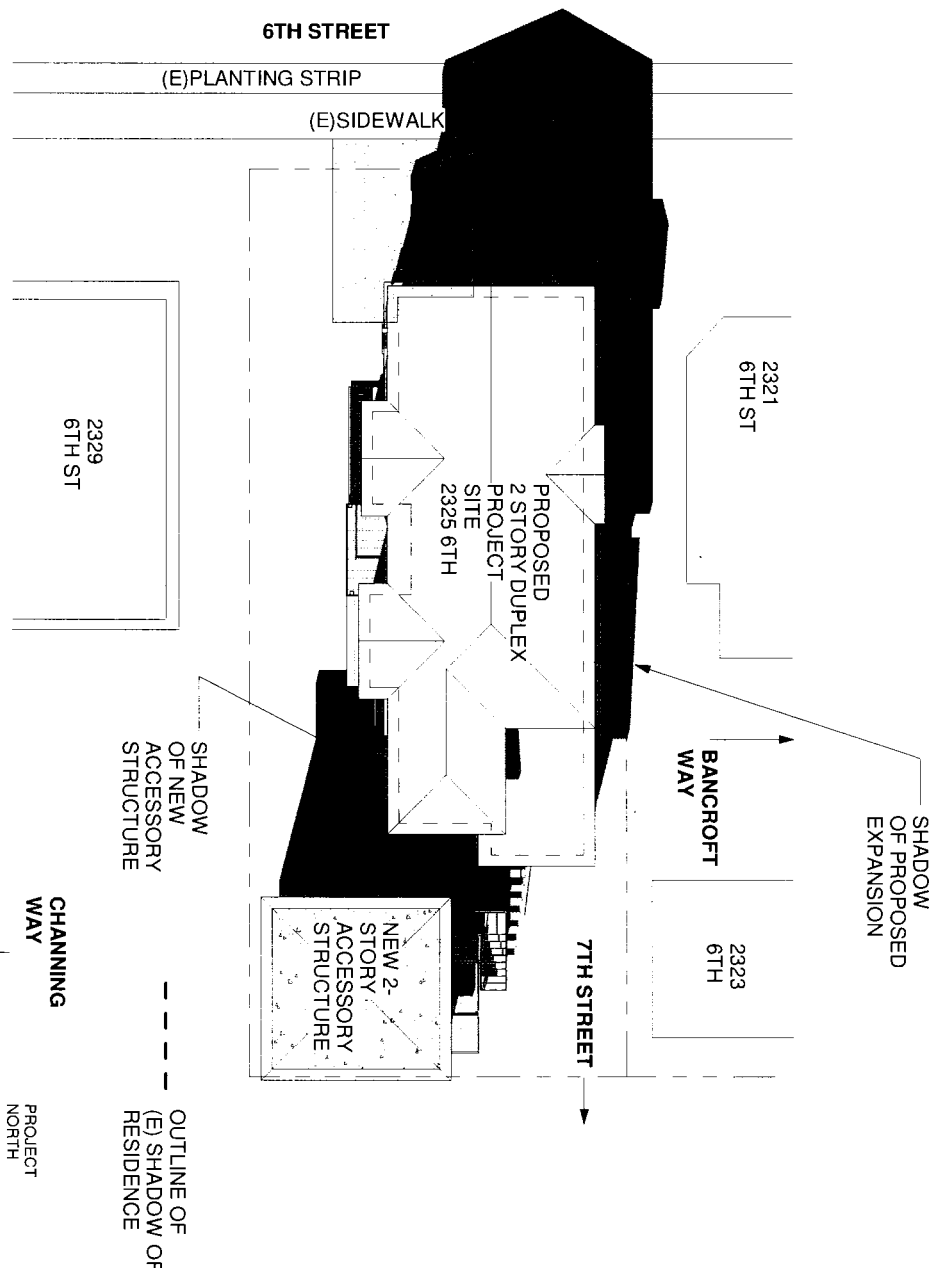
**A3.4**

PROPOSED  
EXTERIOR  
ELEVATIONS  
NEW REAR  
STRUCTURE

REVISED AUG. 22, 2019  
Date SEPT. 18, 2018  
Drawn by BM  
Scale AS NOTED



1 PROPOSED PROJECT SUMMER 7:48 AM  
 1/16" = 1'-0"



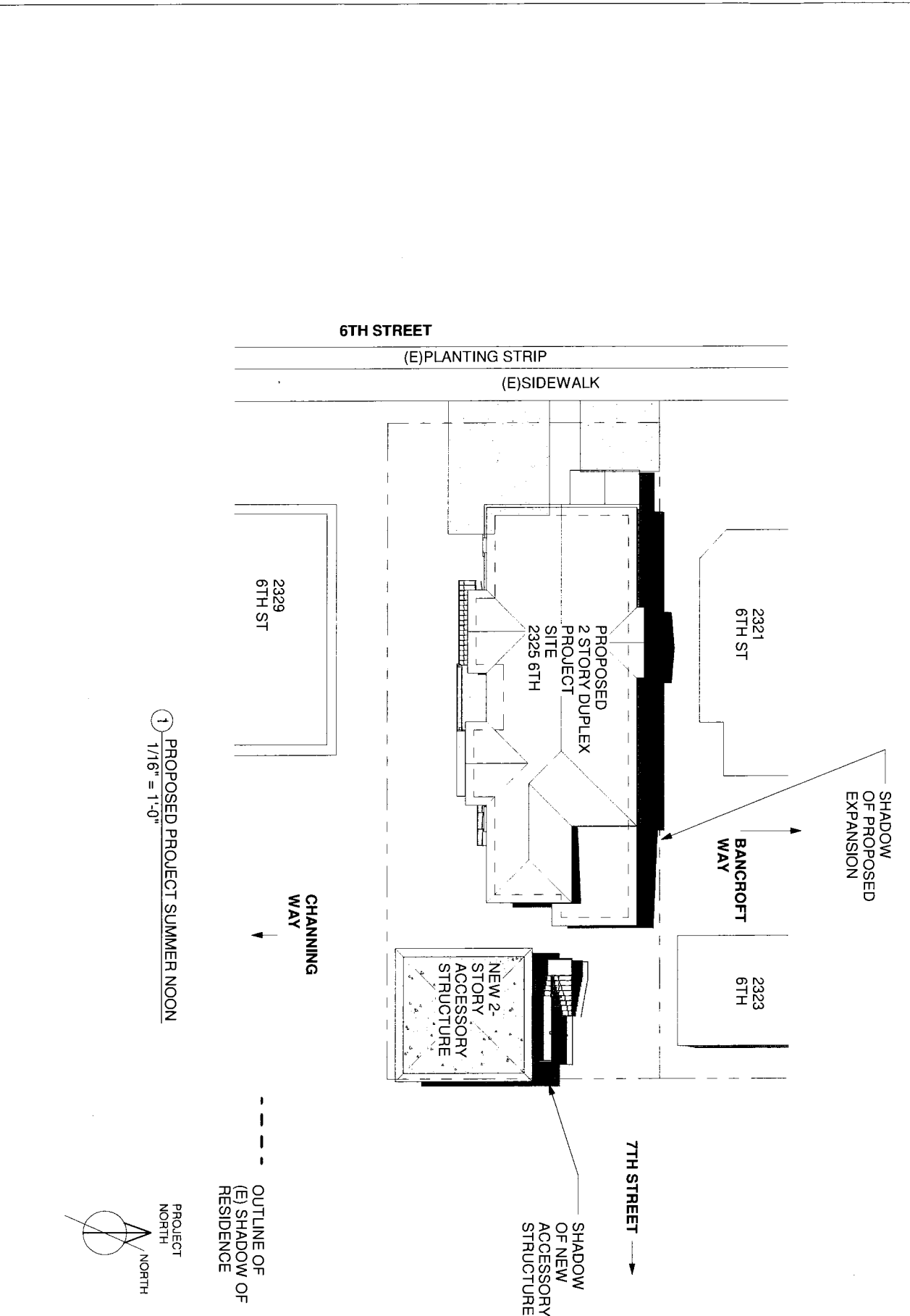
SHADOW STUDY OF PROPOSED SITE- SUMMER

**PSS1.0**

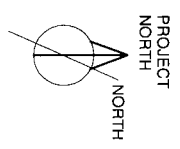
|          |               |
|----------|---------------|
| Date     | SEPT 5, 2019  |
| Drawn by | BM            |
| Scale    | 1/16" = 1'-0" |

**RESIDENTIAL ADDITON TO  
 CREATE DUPLEX AND NEW  
 GARAGE/WORKSHOP**  
 2325 SIXTH ST  
 BERKELEY, CA  
 APN # 056-194-10190

**BACILIA MACIAS**  
 ARCHITECTURE  
 732 gilman street berkeley ca 94710  
 510.691.7910 ph bacilia@bmarch.net



1 PROPOSED PROJECT SUMMER NOON  
1/16" = 1'-0"



--- OUTLINE OF  
(E) SHADOW OF  
RESIDENCE

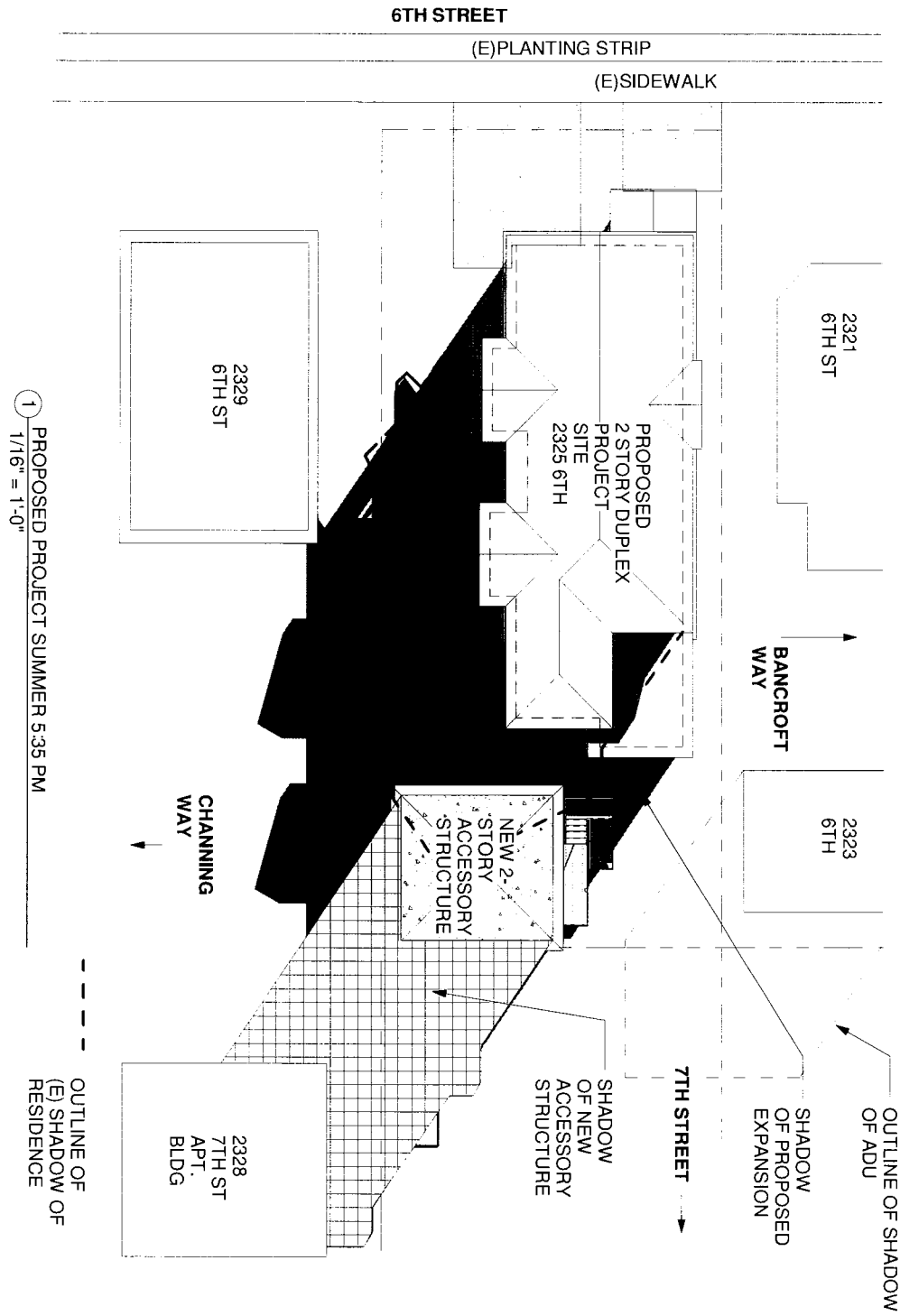
SHADOW STUDY OF  
PROPOSED SITE- SUMMER-NOON

**PSS1.1**

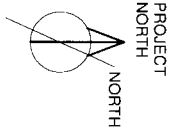
|          |               |
|----------|---------------|
| Date     | SEPT 5, 2019  |
| Drawn by | Author        |
| Scale    | 1/16" = 1'-0" |

**RESIDENTIAL ADDITON TO  
CREATE DUPLEX AND NEW  
GARAGE/WORKSHOP**  
2325 SIXTH ST  
BERKELEY, CA  
APN # 056-194-10190

**BACILIA MACIAS**  
ARCHITECTURE  
732 gilman street berkeley ca 94710  
510.691.7910 ph bacilia@bmarch.net



1 PROPOSED PROJECT SUMMER 5:35 PM  
1/16" = 1'-0"



SHADOW STUDY OF PROPOSED SITE- SUMMER-5:35 PM

|          |               |
|----------|---------------|
| Date     | SEPT 5, 2019  |
| Drawn by | Author        |
| Scale    | 1/16" = 1'-0" |

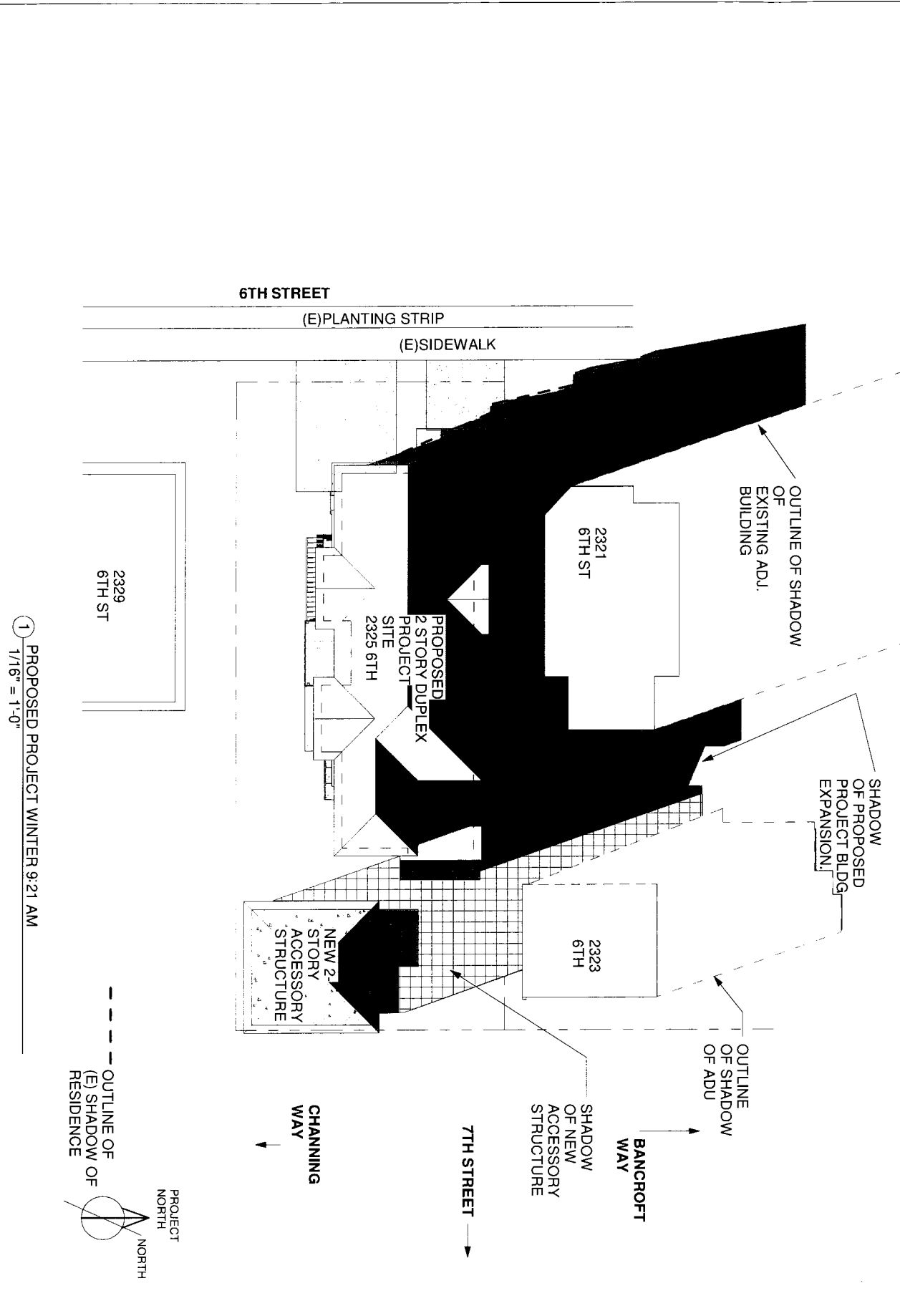
**PSS1.2**

**RESIDENTIAL ADDITON TO CREATE DUPLEX AND NEW GARAGE/WORKSHOP**

2325 SIXTH ST  
BERKELEY, CA  
APN # 056-194-10190

**BACILIA MACIAS**  
ARCHITECTURE

732 gilman street berkeley ca 94710  
510.691.7910 ph bacilia@bmarsh.net



1 PROPOSED PROJECT WINTER 9:21 AM  
 1/16" = 1'-0"

SHADOW STUDY OF PROPOSED SITE- WINTER-9:21 AM

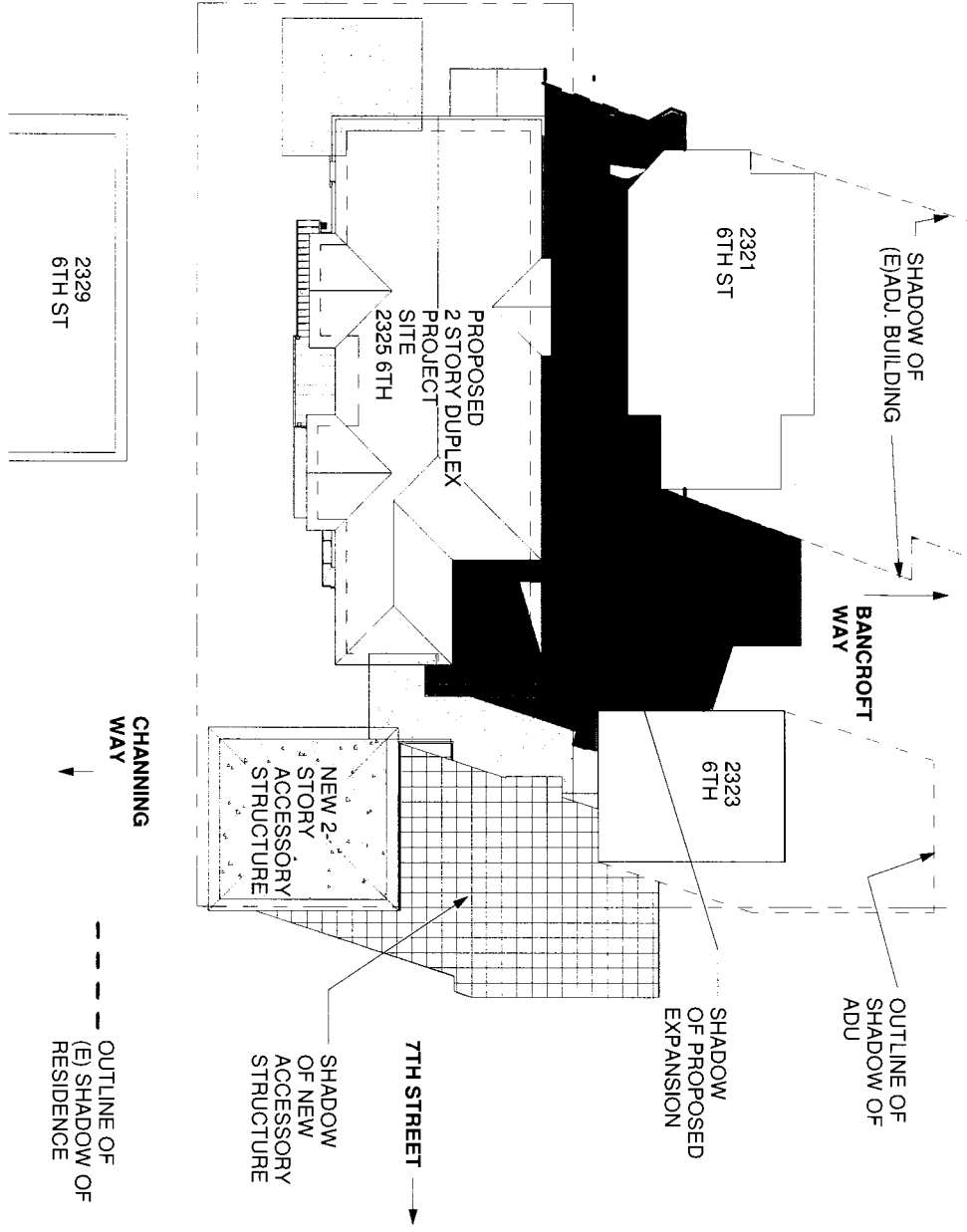
**PSS1.3**

|          |               |
|----------|---------------|
| Date     | SEPT 5, 2019  |
| Drawn by | BM            |
| Scale    | 1/16" = 1'-0" |

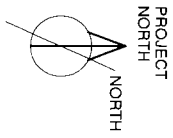
**RESIDENTIAL ADDITON TO CREATE DUPLEX AND NEW GARAGE/WORKSHOP**  
 2325 SIXTH ST  
 BERKELEY, CA  
 APN # 056-194-10190

**BACILIA MACIAS ARCHITECTURE**  
 732 gilman street berkeley ca 94710  
 510.691.7910 ph bacilia@bmarch.net

6TH STREET  
 (E)PLANTING STRIP  
 (E)SIDEWALK



1 PROPOSED PROJECT WINTER NOON  
 1/16" = 1'-0"



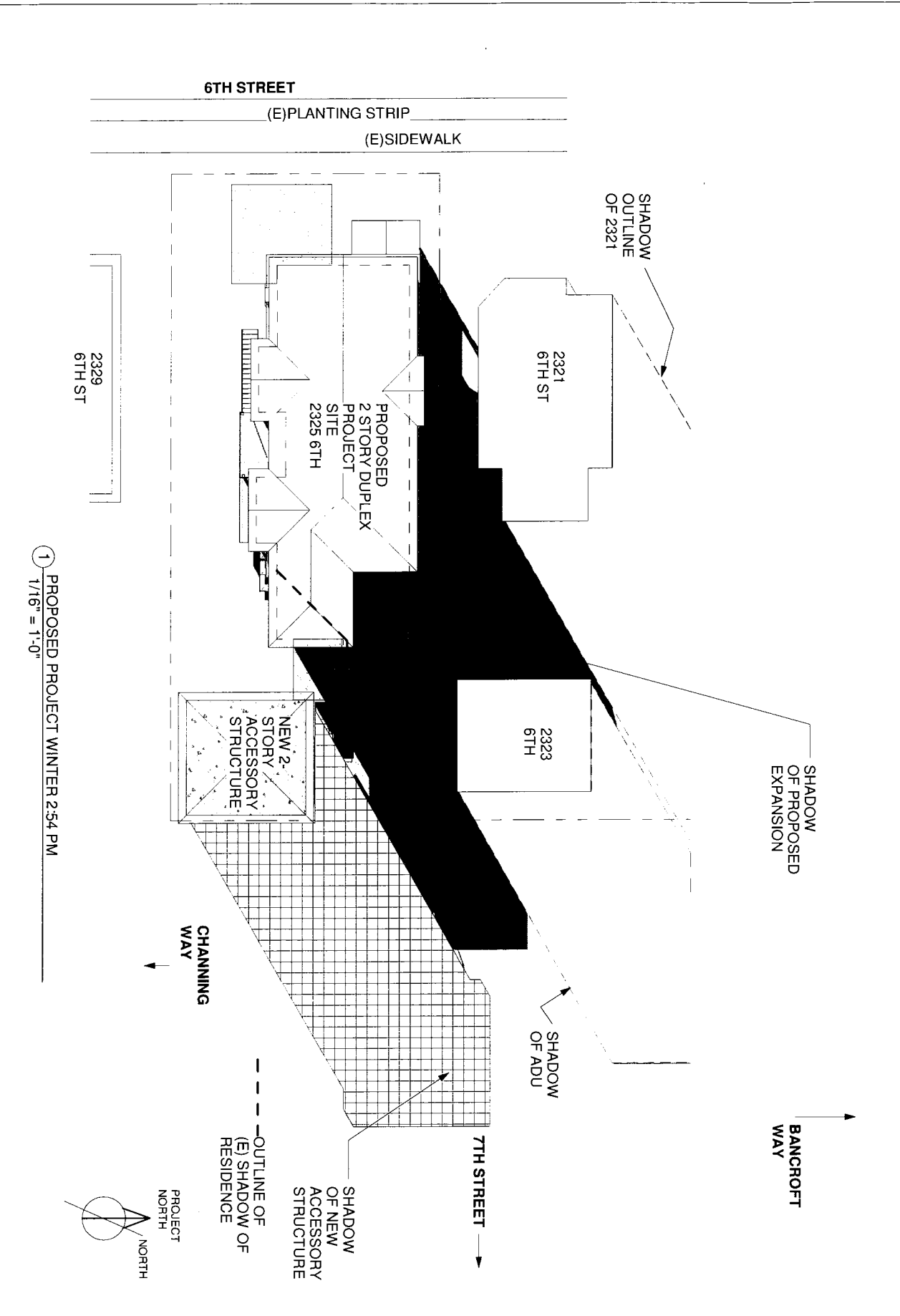
SHADOW STUDY OF  
 PROPOSED SITE- WINTER-NOON

**PSS1.4**

|          |               |
|----------|---------------|
| Date     | SEPT 5, 2019  |
| Drawn by | Author        |
| Scale    | 1/16" = 1'-0" |

**RESIDENTIAL ADDITION TO  
 CREATE DUPLEX AND NEW  
 GARAGE/WORKSHOP**  
 2325 SIXTH ST  
 BERKELEY, CA  
 APN # 056-194-10190

**BACILIA MACIAS**  
 ARCHITECTURE  
 732 gilman street berkeley ca 94710  
 510.691.7910 ph bacilia@bmarch.net



1 PROPOSED PROJECT WINTER 2:54 PM  
1/16" = 1'-0"

SHADOW STUDY OF  
PROPOSED SITE- WINTER-2:54 PM

**PSS1.5**

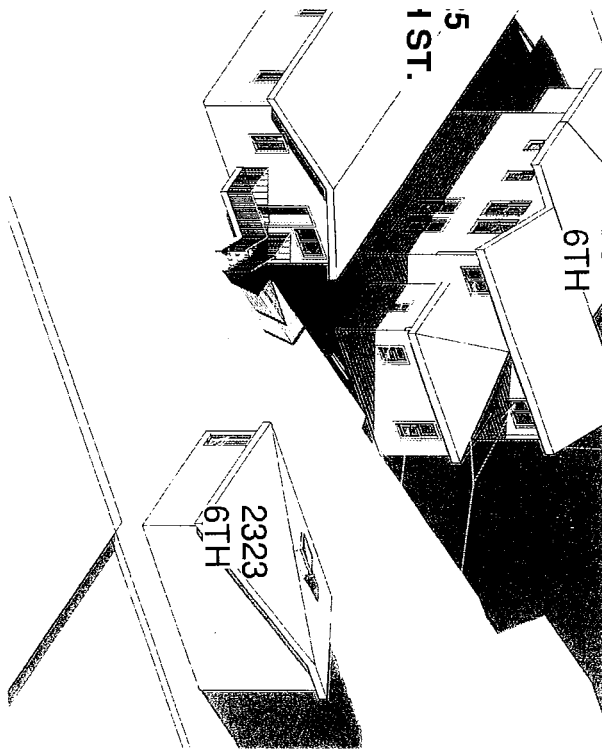
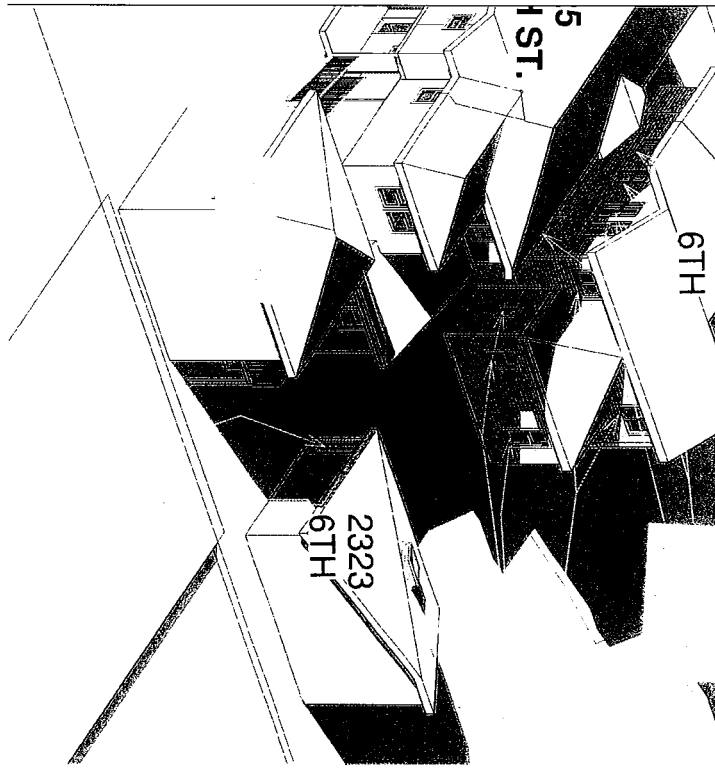
|          |               |
|----------|---------------|
| Date     | SEPT 5, 2019  |
| Drawn by | Author        |
| Scale    | 1/16" = 1'-0" |

**RESIDENTIAL ADDITON TO  
CREATE DUPLEX AND NEW  
GARAGE/WORKSHOP**

2325 SIXTH ST  
BERKELEY, CA  
APN # 056-194-10190

**BACILIA MACIAS  
ARCHITECTURE**

732 gilman street berkeley ca 94710  
510.691.7910 ph bacilia@bmatch.net



OUTLINE OF ADJ.  
 BUILDING SHADOW  
 NOT IN PROJECT  
 OUTLINE OF SHADOW  
 NEW ACCESSORY  
 BLDG.

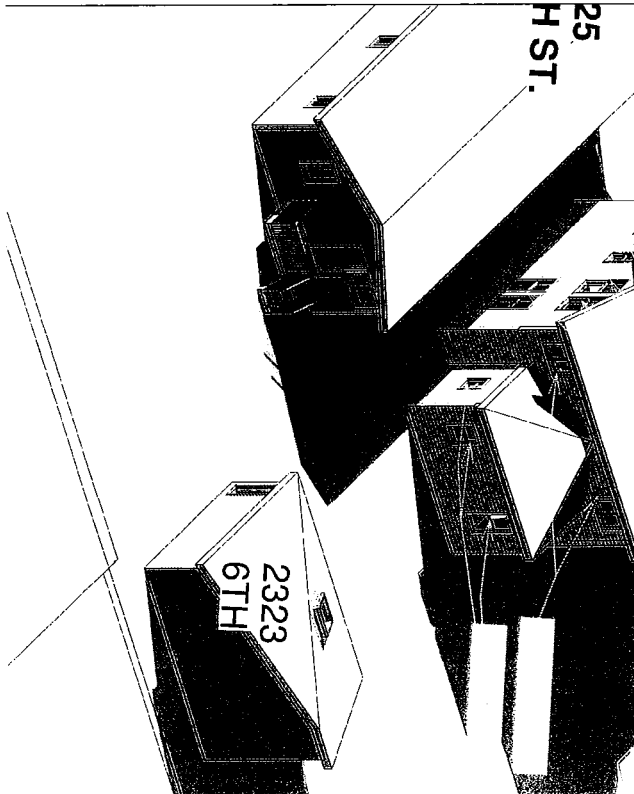
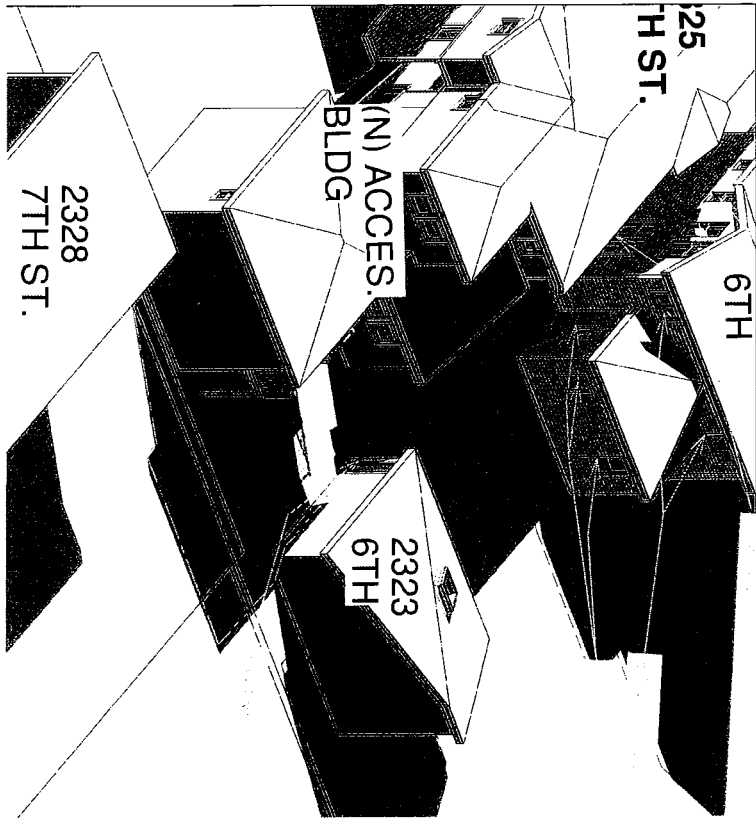


SHADOW STUDY  
 AXONOMETRICS  
 WINTER 9:21 AM

|                        |
|------------------------|
| REVISED: AUG. 22, 2019 |
| Date APRIL 19, 2019    |
| Drawn by BM            |
| Scale AS NOTED         |

**RESIDENTIAL ADDITION TO  
 CREATE DUPLEX AND NEW  
 ACCESS. STRUCTURE**  
 2325 6TH STREET  
 BERKELEY, CA  
 APN # 056-194-19

**BACILIA MACIAS**  
 ARCHITECTURE  
 732 gilman street berkeley ca 94710  
 510.691.7910 ph bacilia@bmarch.net



OUTLINE OF ADJ.  
BUILDING SHADOW  
NOT IN PROJECT

OUTLINE OF SHADOW  
OF NEW ACCESSORY  
BLDG.



PROJECT  
NORTH

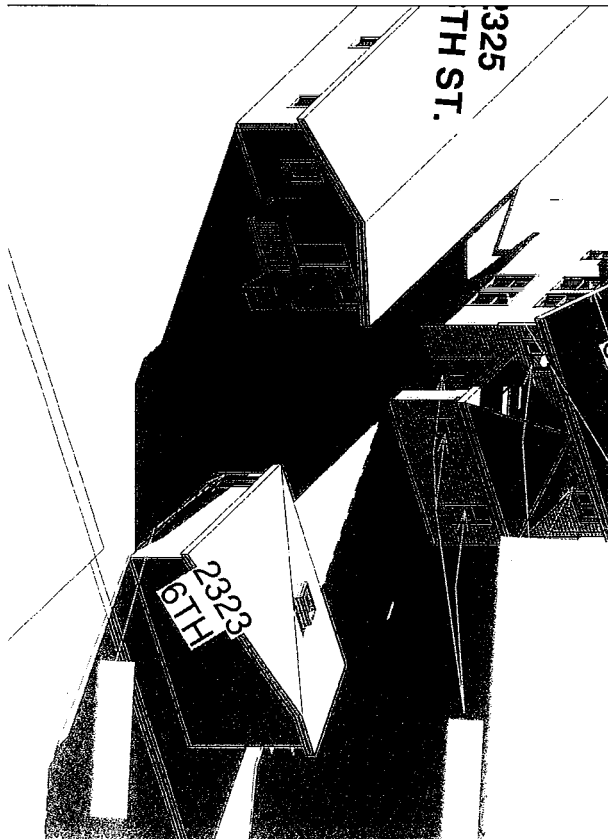
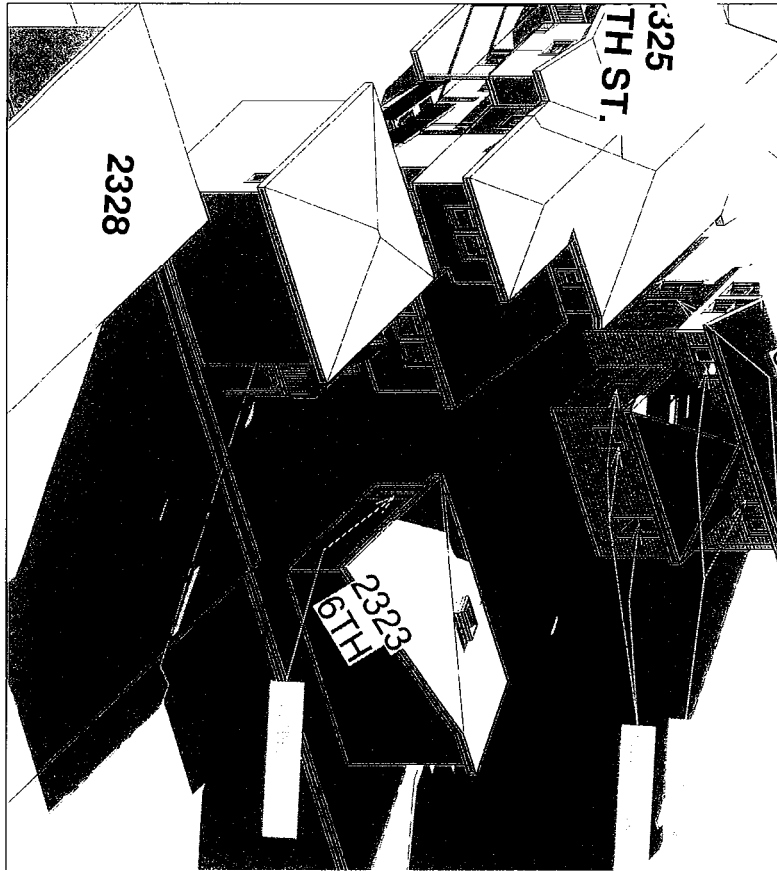
SHADOW STUDY  
AXONOMETRICS  
WINTER NOON


REVISED: AUG. 22, 2019  
Date APRIL 19, 2019  
Drawn by BM  
Scale AS NOTED

RESIDENTIAL ADDITION TO  
CREATE DUPLEX AND NEW  
ACCESS. STRUCTURE  
2325 6TH STREET  
BERKELEY, CA  
APN # 056-194-19

BACILIA MACIAS  
ARCHITECTURE  
732 gilman street berkeley ca 94710  
510.691.7910 ph bacilia@bmatch.net





OUTLINE OF ADJ.  
 BUILDING SHADOW  
 NOT IN PROJECT  
 .....  
 OUTLINE OF SHADOW  
 NEW/ACCESSORY  
 BLDG.  
 PROJECT  
 NORTH  


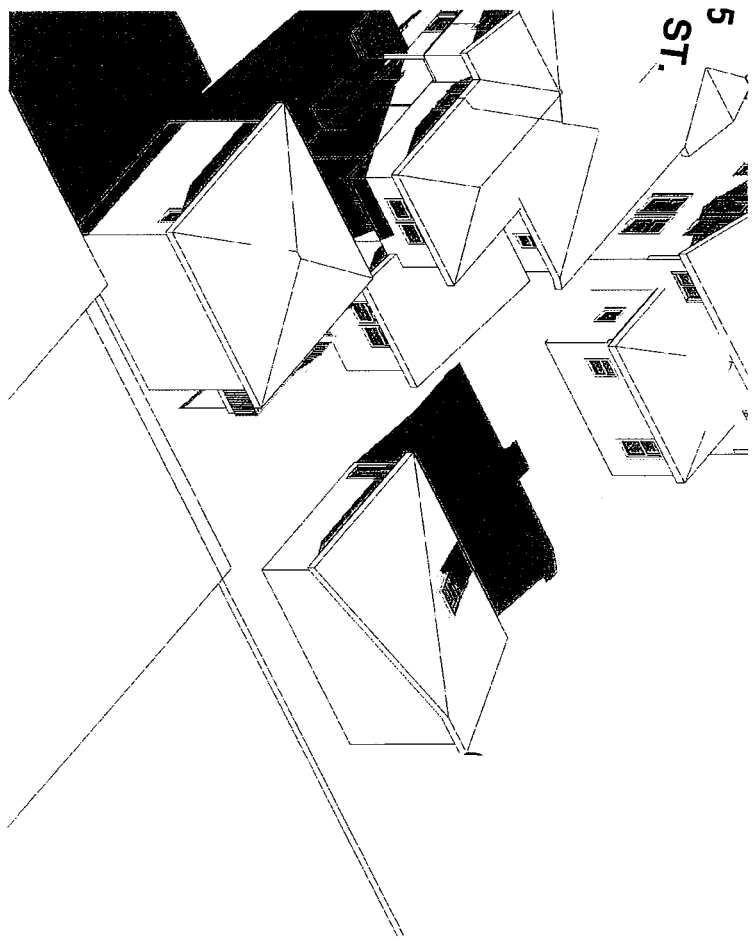
**RESIDENTIAL ADDITION TO  
CREATE DUPLEX AND NEW  
ACCESS. STRUCTURE**

REVISED: AUG. 22, 201...  
 Date APRIL 19, 2019  
 Drawn by BM  
 Scale AS NOTED

2325 6TH STREET  
 BERKELEY, CA  
 APN # 056-194-19

**BACILIA MACIAS**  
 ARCHITECTURE  
 732 gilman street berkeley ca 94710  
 510.691.7910 ph bacilia@bmarch.net

**SHADOW STUDY**  
**AXONOMETRICS**  
**WINTER 2:54 PM**



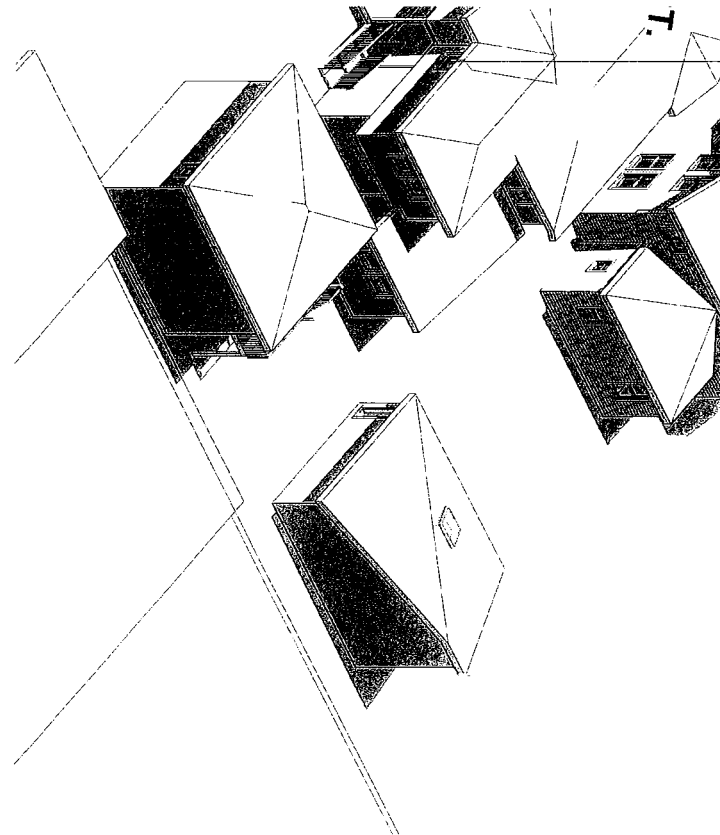
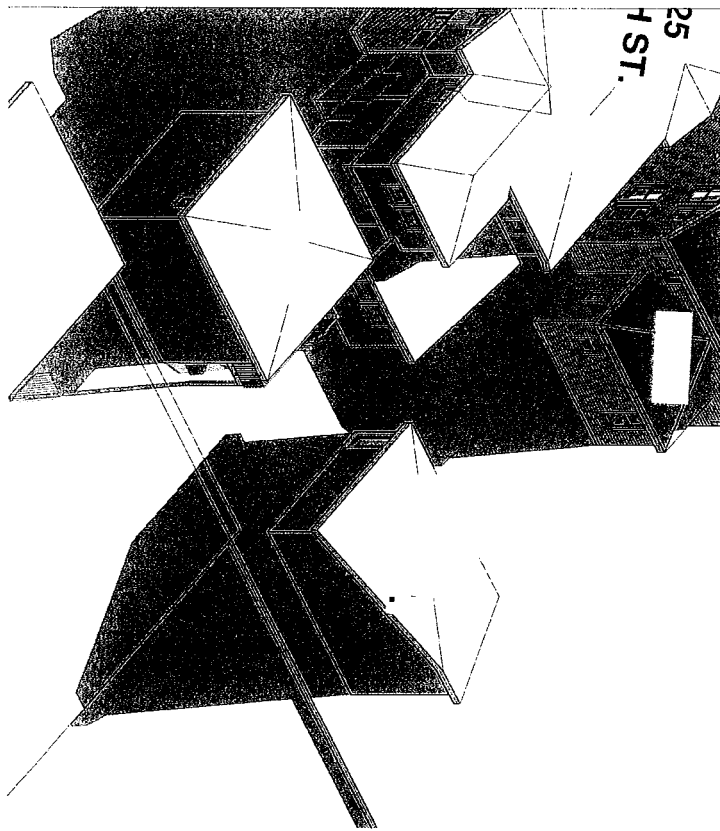
SHADOW STUDY  
 AXONOMETRICS  
 SUMMER MORNING

REVISED: AUG. 22, 2019  
 Date APRIL 19, 2019  
 Drawn by BM  
 Scale AS NOTED

**RESIDENTIAL ADDITION TO  
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 ACCESS. STRUCTURE**

2325 6TH STREET  
 BERKELEY, CA  
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 510.691.7910 ph bacilia@bmatch.net



SHADOW STUDY  
 AXONOMETRICS  
 SUMMER

REVISED: AUG. 22, 2019  
 Date APRIL 19, 2019  
 Drawn by BM  
 Scale AS NOTED

**RESIDENTIAL ADDITION TO  
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2325 6TH STREET  
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 ARCHITECTURE  
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 510.691.7910 ph bacilia@bmatch.net



# Communications

All communications submitted to the City Council are public record. Communications are not published directly to the City's website. Copies of individual communications are available for viewing at the City Clerk Department and through Records Online.

## **City Clerk Department**

2180 Milvia Street  
Berkeley, CA 94704  
(510) 981-6900

## **Records Online**

<http://www.cityofberkeley.info/recordsonline>

To search for communications associated with a particular City Council meeting using Records Online:

1. Select Search Type = “Public – Communication Query (Keywords)”
2. From Date: Enter the date of the Council meeting
3. To Date: Enter the date of the Council meeting (this may match the From Date field)
4. Click the “Search” button
5. Communication packets matching the entered criteria will be returned
6. Click the desired file in the Results column to view the document as a PDF