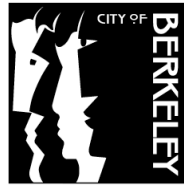


AGENDA



BERKELEY CITY COUNCIL MEETING

Tuesday, July 13, 2021

6:00 PM

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.

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

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/82181611485>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.

*To join by phone: Dial 1-669-900-9128 or 1-877-853-5257 (Toll Free) and enter Meeting ID: 821 8161 1485. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.*

Please be mindful that the teleconference will be recorded as any Council meeting is recorded, and all other rules of procedure and decorum will apply for Council meetings conducted by teleconference or videoconference.

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

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900. The City Council may take action related to any subject listed on the Agenda. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.

Preliminary Matters

Roll Call:

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

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

Public Comment on Non-Agenda Matters: *Persons will be selected to address matters not on the Council agenda. If five or fewer persons wish to speak, each person selected will be allotted two minutes each. If more than five persons wish to speak, up to ten persons will be selected to address matters not on the Council agenda and each person selected will be allotted one minute each. The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda.*

Consent Calendar

The Council will first determine whether to move items on the agenda for "Action" or "Information" to the "Consent Calendar", or move "Consent Calendar" items to "Action." Three members of the City Council must agree to pull an item from the Consent Calendar for it to move to Action. Items that remain on the "Consent Calendar" are voted on in one motion as a group. "Information" items are not discussed or acted upon at the Council meeting unless they are moved to "Action" or "Consent".

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

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

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. FY 2022 Tax Rate: Fund Emergency Services for the Severely Disabled (Measure E)**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,772-N.S. setting the FY 2022 tax rate for funding the provision of emergency services for the disabled at \$0.01796 (1.796 cents) per square foot of improvements.
First Reading Vote: All Ayes.
Financial Implications: See report
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 2. FY 2022 Annual Appropriations Ordinance**
From: City Manager
Recommendation: Adopt second reading of Ordinance 7,779-N.S. adopting the FY 2022 Annual Appropriations Ordinance (AAO) in the amount of \$673,601,287 (gross appropriations) and \$552,265,708 (net appropriations).
First Reading Vote: All Ayes.
Financial Implications: See report
Contact: Rama Murty, Budget Office, (510) 981-7000
- 3. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on July 13, 2021**
From: City Manager
Recommendation: Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager's threshold will be returned to Council for final approval.
Financial Implications: Various Funds - \$663,976
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 4. Contract: ERA Construction, Inc. for the O&K Docks Electrical Upgrade Project at the Berkeley Marina**
From: City Manager
Recommendation: Adopt a Resolution: 1. Approving the plans and specifications for the O&K Docks Electrical Upgrade Project (Bid Specification No. 21-11449-C); and 2. Rejecting the bid protest of Edward W. Scott Electric Co. Inc., the second-lowest bidder; and 3. Accepting the bid of ERA Construction, Inc. as the lowest responsive and responsible bidder on the Project; and 4. 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 ERA Construction, Inc., for the O&K Docks Electrical Upgrade Project, in an amount not to exceed \$1,200,000, which includes a contract amount of \$1,117,980 and a 7.3% contingency in the amount of \$82,020.
Financial Implications: Various Funds - \$1,200,000
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

Consent Calendar

- 5. Contract No. 32000274 Amendment: Suarez and Munoz Construction, Inc. for San Pablo Park Playground and Tennis Court Renovation Project**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32000274 with Suarez and Munoz Construction, Inc. for the San Pablo Park Playground and Tennis Court Renovation Project, increasing the amount by \$60,000 for an amended total amount not to exceed \$2,154,056.
Financial Implications: Parks Tax Fund - \$60,000
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
- 6. Authorize the City Manager to Accept REAP and PDA Planning Grant Applications**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to accept three planning grant awards and to execute documents or amendments associated with each grant. The three applications awarded are: A competitive Regional Early Action Planning (REAP) grant in the amount of \$75,000; a non-competitive REAP grant in the amount of \$83,506; and a Priority Development Area (PDA) Planning Grant for the San Pablo Avenue PDA in the amount of \$750,000.
Financial Implications: See report
Contact: Jordan Klein, Planning and Development, (510) 981-7400
- 7. Accept Grant Funding from the California Highway Patrol (CHP) Cannabis Tax Fund Grant Program to Reduce Impaired Driving in the City of Berkeley**
From: City Manager
Recommendation: Adopt a Resolution to authorize the City Manager, or designee, to accept the "Cannabis Tax Fund Grant Program (CTFGP)" and enter into the resultant grant agreement and any amendments to fund impaired driving detection/investigation training for officers, community educational programs and supplemental impaired driving enforcement. The tentative grant allocation is \$135,462 for the period of July 1, 2021 through June 30, 2022.
Financial Implications: See report
Contact: Jennifer Louis, Police, (510) 981-5900
- 8. Approval and Levy of 2018 Clean Stormwater Fee in FY 2022**
From: City Manager
Recommendation: Adopt a Resolution approving the proposed adjusted fees for the 2018 Clean Stormwater Fee and ordering the levy of the fees in Fiscal Year 2022.
Financial Implications: See report
Contact: Liam Garland, Public Works, (510) 981-6300

Consent Calendar

9. **Contract: Rainbow Waterproofing & Restoration Co., Inc. for the Central Library Stucco Restoration Project**
From: City Manager
Recommendation: Adopt a Resolution: 1. Approving plans and specifications for Central Library Stucco Restoration Project, Specification No.20-11405-C; 2. Accepting the bid of Rainbow Waterproofing & Restoration Co., Inc. as the lowest responsive and responsible bidder; 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, for an amount not to exceed \$702,384, which includes a contingency of \$117,064.
Financial Implications: Library Tax Fund - \$702,384
Contact: Liam Garland, Public Works, (510) 981-6300, Tess Mayer, Library, (510) 981-6100
10. **Contract No. 32000092 Amendment: New Image Landscape Company for On-Call Landscaping Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract 32000092 with New Image Landscape Company to increase the spending authority by \$150,000 for a total not to exceed \$200,000 and to extend the contract term an additional two year to November 30, 2023 for on-call landscaping services.
Financial Implications: Various Funds - \$150,000
Contact: Liam Garland, Public Works, (510) 981-6300

Council Consent Items

11. **Resolution in Support of Ending Qualified Immunity Act**
From: Councilmember Taplin (Author), Councilmember Hahn (Co-Sponsor)
Recommendation: Adopt a Resolution in Support of the Ending Qualified Immunity Act by Rep. Ayanna Pressley (D-Mass.) and Sen. Ed Markey (D-Mass) and send copy of resolution to the office of Rep. Barbara Lee (CA-13).
Financial Implications: None
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120

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 use the "raise hand" function 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. 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

12. Endorse All Home CA Regional Action Plan on Homelessness

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

Recommendation:

1. Receive a presentation from All Home CA, a regional collective impact partnership, on their Regional Action Plan on homelessness.
2. Endorse the All Home CA Regional Action Plan and the 1-2-4 framework to support ending homelessness in the San Francisco Bay Area, with a goal of a 75% reduction by 2024.
3. Refer to the City Manager to utilize the assistance of All Home to analyze the City of Berkeley's current homelessness expenditures and programs and explore recalibrating and prioritizing investments to align with the 1-2-4 RAP framework. The City Manager should return to the City Council and the Homeless Services Panel of Experts with a report on the findings of this analysis.

Financial Implications: See report

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

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 use the "raise hand" function 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. 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.

13. Referral Response: General Plan Re-Designation and Zoning Map Amendment of Parcels Located at 1709 Alcatraz Avenue, 3404 King Street, 3244 Ellis Street, 1717 Alcatraz Avenue, and 2024 Ashby Avenue

From: City Manager

Recommendation: Conduct a public hearing and, upon conclusion:

1. Adopt first reading of an Ordinance rezoning five parcels located at 1709 Alcatraz Avenue (APN 052-1533-001-03), 3404 King Street (APN 052-1435-001-02), 3244 Ellis Street (APN 052-1533-005-00), 1717 Alcatraz Avenue (APN 052-1533-006-00) and 2024 Ashby Avenue (APN 053-1592-022-00) to Commercial – Adeline Corridor District (C-AC), and
2. Adopt a Resolution changing the General Plan designation of the five parcels to Adeline Corridor Mixed Use and to revise the boundaries of the Adeline Corridor Specific Plan Area to include the five parcels.

Financial Implications: None

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

Action Calendar – Public Hearings

- 14. Response to Short Term Referral for Amendments to Accessory Dwelling Unit (ADU) Ordinance to Address Public Safety Concerns; Amending BMC Chapters 23C.24 and 23F.04**
From: City Manager
Recommendation: Conduct a public hearing and, upon conclusion, adopt the first reading of a local Accessory Dwelling Unit (ADU) Ordinance [Berkeley Municipal Code (BMC) Chapter 23C.24] and amendments to relevant Definitions [BMC Chapter 23F.04] in the Zoning Ordinance.
Financial Implications: None
Contact: Jordan Klein, Planning and Development, (510) 981-7400

Action Calendar

- 15. Adopt a Resolution Updating City of Berkeley Street Maintenance and Rehabilitation Policy** *(Reviewed by the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee) (Continued from the June 1, 2021 meeting) (Item contains Supplemental Material)*
From: Councilmember Harrison (Author), Councilmember Bartlett (Co-Sponsor), Councilmember Taplin (Co-Sponsor)
Recommendation:
1. Adopt a Resolution updating the City's Street Maintenance and Rehabilitation Policy dated June 1, 2021.
2. Refer the exploration of potential bonding and funding opportunities for improving the Paving Condition Index (PCI) of streets and creating a Paving Master Plan back to the Facilities, Infrastructure, Transportation, Environment & Sustainability (FITES) Committee for further review.
Policy Committee Recommendation: To move the Public Works supplemental item "City of Berkeley Street Maintenance and Rehabilitation Policy to Council" with a positive recommendation including amendments made during the meeting today, and ask Council to refer the exploration of potential bonding and funding opportunities for improving the PCI of streets and creating a Paving Master Plan back to the FITES Committee for further review.
Financial Implications: Staff time
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140
- 16. General Plan and Housing Element Annual Progress Report (APR)**
From: City Manager
Recommendation: Review and accept the 2020 General Plan Annual Progress Report (APR) and 2020 Housing Element APR, which were submitted to the State of California's Department of Housing and Community Development (HCD) and the Governor's Office of Planning and Research (OPR) on April 1, 2021.
Financial Implications: None
Contact: Jordan Klein, Planning and Development, (510) 981-7400

Action Calendar

17. **Amending BMC Section 14.56.070 for 3-Ton Commercial Truck Weight Limit on Tenth Street, Ninth Street, Eighth Street, and Seventh Street**
From: Councilmember Taplin (Author)
Recommendation: Adopt first reading of an Ordinance amending Berkeley Municipal Code (BMC) Section 14.56.070 to add 3-ton commercial truck weight limits on Tenth Street between University Avenue and Dwight Way, Ninth Street between University Avenue and Dwight Way, Eighth Street between University Avenue and Dwight Way, and Seventh Street between University Avenue and Dwight Way.
Financial Implications: See report
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120
18. **Police Accountability Board – Appointment of Members** *(Continued from June 29, 2021)*
From: City Manager
Recommendation: Adopt a Resolution appointing nine members to the Police Accountability Board nominated by the Mayor and City Councilmembers, and appointing one alternate member. *(Note: Appointment of the alternate member is continued from the June 1, 2021 meeting.)*
Financial Implications: See report
Contact: Mark Numainville, City Clerk, (510) 981-6900

Information Reports

19. **Animal Care Commission 2021/2022 Work Plan**
From: City Manager
Contact: Paul Buddenhagen, City Manager's Office, (510) 981-7000
20. **Commission on Disability Fiscal Year 2021-2022 Work Plan**
From: Commission on Disability
Contact: Dominika Bednarska, Commission Secretary, (510) 981-6300
21. **Fiscal Year 2022 Sugar-Sweetened Beverage Product Panel of Experts Commission Work Plan**
From: Sugar Sweetened Beverage Product Panel of Experts
Contact: Dechen Tsering, Commission Secretary, (510) 981-5300

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 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 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>

COMMUNICATION ACCESS INFORMATION:

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



Captioning services are provided at the meeting, on B-TV, and on the Internet.

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 July 1, 2021.



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 through [Records Online](#).

TOD (Transit-Orientated Development)

1. Vicki Sommer (3)
2. Toni Casal
3. David Brandon
4. taptango@ (2)
5. Michai Freeman
6. Eileen Hughes

TOPA (Tenants Opportunity to Purchase Act)

7. Andrea Altschuler
8. William Goodwin
9. Chimey Lee
10. River Bradley
11. Katharine Bierce
12. Larisa Cummings
13. Steven Tupper
14. Jeannie Llewellyn

Homelessness – Encampments - Outreach

15. Eric Friedman
16. Homeless Action Coalition
17. David Lerman
18. Geoff Lomax
19. Wende Micco

Support Housing as a Human Right

20. Sam Warren
21. Julia Cato

Berkeley Marina - Pier

22. Nicholas Waton, on behalf of the Cal Sailing Club
23. Todd Jersey

Street Intersection of Dwight Way and California Street

24. Joann Brumfield

Step-Up Housing on University Avenue

25. Patrick Kennedy

Police Accountability Board & Police Related

- 26. Racial and Criminal Justice Reform Group
- 27. Eric Friedman

Rent Board

- 28. Jerry Berkman
- 29. Barbara Gilbert

Berkeley Asphalt

- 30. Christopher Kroll

Re-Opening Berkeley

- 31. Mark Chekal

Commission Reorganization

- 32. Councilmember Harrison

SB 9 – Housing Development

- 33. Mary Rose
- 34. Christopher Kroll
- 35. Joel Millar

Skate Park

- 36. Tine Munson, Sean O’Loughlin, Mara Mahmood, Lorenzo Lewis and Dandy Harris
- 37. Tony Benado, City Clerk’s Office

SCA 5 – Voting Rights of Student Members of the University of California

- 38. Emily Pekar

Everyday is Black Event

- 39. Eileen Joyce

Backpack Donation for BUSD Students

- 40. Nabatah Ahmed, on behalf of the Office of Family Engagement and Equity

Measure P – Transfer Tax

- 41. Barbara Gilbert

Star Alliance

- 42. Peter DuMont (2)

Juneteenth Closures in Berkeley

- 43. Sabina McMurty

FAA Proposal Reroute Commercial Air Traffic Reply

- 44. Raquel Girvin, Regional Administrator for the FAA

Heroin Needle Van at Hearst and San Pablo

45. Erin Mahoney

EBCE (East Bay Community Energy) Renewable

46. Jane Stromberg

Fix Your Walkways and Roads

47. Dave Mandel

City of Mountain View's Plant-Based Eating Series

48. Nilang Gor

UC Berkeley's 2036-2037 Proposed Long Range Development Plan

49. Law Offices of Veneruso & Moncharsh

50. Harald Leventhal

1921 Walnut Street Tenants

51. Natalie Logusch (2)

Mental Health and Addiction Resources

52. Linda Press Wulf

Public Safety in Parks and Schools

53. Joanna Petrone

Volunteering at Grayson

54. Eric Friedman

URL's Only

55. Russbumper (8)

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. 7,772-N.S.

SETTING THE FISCAL YEAR 2022 SPECIAL TAX RATE TO FUND EMERGENCY SERVICES FOR THE SEVERELY DISABLED IN THE CITY OF BERKELEY

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

Section 1. The FY 2022 Tax Rate to fund emergency services for severely disabled persons is set at \$0.01796 per square feet of improvements.

Section 2. The cost to taxpayers during FY 2022 will be \$21.55 for a 1,200 square foot home and \$53.88 for a 3,000 square foot home.

Section 3. This tax rate will result in estimated total collections of \$1,451,853.

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

At a regular meeting of the Council of the City of Berkeley held on June 29, 2021, this Ordinance was passed to print and ordered published by posting by the following vote:

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

Noes: None.

Absent: None.

ORDINANCE NO. 7,779-N.S.

ADOPTING THE ANNUAL APPROPRIATIONS ORDINANCE BASED ON THE ADOPTED BUDGET FOR FISCAL YEAR 2022 AS PROPOSED BY THE CITY MANAGER AND PASSED BY THE CITY COUNCIL

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

Section 1. That the Annual Appropriations Ordinance based on the budget for FY 2022 submitted by the City Manager and passed by the City Council be adopted as follows and as summarized in Exhibit A:

A. General Fund (Funds 001-099)	241,200,505
B. Special Funds (Funds 100-199)	117,453,584
C. Grant Funds (Funds 300-399)	81,244,159
D. Capital Projects Funds (Funds 500-550)	31,777,455
E. Debt Service Fund (Funds 551-599)	9,804,404
F. Enterprise Funds (Funds 600-669)	132,334,744
G. Internal Service Funds (Funds 146, 670-699)	45,699,500
H. Successor Agency (Funds 760-769)	57,120
I. Agency Funds (Funds 771-799)	7,754,281
J. Other Funds (Funds 800-899)	6,275,535
<u>K. Total</u>	
Total General Fund	241,200,505
Add: Total Other Than General Fund	432,400,782
Gross Revenue Appropriated	673,601,287
Less: Dual Appropriations	-74,849,421
Less: Revolving/Internal Service Funds	-46,486,158
Net Revenue Appropriated	552,265,708

Section 2. The City Manager is hereby permitted, without further authority from the City Council, to make the following transfers by giving written notice to the Director of Finance:

- a. From the General Fund to the General Fund – Stability Reserve Fund; Catastrophic Reserve Fund; PERS Savings Fund; Health State Aid Realignment; Fair Election Fund; Capital Improvement Fund; Phone System Replacement; Equipment Replacement Fund; Public Liability Fund; Catastrophic Loss Fund; IT Cost Allocation Fund; Police Employee Retiree Health Assistance Plan; Safety Members Pension Fund; and Sick Leave Entitlement Fund.
- b. To the General Fund from the General Fund – Stability Reserves Fund; Catastrophic Reserves Fund; Community Development Block Grant Fund; Street Lighting Assessment District Fund; Zero Waste Fund; Marina Operations and Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Permit Service Center Fund; Parking Meter Fund; Unified Program (CUPA); and Health State Aid Realignment Fund.
- c. To the First Source Fund from the Parks Tax Fund; Capital Improvement Fund; and the Marina Fund.
- d. From Measure FF – Public Safety Fund to Paramedic Tax Fund
- e. From the American Rescue Plan Fund to the General Fund; Sports Field Fund; Playground Camp Fund; Marina Fund; Off-Street Parking Fund; and Parking Meter Fund.
- f. From Capital Improvement Fund to PERS Savings Fund; Berkeley Repertory Theater Fund; and 2010 COP (Animal Shelter) Fund.
- g. To the Public Art Fund from the Parks Tax Fund; Capital Improvement Fund; and the Marina Fund.
- h. To CFD#1 District Fire Protection Bond (Measure Q) from Special Tax Bonds CFD#1 ML-ROOS.
- i. To Private Sewer Lateral Fund from Sanitary Sewer Operation Fund.
- j. To Catastrophic Loss Fund from Permit Service Center Fund.
- k. To Catastrophic Loss Fund from Unified Program (CUPA) Fund.
- l. To the Building Purchases and Management Fund from General Fund; Health (General) Fund; Rental Housing Safety Program Fund; Measure B Local Streets & Road Fund; Employee Training Fund; Zero Waste Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Permit Service Center Fund; Off Street Parking Fund; Parking Meter Fund; Unified Program (CUPA) Fund; Building Purchases & Management Fund; Building Maintenance Fund; Central Services Fund; and Health State Aide Realignment Trust Fund.

- m. To Equipment Replacement Fund from General Fund; Mental Health Services Act Fund; Health (Short/Doyle) Fund; Vector Control Fund; Paramedic Tax Fund; Playground Camp Fund; State Transportation Tax Fund; Rental Housing Safety Program Fund; Parks Tax Fund; Street Light Assessment District Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Permit Service Center Fund; Parking Meter Fund; Equipment Maintenance Fund; Building Maintenance Fund; and Central Services Fund.
- n. To the Equipment Maintenance Fund from General Fund; Health (General) Fund; Mental Health Services Act Fund; Health (Short/Doyle) Fund; Vector Control Fund; Paramedic Tax Fund; Library - Discretionary Fund; Playground Camp Fund; State Transportation Tax Fund; Rental Housing Safety Program Fund; Rent Stabilization Board Fund; Parks Tax Fund; Street Light Assessment District Fund; FEMA Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Permit Service Center Fund; Off Street Parking Fund; Parking Meter Fund; Equipment Maintenance Fund; Building Maintenance Fund; and Central Services Fund.
- o. To the Building Maintenance Fund from the General Fund; Health (General) Fund; Health (Short/Doyle) Fund; Measure B Local Street & Road Fund; Parks Tax Fund; Street Light Assessment District Fund; Zero Waste Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Off Street Parking Fund; Parking Meter Fund; Equipment Maintenance Fund; Building Maintenance Fund; and Mental Health State Aid Realignment Fund.
- p. To the Central Services Fund from the General Fund; First Source Fund; Health (Short/Doyle) Fund; Library-Discretionary Fund; Playground Camp Fund; Rent Stabilization Board Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation; Building Purchases & Management Fund; Building Maintenance Fund; Central Services Fund; and Mental Health State Aid Realignment Fund.
- q. To Information Technology Cost Allocation Plan Fund from General Fund; Target Case Management/Linkages Fund; Health (Short/Doyle); Library Fund; Playground Camp Fund; State Transportation Tax Fund; CDBG Fund; Rental Housing Safety Program; Rent Stabilization Board Fund; Parks Tax Fund; Street Light Assessment District Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation; Clean Storm Water Fund; Permit Service Center Fund; Off Street Parking Fund; Parking Meter Fund; Unified Program (CUPA) Fund; Equipment Maintenance Fund; Building Maintenance Fund; Information Technology Cost Allocation Plan Fund; Health State Aid Realignment Trust Fund; and Mental Health State Aid Realignment Fund.

- r. To the Workers' Compensation Self-Insurance Fund from General Fund; Special Tax for Severely Disabled Measure E Fund; First Source Fund; HUD Fund; ESGP Fund; Health (General) Fund; Target Case Management/Linkages Fund; Mental Health Service Act Fund; Health (Short/Doyle) Fund; EPSDT Expansion Proposal Fund; Senior Nutrition (Title III) Fund; C.F.P. Title X Fund; Fund Raising Activities Fund; Berkeley Unified School District Grant; Vector Control Fund; Paramedic Tax Fund; Alameda County Grants Fund; Senior Supportive Social Services Fund; Family Care Support Program Fund; Domestic Violence Prevention – Vital Statistics Fund; Affordable Housing Mitigation; Inclusionary Housing Program; Library – Discretionary Fund; Playground Camp Fund; Community Action Program Fund; State Proposition 172 Public Safety Fund; State Transportation Tax Fund; CDBG Fund; Rental Housing Safety Program; Measure B Local State & Road Fund; Measure B Bike & Pedestrian Fund; Measure B – Paratransit Fund; Measure F Alameda County Vehicle Registration Fee Streets & Roads Fund; Measure BB – Paratransit Fund; Fair Election Fund; Measure U1 Fund; One-Time Grant: No Cap Expense Fund; Rent Stabilization Board Fund; Parks Tax Fund; Measure GG – Fire Prep Tax Fund; Street Lighting Assessment District Fund; Employee Training Fund; Private Percent – Art Fund; Measure T1 – Infrastructure & Facilities Fund; FUND\$ Replacement Fund; Capital Improvement Fund; FEMA Fund; CFD #1 District Fire Protect Bond Fund; Special Tax Bonds CFD#1 ML-ROOS Fund; Shelter+Care HUD Fund; Shelter+Care County Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Private Sewer Lateral Fund; Permit Service Center Fund; Off-Street Parking Fund; Parking Meter Fund; Unified Program (CUPA) Fund; Building Purchases & Management Fund; Equipment Replacement Fund; Equipment Maintenance Fund; Building Maintenance Fund; Central Services Fund; Workers' Compensation Fund; Public Liability Fund; Information Technology Cost Allocation Plan Fund; Health State Aid Realignment Trust Fund; Tobacco Control Trust Fund; Mental Health State Aid Realignment Fund; Alameda Abandoned Vehicle Abatement Authority; and Bio-Terrorism Grant Fund.
- s. To the Sick Leave and Vacation Leave Accrual Fund from General Fund; Special Tax for Severely Disabled Measure E Fund; First Source Fund; HUD Fund; ESGP Fund; Health (General) Fund; Target Case Management/Linkages Fund; Mental Health Service Act Fund; Health (Short/Doyle) Fund; EPSDT Expansion Proposal Fund; Senior Nutrition (Title III) Fund; C.F.P. Title X Fund; Fund Raising Activities Fund; Berkeley Unified School District Grant; Vector Control Fund; Paramedic Tax Fund; Alameda County Grants Fund; Senior Supportive Social Services Fund; Family Care Support Program Fund; Domestic Violence Prevention – Vital Statistics Fund; Affordable Housing Mitigation; Inclusionary Housing Program; Library – Discretionary Fund; Playground Camp Fund; Community Action Program Fund; State Proposition 172 Public Safety Fund; State Transportation Tax Fund; CDBG Fund; Rental Housing Safety Program; Measure B Local State & Road Fund; Measure B Bike & Pedestrian Fund; Measure B – Paratransit Fund; Measure F Alameda County Vehicle Registration Fee Streets & Roads Fund; Measure BB – Paratransit Fund; Fair Election Fund; Measure U1 Fund; One-Time Grant: No

Cap Expense Fund; Rent Stabilization Board Fund; Parks Tax Fund; Measure GG – Fire Prep Tax Fund; Street Lighting Assessment District Fund; Employee Training Fund; Private Percent – Art Fund; Measure T1 – Infrastructure & Facilities Fund; FUND\$ Replacement Fund; Capital Improvement Fund; FEMA Fund; CFD #1 District Fire Protect Bond Fund; Special Tax Bonds CFD#1 ML-ROOS Fund; Shelter+Care HUD Fund; Shelter+Care County Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Private Sewer Lateral Fund; Permit Service Center Fund; Off-Street Parking Fund; Parking Meter Fund; Unified Program (CUPA) Fund; Building Purchases & Management Fund; Equipment Replacement Fund; Equipment Maintenance Fund; Building Maintenance Fund; Central Services Fund; Workers' Compensation Fund; Public Liability Fund; Information Technology Cost Allocation Plan Fund; Health State Aid Realignment Trust Fund; Tobacco Control Trust Fund; Mental Health State Aid Realignment Fund; Alameda Abandoned Vehicle Abatement Authority; and Bio-Terrorism Grant Fund.

- t. To the Payroll Deduction Trust Fund from General Fund; Special Tax for Severely Disabled Measure E Fund; First Source Fund; HUD Fund; ESGP Fund; Health (General) Fund; Target Case Management/Linkages Fund; Mental Health Service Act Fund; Health (Short/Doyle) Fund; EPSDT Expansion Proposal Fund; Senior Nutrition (Title III) Fund; C.F.P. Title X Fund; Fund Raising Activities Fund; Berkeley Unified School District Grant; Vector Control Fund; Paramedic Tax Fund; Alameda County Grants Fund; Senior Supportive Social Services Fund; Family Care Support Program Fund; Domestic Violence Prevention – Vital Statistics Fund; Affordable Housing Mitigation; Inclusionary Housing Program; Library – Discretionary Fund; Playground Camp Fund; Community Action Program Fund; State Proposition 172 Public Safety Fund; State Transportation Tax Fund; CDBG Fund; Rental Housing Safety Program; Measure B Local State & Road Fund; Measure B Bike & Pedestrian Fund; Measure B – Paratransit Fund; Measure F Alameda County Vehicle Registration Fee Streets & Roads Fund; Measure BB – Paratransit Fund; Fair Election Fund; Measure U1 Fund; One-Time Grant: No Cap Expense Fund; Rent Stabilization Board Fund; Parks Tax Fund; Measure GG – Fire Prep Tax Fund; Street Lighting Assessment District Fund; Employee Training Fund; Private Percent – Art Fund; Measure T1 – Infrastructure & Facilities Fund; FUND\$ Replacement Fund; Capital Improvement Fund; FEMA Fund; CFD #1 District Fire Protect Bond Fund; Special Tax Bonds CFD#1 ML-ROOS Fund; Shelter+Care HUD Fund; Shelter+Care County Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Private Sewer Lateral Fund; Permit Service Center Fund; Off-Street Parking Fund; Parking Meter Fund; Unified Program (CUPA) Fund; Building Purchases & Management Fund; Equipment Replacement Fund; Equipment Maintenance Fund; Building Maintenance Fund; Central Services Fund; Workers' Compensation Fund; Public Liability Fund; Information Technology Cost Allocation Plan Fund; Health State Aid Realignment Trust Fund; Tobacco Control Trust Fund; Mental Health State Aid Realignment Fund; Alameda Abandoned Vehicle Abatement Authority; and Bio-Terrorism Grant Fund.

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 Council Chambers, 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 29, 2021, this Ordinance was passed to print and ordered published by posting by the following vote:

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

Noes: None.

Absent: None.

Attachment for Annual Appropriations Ordinance - Fiscal Year 2022

REVOLVING FUNDS/INTERNAL SERVICE FUNDS

Appropriations are identified with revolving and internal service funds. Such funds derive revenue by virtue of payment from other fund sources as benefits are received by such funds, and the total is reflected in the "Less Revolving Funds and Internal Service Funds" in item I. The funds are:

Revolving/Internal Service Funds

Employee Training Fund	64,889
Equipment Replacement Fund	3,434,440
Equipment Maintenance Fund	5,906,134
Building Maintenance Fund	9,812,320
Central Services Fund	4,463,546
Workers' Compensation Fund	385,483
Public Liability Fund	6,593,924
Information Technology Fund	3,843,932
Subtotal Revolving/Internal Service Funds	\$ 34,504,668

DUAL APPROPRIATIONS - WORKING BUDGET

Dual appropriations are identified with revenues generated by one fund and transferred to another fund. Both funds are credited with the applicable revenue, and the total is reflected in the "Less Dual Appropriations" in item I. The dual appropriations are:

Transfers to the General Fund

Indirect Cost Reimbursement

CDBG Fund	138,719
One-Time Grant: No Cap Exp	150,986
Street Light Assessment District Fund	96,775
Zero Waste Fund	2,001,399
Marina Enterprise Fund	411,719
Sanitary Sewer Fund	971,959
Clean Storm Water Fund	205,400
Permit Service Center Fund	1,615,758
Unified Program (CUPA) Fund	72,517
Subtotal Transfers to General Fund:	\$ 5,665,232

Transfer to Safety Members Pension Fund from General Fund	551,804
Transfer to Measure U1 Fund from General Fund	5,120,350
Transfer to Stability Reserve Fund from General Fund	1,375,000
Transfer to Catastrophic Reserve Fund from General Fund	1,125,000
Transfer to PERS Savings Fund from General Fund	2,000,000
Transfer to Health State Aid Realignment from General Fund	1,953,018
Transfer to Fair Election Fund from General Fund	505,002
Transfer to Capital Improvement Fund (CIP) from General Fund	4,950,905
Transfer to Phone System Replacement - VOIP from General Fund	449,408
Transfer to Equipment Replacement Fund from General Fund	1,081,699
Transfer to Public Liability Fund from General Fund	3,895,888
Transfer to Catastrophic Loss Fund from General Fund	3,048,587
Transfer to IT Cost Allocation Fund from General Fund	145,640
Transfer to Police Employee Retiree Health Assistance Plan from General Fund	400,136
Transfer to Sick Leave Entitlement Fund from General Fund	201,501
Transfer to General Fund from Health State Aid Realignment Fund	2,643,280
Transfer to Paramedic Tax Fund from Measure FF - Public Safety Fund	757,925
Transfer to General Fund from American Rescue Plan Fund	22,969,355
Transfer to Sports Field Fund from American Rescue Plan Fund	196,000
Transfer to Playground Camp Fund from American Rescue Plan Fund	1,035,000
Transfer to Marina Fund from American Rescue Plan Fund	1,400,000
Transfer to Off-Street Parking Fund from American Rescue Plan Fund	3,940,000
Transfer to Parking Meter Fund from American Rescue Plan Fund	4,340,000
Transfer from CIP Fund to PERS Savings Fund	151,632
Transfer to Berkeley Repertory Theater Debt Service Fund from CIP Fund	499,802
Transfer from CIP Fund to 2010 COP (Animal Shelter) Fund	402,613
Transfer to Private Sewer Lateral Fund from Sewer Fund	90,501
Transfer to Catastrophic Loss Fund from Permit Service Center Fund	50,555
Transfer to Catastrophic Loss Fund from Unified Program (CUPA) Fund	5,082
Transfer to General Fund from Parking Meter Fund	1,742,288
Transfer from Special Tax Bonds CFD#1 ML-ROOS to CFD#1 District Fire Protect Bond (Measure Q)	2,048,940
Transfer to First Source Fund from Parks Tax Fund	14,093
Transfer to First Source Fund from Capital Improvement Fund	26,943
Transfer to First Source Fund from Marina Fund	1,875
Transfer to Public Art Fund from Parks Tax Fund	21,140
Transfer to Public Art Fund from Capital Improvement Fund	40,414
Transfer to Public Art Fund from Marina Fund	2,813
Subtotal Transfers to Other Funds:	69,184,189
Sub-Total Dual Appropriations	\$ 74,849,421
Grand Total Dual Appropriations	\$ 121,335,579

SUMMARY OF APPROPRIATIONS BY FUND

ERMA Fund # Fund	FY 2022 Adopted
11 General Fund Discretionary	234,754,491
16 Measure U1 - Housing	6,446,014
101 Library - Tax	25,037,858
103 Library - Grants	64,889
104 Library - Friends & Gift	150,000
105 Library - Foundation	350,000
106 Asset Forfeiture	201,000
107 Special Tax Measure E	1,451,853
108 First Source Fund	46,675
110 Sec 108 Loan Gty Asst.	553,108
111 Fund Raising Activities	53,875
113 Sports Field (Vendor Oper)	258,234
115 Animal Shelter	52,480
116 Paramedic Tax	4,916,665
119 Domestic Violence Prev - Vit Stat	22,587
120 Affordable Housing Mitigation	2,716,178
121 Affordable Child Care	13,275
122 Inclusionary Housing Program	550,501
123 Condo Conversion	109,617
125 Playground Camp	13,850,034
126 State-Prop 172 Pub.Safety	426,693
127 State Transportation Tax	6,009,197
128 CDBG	4,576,057
129 Rental Housing Safety Program	2,230,164
130 Measure B - Local St & Road	3,536,592
131 Measure B - Bike and Pedestrian	234,330
132 Measure B - Paratransit	525,433
133 Measure F Alameda County VRF St & Rd	519,245
134 Measure BB - Local St & Road	4,314,642
135 Measure BB - Bike & Pedestrian	124,414
136 Measure BB - Paratransit	447,741
138 Parks Tax	14,402,630
140 Measure GG - Fire Prep Tax	4,897,270
142 Streetlight Assesment District	2,671,488
143 Berkeley Bus Ec Dev	156,387
145 Bayer (Miles Lab)	8,500
146 Employee Training	807,304
147 UC Settlement	21,219
148 Private Percent - Art Fund	20,646
149 Private Party Sidewalks	100,000
150 Public Art Fund	64,367
152 Vital & Health Statistics Trust Fund	29,813
156 Hlth State Aid Realign Trust	3,806,205
157 Tobacco Cont.Trust	352,325
158 Mental Health State Aid Realign	3,182,564
159 Citizens Option Public Safety Trust	258,724

SUMMARY OF APPROPRIATIONS BY FUND

ERMA Fund # Fund	FY 2022 Adopted
161 Alameda Cty Abandoned Vehicle Abatement	96,449
164 Measure FF	12,750,000
165 Fair Elections	505,002
302 Operating Grants - State	63,276
309 OTS DUI Enforcement Education Prg.	129,500
310 HUD/Home	803,968
311 ESGP	576,637
312 Health (General)	2,054,767
313 Target Case Management Linkages	827,961
314 Alameda County Tay Tip	35,812
315 Mental Health Service Act	10,030,261
316 Health (Short/Doyle)	4,725,112
317 EPSDT Expansion Proposal	389,139
318 Alcoholic Bev Ctr OTS/UC	52,804
319 Youth Lunch	101,900
320 Sr. Nutrition Title III	107,003
321 CFP Title X	65,086
324 BUSD Grant	362,343
325 Vector Control	339,173
326 Alameda County Grants	624,203
327 Senior Supportive Social Services	64,339
328 Family Care Support Program	75,212
329 CA Integrated Waste Management	5,244
331 Housing Mitigation	1,126,763
333 CALHOME	363,100
334 Community Action	298,878
336 One-Time Grant: No Cap Exp	3,043,587
338 Bay Area Air Quality Management	60,000
339 MTC	125,000
340 FEMA	790,560
341 Alameda Cty Waste Mgt.	285,000
343 State Dept Conserv/Recylg	28,000
347 Shelter+Care HUD	6,240,760
348 Shelter+Care County	855,792
349 JAG Grant	52,500
350 Bioterrorism Grant	240,124
354 ARPA - Local Fiscal Recovery Fund	46,300,355
501 Capital Improvement Fund	8,393,901
502 Phone System Replacement	449,408
503 FUNDS\$ Replacement	3,571,725
504 PEG-Public, Education & Government	100,000
511 Measure T1 - Infra & Facil.	12,816,854
512 Measure O	6,445,567
552 09 Measure FF Debt Service	1,343,638
553 2015 GORBS	2,051,966
554 2012 Lease Revenue Bonds BJPFA	502,238

SUMMARY OF APPROPRIATIONS BY FUND

ERMA Fund # Fund	FY 2022 Adopted
555 2015 GORBS - 2002 G.O. Refunding Bonds	379,561
556 2015 GORBS (2007, Series A)	142,865
557 2015 GORBS (2008 Measure I)	481,286
558 2010 COP (Animal Shelter)	406,991
559 Measure M GO Street & Water Imps	740,738
560 Infrastructure & Facilities Measure T1	1,731,181
561 Measure O - Housing Bonds	2,023,940
601 Zero Waste	48,199,561
608 Marina Operation	7,308,402
611 Sewer	30,227,353
612 Private Sewer Lateral FD	193,658
616 Clean Storm Water	4,899,517
621 Permit Service Center	20,692,553
622 Unified Program (CUPA)	821,845
627 Off Street Parking	6,551,006
631 Parking Meter	10,006,409
636 Building Purchases and Management	3,434,440
671 Equipment Replacement	5,906,134
672 Equipment Maintenance	9,812,320
673 Building Maintenance Fund	4,463,546
674 Central Services	385,483
676 Workers Compensation	6,593,924
678 Public Liability	3,843,932
680 Information Technology	14,673,515
762 Successor Agency - Savo DSF	57,120
776 Thousand Oaks Underground	98,448
777 Measure H - School Tax	500,000
778 Measure Q - CFD#1 Dis. Fire Protect Bond	2,048,940
779 Spl Tax Bds. CFD#1 ML-ROOS	2,823,820
781 Berkeley Tourism BID	181,125
782 Elmwood Business Improvement District	30,000
783 Solano Ave BID	25,000
784 Telegraph Avenue Bus. Imp. District	523,371
785 North Shattuck BID	210,363
786 Downtown Berkeley Prop & Improv. District	1,313,214
801 Rent Board	6,275,535
GROSS EXPENDITURE:	673,601,287
Dual Appropriations	(74,849,421)
Revolving & Internal Service Funds	(46,486,158)
NET EXPENDITURE:	552,265,708



Office of the City Manager

CONSENT CALENDAR
July 13, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Henry Oyekanmi, Director, Finance

Subject: Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on July 13, 2021

RECOMMENDATION

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

FISCAL IMPACTS OF RECOMMENDATION

Total estimated cost of items included in this report is \$663,976.

<u>PROJECT</u>	<u>Fund</u>	<u>Source</u>	<u>Amount</u>
Covid-19 Public Health Messaging Strategies	336	One-Time Grant	\$283,000
2636 Martin Luther King Jr. Way Window Leak Repair	158	Mental Health State Aid Realignment	\$380,976
Total:			\$663,976

CURRENT SITUATION AND ITS EFFECTS

On May, 6, 2008, Council adopted Ordinance No. 7,035-N.S. effective June 6, 2008, which increased the City Manager's purchasing authority for services to \$50,000. As a result, this required report submitted by the City Manager to Council is now for those purchases in excess of \$100,000 for goods; and \$200,000 for playgrounds and construction; and \$50,000 for services. If Council does not object to these items being sent out for bid or proposal within one week of them appearing on the agenda, and

upon final notice to proceed from the requesting department, the IFB (Invitation for Bid) or RFP (Request for Proposal) may be released to the public and notices sent to the potential bidder/respondent list.

BACKGROUND

On May 6, 2008, Council adopted Ordinance No. 7,035-N.S., amending the City Manager's purchasing authority for services.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The Finance Department reviews all formal bid and proposal solicitations to ensure that they include provisions for compliance with the City's environmental policies. For each contract that is subject to City Council authorization, staff will address environmental sustainability considerations in the associated staff report to City Council.

RATIONALE FOR RECOMMENDATION

Need for the services.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Darryl Sweet, General Services Manager, Finance, 510-981-7329

Attachments:

- 1: Formal Bid Solicitations and Request for Proposals Scheduled For Possible Issuance After Council Approval on July 13, 2021
 - a) Covid-19 Public Health Messaging Strategies
 - b) 2636 MLK Window Leak Repair

Note: Original of this attachment with live signature of authorizing personnel is on file in General Services.

DATE SUBMITTED: July 13, 2021

SPECIFICATION NO.	DESCRIPTION OF GOODS / SERVICES BEING PURCHASED	APPROX. RELEASE DATE	APPROX. BID OPENING DATE	INTENDED USE	ESTIMATED COST	BUDGET CODE TO BE CHARGED	DEPT. / DIVISION	CONTACT NAME & PHONE
21-11464-C	COVID-19 Public Health Messaging Strategies	7/14/2021	8/17/2021	Multiple contracts to provide culturally responsive COVID-19 Public Health resources and education for mitigating COVID-19 through vaccination and testing. Contractor(s) will develop, manage, and implement effective mitigation and prevention media campaigns focusing on hard-to-reach populations and eliminating barriers to vaccine and testing hesitancy.	\$283,000	336-51-501-503-2075-000-451-511110	HHCS/Office of the Director	Amy Davidson 981-5406
DEPT. TOTAL					\$283,000			
21-11465-C	2636 MLK Window Leak Repair	7/14/2021	8/4/2021	Restoration and waterproofing of leaking building facade	\$380,976	HHCS Funds: 158-51-503-520-0000-000-451-670120- HHMROM2101- NONPERSONN-INTLSVCS- NONRTFACMT	PW/Engineering	Elmar Kapfer 981-6435
Dept TOTAL					\$380,976			
Dept TOTAL					\$380,976			
DEPT. TOTAL					\$663,976			



Office of the City Manager

CONSENT CALENDAR
July 13, 2021

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: ERA Construction, Inc. for the O&K Docks Electrical Upgrade Project at the Berkeley Marina

RECOMMENDATION

Adopt a Resolution:

1. Approving the plans and specifications for the O&K Docks Electrical Upgrade Project (Bid Specification No. 21-11449-C); and
2. Rejecting the bid protest of Edward W. Scott Electric Co. Inc., the second-lowest bidder; and
3. Accepting the bid of ERA Construction, Inc. as the lowest responsive and responsible bidder on the Project; and
4. 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 ERA Construction, Inc., for the O&K Docks Electrical Upgrade Project, in an amount not to exceed \$1,200,000, which includes a contract amount of \$1,117,980 and a 7.3% contingency in the amount of \$82,020.

FISCAL IMPACTS OF RECOMMENDATION

Funding is available in the FY 2021 budget in the CIP Fund (Fund 501), and Marina Enterprise Fund (Fund 608). Both funds will be carried over and included in the FY 2022 AAO #1. No other funding is required, and no other projects will be delayed due to this expenditure.

CONTRACTOR (lowest bid).....	\$1,117,980.00
7.3% Contingency	\$82,020.00
<hr/>	
Total construction cost	\$1,200,000.00
CIP 501 (501-52-545-000-0000-000-461-663110-PRWWF20005)	\$550,000.00
Marina Enterprise Fund (608-52-545-000-0000-000-473-663110-PRWWF20005).....	\$650,000.00
<hr/>	
Total construction cost.....	\$1,200,000.00

CURRENT SITUATION AND ITS EFFECTS

On April 21, 2021, the O&K Docks Electrical Upgrade Project was advertised for competitive bids. On May 18, 2021, two (2) bids were received (See Attachment 2: Bid Abstract Summary). Staff reviewed the bid results and the Contractor's references, and has determined that the bid from ERA Construction, Inc. is the lowest responsive and responsible bidder.

On May 24, 2021 the City received a bid protest from the second-lowest bidder, Edward W. Scott Electric Co., Inc. The general basis for the protest was that the ERA Construction bid was non-responsive because the bid did not comply with the following requirements in the Project Manual: 1) Section 00 4513 – Statement of Qualifications for Construction Projects, Article 1, Section 1.01 B, "Bidder's must have three (3) years' experience as a continuously operating entity engaged in the performance of similar work; and, 2) Section 00 4513 – Statement of Qualifications for Construction Projects, Article 1, Section 1.01 C, "Bidders must demonstrate successful experience with work of similar nature to this Project. Bidders to include evidence of completion of two (2) projects of a similar nature and complexity with a contract dollar amount of (i.) at least 75% of the amount of Bidder's Bid or (ii.) 125% of such amount in the aggregate within the past year".

The City forwarded the bid protest letter to ERA Construction, Inc. for review and response. ERA responded by demonstrating that their bids comply with requirements in Section 00 4513 of the Project Manual.

After evaluating the protest from Edward W. Scott Electric Co. Inc. and the response from ERA Construction, Inc., City staff determined that ERA Construction Inc's bid is responsive and responsible and the protest from Edward W. Scott Electric Co., Inc. does not have merit. Therefore, it is recommended that the Council reject the bid protest by Edward W. Scott Electric Co., Inc. and award the contract for this project to the lowest responsive and responsible bidder, ERA Construction, Inc.

The Living Wage Ordinance does not apply to this project since Public Works construction contracts are, pursuant to City policy, subject to State prevailing wage laws. Contractor has submitted a Certification of Compliance with the Equal Benefits Ordinance. The Community Workforce Agreement applies to this project because the estimated value of the project exceeds \$500,000. As a result, the successful bidder and all subcontractors will be required to sign an agreement to be bound by the terms of the Agreement.

Construction is expected to begin in September, 2021 and be completed by March, 2022.

BACKGROUND

The Berkeley Marina is one of the largest marinas in the East Bay. It is a highly valued community resource offering recreational opportunities and open space amenities for both local residents and visitors throughout the Bay Area. It contains a range of

facilities: a hotel, restaurants, marina-related offices, 1,000 boat slips, the historic Berkeley Municipal Pier, and the trails and open space at Cesar Chavez Park and McLaughlin Eastshore State Park. Plans are currently underway to study the feasibility of ferry service, as well as construct a new portion of Eastshore State Park called the Brickyard.

The purpose of this project is to replace the outdated electrical systems at O-Dock and K-Dock to meet the latest current code requirements with safe and user-friendly access to the utility connections serving the boat slips. The electrical load rating at O-Dock will be upgraded from 600AMP to 800AMP to accommodate future demands at the Marina.

This project includes the following components: new dock-mount utility pedestals for electrical and potable water connections with central computerized communication systems and integrated lighting, new dock boxes, new conductor wires, new dock-mount power station (transformers), and new switchboard enclosures at the landside.

The upgraded switchboard enclosures will provide more reliable electrical services to not only O & K docks but to L, M, N docks and two restroom buildings as well.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The construction contract includes requirements to comply with the City's Environmentally Preferable Purchasing Policy. The work will also comply with the conditions contained in the Bay Conservation Development Commission (BCDC) Permit, and City of Berkeley Building Permit.

This project is a maintenance project of an existing infrastructure and therefore will not negatively affect natural habitat. The City, acting as the CEQA lead agency, reviewed the Project's potential environmental impacts and determined that the Project was eligible for a Categorical Exemption pursuant to CEQA Guidelines Section 15301 (Existing Facilities), and Section 15302 (Replacement or Reconstruction) because the Project consists of the maintenance of existing public structures/facilities, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. On March 1, 2021, the City filed a Notice of Exemption (NOE) for the Project with the Alameda County Clerk.

CLIMATE IMPACTS

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

RATIONALE FOR RECOMMENDATION

This project is part of the City's ongoing effort to update and maintain the deteriorated infrastructures at the Berkeley Marina.

Contract: ERA Construction, Inc. for the
O&K Docks Electrical Upgrade Project

CONSENT CALENDAR
July 13, 2021

ALTERNATIVE ACTIONS CONSIDERED

None

CONTACT PERSON

Scott Ferris, Director, Parks Recreation & Waterfront, 981-6700
Nelson Lam, Supervising Civil Engineer, PRW, 981-6395

Attachments:

- 1: Resolution
- 2: Bid Abstract Summary

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

CONTRACT: ERA CONSTRUCTION, INC. FOR THE O&K DOCKS ELECTRICAL
UPGRADE PROJECT

WHEREAS, the existing electrical systems at O and K Docks at the Berkeley Marina are outdated and in need of upgrades in order to provide reliable and safe electrical services to the slips; 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 April 21, 2021, bids were opened on May 18, 2021, and the City received two bids; and

WHEREAS, the second-lowest bidder, Edward W. Scott Electric Co. Inc. protested the bid by ERA Construction, Inc.; and

WHEREAS, ERA Construction, Inc.'s bid complies with the requirements in Section 00 4513 of the Project Manual; and

WHEREAS, the bid from ERA Construction, Inc. was the lowest responsive, responsible bid of \$1,117,980.00, and references for ERA Construction, Inc. were provided and checked out satisfactorily; and

WHEREAS, funding is available in the FY 2021 budget from in the CIP Fund (Fund 501), and Marina Enterprise Fund (Fund 608). Both funds will be carried over and included in the FY 2022 AAO #1.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Plans and Specification No. 20-11449-C for the O&K Docks Electrical Upgrade Project are approved.

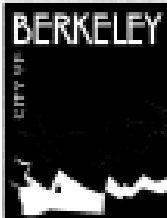
BE IT FURTHER RESOLVED that the Council of the City of Berkeley rejects the bid protest by Edward W. Scott Electric Co, Inc.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley accepts the bid of the lowest responsive and responsible bidder, ERA Construction, Inc.

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 ERA Construction, Inc. for the O&K Docks Electrical Upgrade Project in an amount not to exceed \$1,200,000.00, which includes a contract amount of \$1,117,980.00 and a 7.3% contingency in the amount of \$82,020.00 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 2 - Bid Abstract



1402

City of Berkeley
Abstract of Bid Worksheet

Finance Department
General Services Division

FOR: Docks O & K Electrical Upgrade Spec. # 21-11449-C Bid Date: 5/18/2021

required w/ bid

	Bidders	Base Bid	Bid Bond	Addenda (1)	Reg/Exp	Sub-List	Non-Coll	Certs
1	Edward W. Scott Electric	\$ 1,480,200.00	x	x	x	x	x	x
2	ERA Construction	\$ 1,117,500.00	x	x	x	x	x	x
3								
4								
5								
6								
7								
8								
9								
10								

Bid Recorder: Darryl Sweet
 Bid Opener: Josh Roben
 Project Manager: 2180 Millbrae Avenue, Millbrae, CA 94704 Tel: 510.961.7120 TDD: 510.961.6903 Fax: 510.961.7990
 E-mail: finance@ci.berkeley.ca.us



Office of the City Manager

CONSENT CALENDAR
July 13, 2021

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 No. 32000274 Amendment: Suarez and Munoz Construction, Inc. for San Pablo Park Playground and Tennis Court Renovation Project

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32000274 with Suarez and Munoz Construction, Inc. for the San Pablo Park Playground and Tennis Court Renovation Project, increasing the amount by \$60,000 for an amended total amount not to exceed \$2,154,056.

FISCAL IMPACTS OF RECOMMENDATION

Funding for this contract amendment is available in the FY 2022 budget in the Parks Tax Fund (Fund 138) (138-52-545-000-0000-000-461-663110-PRWT119009). No other funding is required, and no other projects will be delayed due to this expenditure.

CURRENT SITUATION AND ITS EFFECTS

The contract with Suarez and Munoz Construction, Inc. for the San Pablo Park Playground and Tennis Court Renovation Project, was approved on May 12, 2020 for a total amount not to exceed \$1,969,056. During construction, unforeseen existing conditions required that additional work be performed. Additionally, the City's parks maintenance staff identified additional deferred maintenance repairs and necessary replacements. Lastly, a defect was discovered in one of the new play elements and the City is working with the equipment manufacturer to replace and correct the installation. The City has negotiated these change orders with Suarez and Munoz Construction, Inc. This work was not included in the original contract scope, but is necessary to maintain accessibility and safe conditions at the City's parks, and improves the finish of the completed project.

BACKGROUND

The project includes removal and disposal of the existing degraded age 2-5 and 5-12 playgrounds and the installation of two new play areas in the existing locations. In addition to new play structures, accessible surfacing will be installed throughout both play areas to enhance the safety and access for park users. The project also includes resurfacing of the tennis courts, renovating the existing chain link fence including

replacement of the fence fabric for the tennis courts, installing site furnishings including net assembly, bleachers, benches, drinking fountains, and bleachers, and related site work to improve pedestrian and ADA access in conformance with current ADA standards. These park improvements are part of the City's ongoing program to repair, renovate, and improve safety and accessibility at non-compliant or aging Parks facilities.

The project was advertised for bids on March 20, 2020, and bids were opened on April 16, 2020. The City received 4 bids, from a low base bid of \$1,729,351 to a high base bid of \$2,437,785. Suarez & Munoz Construction, Inc. ("SMC") was the lowest responsive and responsible bidder. Staff conducted references checks and received satisfactory feedback.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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.

CLIMATE IMPACTS

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

RATIONALE FOR RECOMMENDATION

The City and Suarez and Munoz Construction, Inc. are negotiating a price within the City's budget for renovations and safety improvements. This increase to the contract is necessary to perform additional deferred maintenance repairs, safety enhancements, and to complete current change orders. The City does not have the in-house labor or equipment resources to complete these construction activities.

ALTERNATIVE ACTIONS CONSIDERED

None

CONTACT PERSON

Scott Ferris, Director, Parks Recreation & Waterfront, (510) 981-6700
Wendy Wellbrock, Associate Civil Engineer, PRW, (510) 981-6346

Attachments:

1: Resolution

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

CONTRACT NO. 32000274 AMENDMENT: SUAREZ AND MUNOZ CONSTRUCTION, INC. FOR THE SAN PABLO PARK PLAYGROUND AND TENNIS COURT RENOVATION PROJECT

WHEREAS, San Pablo Park, Playgrounds and Tennis Courts are in need of renovation; and

WHEREAS, the City has neither the labor nor the equipment necessary to undertake this construction work; and

WHEREAS, an invitation for bids was duly advertised on March 20, 2020, and bids were opened on April 16, 2020, and the City received 4 bids;

WHEREAS, Suarez & Munoz Construction, Inc. was the lowest responsive and responsible bidder, and references for Suarez & Munoz Construction, Inc. were provided and checked out satisfactorily; and

WHEREAS, on May 12, 2020, by Resolution No. 69,390-N.S., the City Council authorized Contract No. 32000274 with Suarez and Munoz Construction, Inc. in an amount not to exceed \$1,969,056 for the San Pablo Park Playground and Tennis Court Renovation Project; and

WHEREAS, on April 20, 2021, by Resolution No. 69,799-N.S., the City Council authorized an amendment to Contract No. 32000274, increasing the amount by \$125,000 for an amended contract amount not to exceed \$2,094,056; and

WHEREAS, an increase of \$60,000 to the amended not to exceed contract amount is necessary to make repairs and complete change orders; and

WHEREAS, funds are available in the FY 2022 budget in the Parks Tax Fund (Fund 138).

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. 32000274 with Suarez and Munoz Construction, Inc. for the San Pablo Park Playground and Tennis Court Renovation Project, increasing the contract amount by \$60,000, for a total amended amount not to exceed \$2,154,056. A record signature copy of any amendments to be on file in the Office of the City Clerk.



Office of the City Manager

CONSENT CALENDAR
July 13, 2021

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Jordan Klein, Director, Planning and Development Department
 Subject: Authorize the City Manager to Accept REAP and PDA Planning Grant Applications

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to accept three planning grant awards and to execute documents or amendments associated with each grant. The three applications awarded are: A competitive Regional Early Action Planning (REAP) grant in the amount of \$75,000; a non-competitive REAP grant in the amount of \$83,506; and a Priority Development Area (PDA) Planning Grant for the San Pablo Avenue PDA in the amount of \$750,000.

FISCAL IMPACTS OF RECOMMENDATION

The total anticipated budget for the 2023-2031 Housing Element Update is approximately \$540,000. The City has allocated \$325,000 from a previously-awarded State of California Local Early Action Planning (LEAP) grant towards this effort and will be applying the \$83,506 non-competitive REAP grant and \$75,000 competitive REAP grant to help cover the remaining budget need of \$215,000. The final \$56,494 needed for the Housing Element Update will be expended from the Community Planning Fund (within the Permit Service Center Fund).

The total anticipated budget for the San Pablo Avenue Specific Plan is \$750,000. The PDA Planning Grant will go entirely towards the completion of that effort. No City matching funds are required for any of the three grant awards being accepted in this action.

CURRENT SITUATION AND ITS EFFECTS

The 6th Cycle 2023-2031 Housing Element Update is required by State law and is a Strategic Plan Priority Project, advancing our goal to create affordable housing and housing support services for our most vulnerable community members. The state mandates that all jurisdictions must plan for the projected housing needs of residents at varying levels of income as part of the Housing Element and Regional Housing Needs Allocation (RHNA). The City of Berkeley currently has a draft RHNA of approximately 8,934 units for the 6th Cycle. The Land Use Policy Planning staff and consultant team will focus on the Housing Element Update effort over the next 18 months.

The San Pablo Avenue PDA is a Strategic Plan Priority Project, advancing the City’s goal to foster a dynamic, sustainable, and locally-based economy. Recent changes along San Pablo Avenue in Berkeley range from pedestrian safety improvements to new commercial businesses and mixed-use housing developments. The City anticipates that the San Pablo Avenue Plan Area has the potential to add at least 1,250 housing units, of which at least 250 will be deed restricted affordable for Low or Very Low-Income households. Land Use Policy Planning staff will embark on this effort by partnering with a planning consultant team to ensure that a Specific Plan is adopted by 2025 as required for all PDA grant-funded projects.

BACKGROUND

In late December 2020, the Joint Metropolitan Transportation Commission (MTC) and the Association of Bay Area Governments (ABAG) released a Call for Letters of Interest for \$1 million in competitive REAP grants (maximum \$100,000 per grant), \$5 million in non-competitive REAP grants, and \$7.8 million in PDA Planning and Technical Assistance funds for jurisdictions in the Bay Area region. The City of Berkeley submitted Letters of Interest on February 11, 2021 and were awarded the following grants:

Grant Type	Submitted Application	Recommended Award
Competitive REAP	\$100,000 to be used towards the Housing Element and missing middle rezoning	\$75,000
Non-Competitive REAP	\$83,506 to be used towards the Housing Element Update	\$83,506, based on a Draft RHNA Methodology Eligible Units formula
PDA Planning Grant	\$800,000 to be used towards developing the San Pablo PDA Specific Plan	\$750,000

Berkeley was one of only 14 successful jurisdictions out of 65 that applied for competitive REAP funding. The City’s 6th Cycle RHNA target is approximately 8,934 units, a 202% increase over the 5th Cycle. The City will put the combined \$158,506 in competitive and non-competitive REAP funding towards the preparation of the Housing Element Update and its associated implementation steps, including housing inventory and policy analysis, rezoning, and associated environmental review. The Housing Element Update process also includes extensive public outreach and engagement to ensure that Berkeley’s community members and stakeholders understand, guide, and contribute to the planning process.

In March 2021, City Council adopted two referrals regarding participatory planning, key principles and zoning considerations for the Housing Element Update process. In April

2021, City staff presented to the Council a memorandum providing a summary of Berkeley's Housing Element and General Plan progress and further background on the City's RHNA. Please see the links section at the end of this staff report for full details.

Rezoning will focus on encouraging growth and density in transit- and resource-rich areas as well as creating "missing middle" housing opportunities in districts currently zoned for lower densities. In 2019, City Council adopted a referral for missing middle housing (sponsored by Councilmembers Droste, Bartlett, Robinson, and Kesarwani; see link below) requesting analysis on dividing existing housing into smaller units and allowing a wider range of housing types on single-family lots, such as duplexes, triplexes/fourplexes, courtyard apartments, bungalow courts, and townhouses.

In 2015, City Council adopted a referral (sponsored by former Councilmembers Maio and Moore; see Attachment 2) requesting preparation of a San Pablo Avenue Plan, recognizing that a comprehensive vision is necessary to guide the future development of this important multimodal, multi-use corridor. San Pablo Avenue is a primary transportation corridor in the East Bay, extending from the Carquinez Bridge through Berkeley to Downtown Oakland, and has been the subject of multiple regional planning efforts, including ABAG's East Bay Corridor Initiative and Alameda County Transportation Commission's (ACTC) San Pablo Avenue Corridor Project. The City will use the PDA funding for a comprehensive planning process to define a cohesive community vision for the future of San Pablo Avenue and identify opportunities and specific strategies to support a diversity of housing, commercial activities, and public amenities along this important corridor and its adjacencies.

ABAG/MTC has compiled a Regional Consulting Bench ("Bench") of pre-qualified consultants with expertise in assisting jurisdictions in multiple service categories, from comprehensive planning to housing and transportation policy to engagement and outreach. The City has the option to administer the PDA grant through the ABAG/MTC Bench or through a reimbursement-based grant administered by City staff.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The projects funded by these grants – the Housing Element Update and the San Pablo Avenue Specific Plan – will result in greater housing development near transit- and employment-rich areas. Prioritizing density and affordable housing in these areas will incentivize community members to use alternative modes of transportation and reduce vehicle miles traveled (VMT), which are critical for reducing greenhouse gas emissions, and will bring the City closer to meeting its Climate Action Plan and Climate Emergency goals.

RATIONALE FOR RECOMMENDATION

In order to accept the awarded competitive and non-competitive REAP Grants and the PDA Planning grant, City Council must adopt and submit the attached Resolution.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Grace Wu, Senior Planner, Planning and Development Department, 510-981-7484

Attachments:

- 1: Resolution
- 2: Referral to Planning Commission re San Pablo Ave. development, July 14, 2015

Links:

1. Droste L., Bartlett B., Robinson R. and Kesarwani R. (2019, April 23). *Missing Middle Housing Report*. Berkeley City Council.
https://www.cityofberkeley.info/Clerk/City_Council/2019/04_Apr/Documents/2019-04-23_Supp_2_Reports_Item_32_Rev_Droste_pdf.aspx
2. Droste, L., Arreguín J., Kesarwani R., and Taplin T. (2021, March 25). *Initiation of Public Process and Zoning Concepts for 2023-2031 Housing Element Update*. Berkeley City Council.
https://www.cityofberkeley.info/uploadedFiles/Clerk/City_Council/2021/03_Mar/Documents/Initiation%20of%20Public%20Process%20and%20Zoning%20Concepts%20-%20Mayor%203-25-21.pdf
3. Hahn, S. and Harrison, K. (2021, March 25). *Initiation of Participatory Planning for Berkeley's Regional Housing Needs Allocation (RHNA)*. Berkeley City Council.
[https://www.cityofberkeley.info/Clerk/City_Council/2021/03_Mar/Documents/2021-03-25_\(Special\)_Supp_2_Reports_Item_2_Supp_Hahn_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2021/03_Mar/Documents/2021-03-25_(Special)_Supp_2_Reports_Item_2_Supp_Hahn_pdf.aspx)
4. Williams-Ridley, D. (2021, April 28). *Housing Element Update and Annual Progress Report*. Off-Agenda Memo to Mayor and City Council.
https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_General/Housing%20Element%20Update%20042821.pdf
5. ABAG and MTC. (2020, December). Letter of Interest: Regional Early Action Program (REAP) and Priority Development Area (PDA) Planning & Technical Assistance.
https://abag.ca.gov/sites/default/files/applicant_guide_reap_pda_loi.pdf

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

ACCEPTANCE OF TWO REGIONAL EARLY ACTION PLANNING (REAP) GRANTS
AND ONE PRIORITY DEVELOPMENT AREA (PDA) GRANT

WHEREAS, the City Council of the City of Berkeley desires to accept and approve the application and award of two REAP grants and one PDA grant to assist in the preparation and adoption of the 2023-2031 Housing Element update, its associated rezoning efforts, and the San Pablo Avenue Specific Plan; and

WHEREAS, pursuant to the 2019-2020 Budget Act, the State Department of Housing and Community Development (HCD) established the Regional Early Planning Grant Program (REAP) to provide one-time grant funding for planning activities that will accelerate housing production and facilitate compliance in implementing the 6th Cycle of the Regional Housing Needs Allocation (RHNA); and

WHEREAS, since 2008, the Federal Surface Transportation Program (STP) Planning Funds, distributed by MTC and guided by the One Bay Area Grant programs (OBAG) policies, have dedicated funds to regional initiatives that support PDA planning and implementation; and

WHEREAS, in late December 2020, ABAG and MTC solicited Letters of Interest from the 109 local jurisdictions in the nine-county Bay Area for approximately \$12 million in Technical Assistance and Planning Grants to support the completion of Housing Elements, housing-supportive initiatives, and Priority Development Areas (PDAs); and

WHEREAS, the funding is divided into three categories: non-competitive REAP funding (formula based on Draft RHNA Methodology), competitive REAP funding (\$100,000 maximum grant), and PDA Planning funding (\$800,000 maximum grant per PDA); and

WHEREAS, on February 11, 2021, the City of Berkeley submitted Letters of Interest applications for REAP competitive and non-competitive funding and PDA Planning grants; and

WHEREAS, the City was notified on May 14, 2021 by the Joint MTC Planning and ABAG Administrative Committees of the recommended awards for three funding grants: \$83,506 in REAP non-competitive grant funding for the Housing Element, \$75,000 in REAP competitive grant funding for the Housing Element and missing middle rezoning, and \$750,000 in PDA Planning for the San Pablo Avenue Specific Plan.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is hereby authorized to accept the REAP and PDA grant application awards as follows: \$83,506 in REAP non-competitive grant funding for the Housing Element, \$75,000 in REAP competitive grant funding for the Housing Element

and missing middle rezoning, and \$750,000 in PDA Planning for the San Pablo Avenue Specific Plan.

BE IT FURTHER RESOLVED that the City Manager of the City of Berkeley is authorized to enter into, execute, and deliver on behalf of the Applicant, an agreement with Association of Bay Area Governments (ABAG) for the REAP grants and an agreement with Metropolitan Transportation Commission (MTC) for the PDA grant (Standard Agreements) for the amounts awarded to complete the City's Housing Element update, support the analysis and rezoning for missing middle housing, and complete a Specific Plan for the San Pablo Avenue PDA, and any and all other documents required or deemed necessary or appropriate to evidence and secure the REAP and PDA grants, the Applicant's obligations related thereto, and all amendments thereto.

BE IT FURTHER RESOLVED that the Applicant shall be subject to the terms and conditions as specified in the Letter of Interest (LOI) and the Standard Agreements provided by the Department after approval. The Application and any and all accompanying documents are incorporated in full as part of the Standard Agreements. Any and all activities funded, information provided, and timelines represented in the Application will be enforceable through the fully executed Standard Agreements. Pursuant to the LOI and in conjunction with the terms of the Standard Agreements, the Applicant hereby agrees to use the funds for eligible uses and allowable expenditures in the manner presented and specifically identified in the approved Application.



CITY COUNCIL

CONSENT CALENDAR

July 14, 2015

TO: Honorable Mayor and Members of the City Council

FROM: Councilmembers Linda Maio and Darryl Moore

SUBJECT: Referral to Planning Commission: Guiding Development on San Pablo Avenue

RECOMMENDATION

Refer to the Planning Commission the development of a Plan to guide development on San Pablo Avenue.

BACKGROUND

There has been a spate of development on San Pablo Avenue recently and we can expect more development to occur. Neighbors are concerned that major corridors in the City have been the subject of a Plan to guide development, yet this major Avenue still lacks such a plan. This item initiates a planning process for San Pablo Avenue, including a major outreach component to the community.

FINANCIAL IMPLICATIONS

Staff time.

CONTACT

Councilmember Linda Maio, District 1, 510-981-7110
Councilmember Darryl Moore, District 2, 510-981-7120



Office of the City Manager

CONSENT CALENDAR
July 13, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Jennifer Louis, Interim Chief of Police

Subject: Accept Grant Funding from the California Highway Patrol (CHP) Cannabis Tax Fund Grant Program to Reduce Impaired Driving in the City of Berkeley

RECOMMENDATION

Adopt a Resolution authorizing the City Manager, or designee, to accept the “Cannabis Tax Fund Grant Program (CTFGP)” and enter into the resultant grant agreement and any amendments to fund impaired driving detection/investigation training for officers, community educational programs and supplemental impaired driving enforcement. The tentative grant allocation is \$135,462 for the period of July 1, 2021 through June 30, 2022.

FISCAL IMPACTS OF RECOMMENDATION

There is no fiscal impact for adopting the authorizing resolution to accept funding. There is no match requirement and/or leveraging of funds required. The total funding available for this project is \$135,462, which will be deposited into One-Time Grant: No Capital Expenditure revenue budget code 336-71-703-812-0000-000-421-432110 and will be expensed from the same fund. The grant, which will be officially appropriated in a future amendment to the FY 2022 Annual Appropriations Ordinance, will fund overtime, benefits, equipment and training costs with no additional General Fund expenditures.

CURRENT SITUATION AND ITS EFFECTS

Securing CHP grant funding is a Strategic Plan Priority Project, advancing our goal to create a resilient, safe, connected, and prepared city.

Currently, the Traffic Bureau of the Berkeley Police Department is staffed by four motor officers, one traffic data analyst, one sergeant and one lieutenant. Motor officers’ responsibilities include injury-collision investigations and traffic enforcement; however, resources often deplete rapidly due to ancillary duties and personnel shortages in the operations/patrol division. Additionally, Berkeley Police Department is in a hiring freeze and is forecasting even more staffing challenges in the future. Grant funding would build upon our current traffic safety efforts by allowing patrol and motor officers opportunities to address traffic safety and impaired driving – in addition to and outside of their regularly scheduled duties. Additionally, the funds would provide opportunities for

leadership development and learning in traffic safety and DUI/impaired driving enforcement and enhance the department's overall mission of public safety.

BACKGROUND

In California alone, there are 49 cities with larger populations than Berkeley. In Alameda County, Berkeley is ranked number four in population behind Oakland, Fremont, and Hayward. Yet, the City of Berkeley is famous around the globe.

As of 2018, Berkeley's population was over 121,000. The population density was over 11,000 per square mile. Nearly 48 percent of Berkeley residents use a motor vehicle to commute to work, just under 8 percent used a bicycle and 16 percent walked. Berkeley makes up only 8 percent of Alameda County's population but more than 37 percent of the county's population of people who walk and ride bikes to work. Additionally, there are 5 dispensaries in the city, and in February 2020, the Berkeley City Council voted unanimously to permit smoking, vaping and consuming cannabis in storefront retailers (previously referred to as dispensaries).

In November 2016, California voters passed AB 64: Cannabis: licensure and regulation as a statewide initiative legalizing the cultivation, sale, and adult use of marijuana. As a result, and pursuant to Revenue and Taxation Code 34019 (f)(3)(B), the State was required to set aside tax funding for the CHP to provide grants to local governments and qualified non-profit organizations. This section states that the grant funding is to be used for the *"education, prevention, and enforcement of laws related to driving under the influence of alcohol and other drugs, including cannabis; programs that help enforce traffic laws, educate the public in traffic safety, provide varied and effective means of reducing fatalities, injuries, and economic losses from collisions; and for the purchase of equipment related to enforcement of laws related to driving under the influence of alcohol and other drugs, including cannabis."*

In 2018, adult-use and medicinal use marijuana businesses began opening in cities that chose to grant local cannabis licenses, to include the City of Berkeley. There is substantial evidence that cannabis use increases the risk of motor vehicle crashes, and driving while under the influence of cannabis has become a significant concern for law enforcement and public safety.

In 2020, Berkeley Police made 100 misdemeanor DUI arrests (79 alcohol, 13 drugs only, 6 combination), 7 felony DUI arrests, and 2 minors with a blood alcohol concentration over .05%.

Over the past six years (1/2015 – 1/2021), 168 injuries occurred in collisions where alcohol or drugs were a factor. Continued, proactive enforcement through DUI saturation patrols funded through the CHP grant provide an effective aid to remove dangerously impaired drivers from the roadway, and will also assist us in educating the community to the dangers of drug and alcohol impaired driving.

Accept Grant Funding from the California Highway Patrol (CHP)
Cannabis Tax Fund Grant Program to Reduce Impaired Driving
in the City of Berkeley

CONSENT CALENDAR
July 13, 2021

The Berkeley Police Department has received notice of a conditional approval for grant funding. CHP requires the local governing body adopt a resolution authorizing the Berkeley Police Department to receive the grant funding.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

None identified.

RATIONALE FOR RECOMMENDATION

The purpose of this grant funding is to address impaired driving, including opportunities and projects to prevent the loss of life, injuries, and property damage caused by driving under the influence of alcohol and/or drugs. These funds are to be used for training, education, prevention, equipment and the enforcement of laws related to DUI of alcohol and other drugs, including cannabis and cannabis products.

Grant funds will assist our training program. Training officers in Standardized Field Sobriety Testing (SFST), Advanced Roadside Impaired Driving Enforcement (ARIDE), and Drug Recognition Evaluation (DRE) will enhance our overall effectiveness as a department in detecting, deterring, and apprehending impaired drivers. The purchase of Field Presumptive Testing equipment will contribute to our effectiveness and overall efficiency and will greatly assist officers in their DUI detection patrol efforts.

Grant funding builds upon our current traffic safety efforts by allowing officers opportunities in saturation enforcement to address impaired driving- in addition to and outside of their regularly scheduled duties. Additionally, the funds provide opportunities for community outreach with emphasis on impaired driving through education to include many types of media.

The Police Department requests this funding be approved to enhance our current efforts to provide a safe environment to every individual who utilizes City of Berkeley sidewalks and roadways. These efforts will include a partnership with the Berkeley Community through outreach and education regarding traffic safety and impaired driving.

ALTERNATIVE ACTIONS CONSIDERED

No other alternatives would result in preserving the shrinking General Fund resources while increasing the safety of the citizens of Berkeley.

CONTACT PERSON

Lieutenant Jen Tate, Police, Traffic Bureau, (510) 981-5383

Attachments:

1: Resolution

Exhibit A: Department of California Highway Patrol Grant Agreement

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

ACCEPTANCE OF CHP CANNABIS TAX FUND LAW ENFORCEMENT GRANT
FY2021/2022

WHEREAS, the California Highway Patrol has been delegated the responsibility by the Legislature of the State of California for the administration of the Cannabis Tax Fund Grant Program, setting up the necessary procedures governing the application; and;

WHEREAS, said procedures established by the California Highway Patrol require the Applicant to certify by resolution the approval of the application to the state; and

WHEREAS, successful Applicants will enter into an agreement with the California Highway Patrol to complete the Grant Scope; and

WHEREAS, the Berkeley Police Department submitted an application for funding from the CHP Cannabis Tax Fund Grant Program FY2021/2022; for the following items:

- Police Officer Training/Education
 - DUI Detection – Field Sobriety Training; and
 - Drug Influence (Health & Safety Code Section 11550) Training; and
 - Drug recognition Expert Training
- Conduct Community Outreach/Education (Social Media Messaging)
- Purchase Field Presumptive Drug Testing Device

WHEREAS, the Berkeley Police Department has received notice of conditional approval for grant funding, Exhibit A, in the amount of \$135,462;

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager, or designee, is hereby authorized to execute the agreement, and any follow up amendments with the California Highway Patrol for the CHP Cannabis Tax Fund Law Enforcement Grant FY2021/2022 in an amount of \$135,462 for the term of July 1, 2021 through June 30, 2022.

1. GRANT TITLE CHP Cannabis Tax Fund Law Enforcement Grant FY2021/2022	
2. NAME OF AGENCY Berkeley Police	4. PERFORMANCE PERIOD From: 07/01/2021 To: 06/30/2022
3. AGENCY SECTION TO ADMINISTER GRANT Berkeley Police Traffic Bureau	
5. OPPORTUNITY INFORMATION DESCRIPTION Law Enforcement grants provide financial assistance to allied agencies for the education, prevention, and the enforcement of laws related to driving under the influence of alcohol and other drugs, including cannabis. The intent of the program is to educate the public regarding the dangers of impaired driving, enforce impaired driving laws on the roadway, improve agency's effectiveness through training and development of new strategies.	
6. FUNDS ALLOCATED UNDER THIS AGREEMENT SHALL NOT EXCEED: \$ 135,462.00	
7. TERMS AND CONDITIONS: The Grantee agrees to complete the Project as described in the Project Description. The Grantee's Application, and the California Code of Regulations, Title 13, Division 2, Chapter 13, Sections 1890.00-1890.27 are hereby incorporated into this agreement by reference. The parties hereto agree to comply with the terms and conditions of the following attachments: <ul style="list-style-type: none"> • Schedule A - Project Description, Problem Statement, Goals and Objectives and Method of Procedure; • Schedule B - Detailed Budget Estimate; and • Schedule B-1 - Budget Narrative. We, the officials named below, hereby swear under penalty of perjury under the laws of the State of California that we are duly authorized to legally bind the Grant recipient to the above described Grant terms and conditions. IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.	
8. APPROVAL SIGNATURES	
A. AUTHORIZED OFFICIAL OF AGENCY Name: Jennifer Louis Phone: 510-981-5976 Title: Interim Police Chief Address: 2100 Milk Jr Way Berkeley, CA 94704 E-Mail: jlouis@cityofberkeley.info _____ <div style="display: flex; justify-content: space-between; width: 100%;"> (Signature) (Date) </div>	B. AUTHORIZED OFFICIAL CHP Name: Kevin Davis Phone: (916) 843-4360 Title: Chief Fax: (916) 322-3169 Address: 601 North 7th Street, Sacramento, CA 95811 E-Mail: KMDavis@chp.ca.gov _____ <div style="display: flex; justify-content: space-between; width: 100%;"> (Signature) (Date) </div>
C. ACCOUNTING OFFICER OF CHP Name: C. M. Jones Phone: (916) 843-3531 Title: Commander Fax: (916) 322-3159 Address: 601 North 7th Street, Sacramento, CA 95811 E-Mail: catrina.jones@chp.ca.gov _____ <div style="display: flex; justify-content: space-between; width: 100%;"> (Signature) (Date) </div>	D. AUTHORIZED FINANCIAL CONTACT TO RECEIVE PAYMENTS Name: Chuck Gunter Address: 2100 Milk Jr Way Berkeley, CA 94704
9. PURCHASE ORDER NUMBER	

TERMS AND CONDITIONS

Grantee shall comply with the California Code of Regulations, Title 13, Division 2, Chapter 13 Section 1890, et seq. and all other terms and conditions noted in this Agreement. Failure by the Grantee to comply may result in the termination of this Agreement by the California Highway Patrol (hereafter referred to as State). The State will have no obligation to reimburse the Grantee for any additional costs once the Grant Agreement has been terminated.

A. EXECUTION

1. The State (the California Highway Patrol) hereby awards to the Grantee the sum of money stated on page one of this Agreement. This funding is awarded to the Grantee to carry out the project set forth in the Project Description and the terms and conditions set forth in this Agreement.
2. The funding for this Agreement is allocated pursuant to California Revenue and Taxation Code Section 34019(f)(3)(B). The Grantee agrees that the State's obligation to pay any sum under this Agreement is contingent upon availability of funds disbursed from the California Cannabis Tax Fund to the State. If there is insufficient funding, the State shall have the option to either: 1) terminate this Agreement, whereby no party shall have any further obligations or liabilities under this Agreement, or 2) negotiate an Agreement amendment to reduce the grant award and scope of services to be provided under this Agreement.
3. The Grantee is not to commence or proceed with any work in advance of receiving notice that the Grant Agreement has been approved. Any work performed by the Grantee in advance of the date of approval by the State shall be deemed volunteer work and will not be reimbursed by the State.
4. The Grantee agrees to provide any additional funding, beyond what the State has agreed to provide pursuant to this Agreement, necessary to complete or carry out the project as described in this Agreement. Any modification or alteration of this Agreement, as set forth in the Grant Application submitted by the Grantee and on file with the State, must be submitted in writing 30 calendar days in advance to the State for approval.
5. The Grantee agrees to complete the project within the timeframe indicated in the Performance Period, which is on page one of this Agreement.

B. PROJECT ADMINISTRATION

1. The Grantee shall submit all reimbursements, progress, performance, and/or other required reports concerning the status of work performed in furtherance of this Agreement on a quarterly basis, or as requested by the State.
2. The Grantee shall provide the State with a final report showing all project expenditures, which includes all State and any other project funding expended, within 60 calendar days after completion of this Agreement.
3. The Grantee shall ensure all equipment which is purchased, maintained, operated, and/or developed is available for inspection by the State.

TERMS AND CONDITIONS

4. Equipment purchased through this Agreement shall be used for the education, prevention, and enforcement of impaired driving laws unless the Grantee is funding a portion of the purchased price not dedicated to impaired driving and that portion is not part of the project costs. Equipment purchased under this Agreement must only be used for approved project related purposes unless otherwise approved by the State in writing.
5. Prior to disposition of equipment acquired under this Agreement, the Grantee shall notify the State via e-mail, and by telephone, by calling the California Highway Patrol, Impaired Driving Section, Cannabis Grants Unit at (916) 843-4360.

C. PROJECT TERMINATION

1. Grantee or the State may terminate this Agreement at any time prior to the commencement of the project. Once the project has commenced, this Agreement may only be terminated if the party withdrawing provides 30 calendar days written notice of their intent to withdraw.
 - a. If by reason of force majeure the performance hereunder is delayed or prevented, then the term end date may be extended by mutual consent for the same amount of time of such delay or prevention. The term "force majeure" shall mean any fire, flood, earthquake, or public disaster, strike, labor dispute or unrest, embargo, riot, war, insurrection or civil unrest, any act of God, any act of legally constituted authority, or any other cause beyond the Grantee's control which would excuse the Grantee's performance as a matter of law.
 - b. Grantee agrees to provide written notice of an event of force majeure under this Agreement within 10 calendar days of the commencement of such event and within 10 calendar days after the termination of such event, unless the force majeure prohibits Grantee from reasonably giving notice within this period. Grantee will give such notice at the earliest possible time following the event of force majeure.
2. Any violations of law committed by the Grantee, misrepresentations of project information by the Grantee to the State, submission of falsified documents by the Grantee to the State, failure to provide records by the Grantee to the State when requested for audit or site visit purposes may be cause for termination. If the project is terminated for the reasons described in this paragraph, the State will have no obligation to reimburse the Grantee for any additional costs once the Agreement has been terminated.
3. The State may terminate this Agreement and be relieved of any payments should the Grantee fail to perform the requirements of this Agreement at the time and in

TERMS AND CONDITIONS

the manner herein provided. Furthermore, the Grantee, upon termination, shall return grant funds not expended by the Grantee as of the date of termination.

4. If this Agreement is terminated, the State may choose to exclude the Grantee from future grant opportunities.

D. FINANCIAL RECORDS

1. The Grantee agrees the State or their designated representative shall have the right to review and to copy all records and supporting documentation pertaining to the performance of this Agreement. Grantee agrees to maintain such records for possible audit for a minimum of five (5) years after final payment, unless a longer period of records retention is stipulated or required by law. Grantee agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Furthermore, the Grantee agrees to include a similar right for the State to audit all records and interview staff in any subcontract related to performance of this Agreement.

E. HOLD HARMLESS

1. The Grantee agrees to indemnify, defend and save harmless the State, its officials, agents and employees from any and all claims and losses accruing or resulting to any and all Grantee's staff, contractors, subcontractors, suppliers, and other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, agency, firm, corporation who may be injured or damaged by the Grantee in performance of this Agreement.

F. NONDISCRIMINATION

1. The Grantee agrees to comply with State and federal laws outlawing discrimination, including, but not limited to, those prohibiting discrimination because of sex, race, color, ancestry, religion, creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (including cancer or genetic characteristics), sexual orientation, political affiliation, position in a labor dispute, age, marital status, and denial of statutorily-required employment-related leave. (GC 12990 [a-f] and CCR, Title 2, Section 8103.)

G. AMERICANS WITH DISABILITIES ACT

1. The Grantee assures the State it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

TERMS AND CONDITIONS

H. DRUG-FREE WORKPLACE

1. The Grantee shall comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:
 - a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
 - b. Establish a Drug-Free Awareness Program to inform employees about:
 - i. The dangers of drug abuse in the workplace.
 - ii. The person's or organization's policy of maintaining a drug-free workplace.
 - iii. Any available counseling, rehabilitation and employee assistance programs.
 - iv. Penalties that may be imposed upon employees for drug abuse violations.
 - c. Every employee who works on the project will:
 - i. Receive a copy of the company's drug-free workplace policy statement.
 - ii. Agree to abide by the terms of the company's statement as a condition of employment on the Agreement.
2. Failure to comply with these requirements may result in suspension of payments under this Agreement or termination of this Agreement or both and Grantee may be ineligible for award of any future Grant Agreements if the department determines that any of the following has occurred:
 - a. The Grantee has made false certification or violated the certification by failing to carry out the requirements as noted above. (GC 8350 et seq.)

I. LAW ENFORCEMENT AGENCIES

1. All law enforcement organization Grantees shall comply with California law regarding racial profiling. Specifically, law enforcement Grantees shall not engage in the act of racial profiling as defined in California Penal Code Section 13519.4.

J. LABOR CODE/WORKERS' COMPENSATION

1. The Grantee is advised and made aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Grantee affirms

TERMS AND CONDITIONS

to comply with such provisions before commencing the performance of the work of this Agreement, (refer to Labor Code Section 3700).

K. APPLICATION INCORPORATION

1. The Grantee agrees the Application and any subsequent changes or additions approved or required by the State is hereby incorporated into this Agreement.

L. STATE LOBBYING

1. The Grantee is advised none of the funds provided under this Agreement may be used for any activity specifically designed to urge or influence a state or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any state or local legislative body. Such activities include both direct and indirect (e.g., “grassroots”) lobbying activities, with one exception. This does not preclude a state official whose salary is supported by this Agreement from engaging in direct communications with the state or local legislative officials, in accordance with customary state and/or local practice.

M. REPRESENTATION AND WARRANTIES

1. The Grantee represents and warrants that:
 - a. It is validly existing and in good standing under the laws of the State of California, has, or will have the requisite power, authority, licenses, permits, and the like necessary to carry on its business as it is now being conducted and as contemplated in this Agreement, and will, at all times, lawfully conduct its business in compliance with all applicable federal, state, and local laws, regulations, and rules.
 - b. It is not a party to any Agreement, written or oral, creating obligations that would prevent it from entering into this Agreement or satisfying the terms herein.
 - c. If the Grantee is a Nonprofit Organization, it will maintain its “Active” status with the California Secretary of State, maintain its “Current” status with the California Attorney General’s Registry of Charitable Trusts, and maintain its federal and State of California tax-exempt status. If the Grantee subcontracts with a Nonprofit as part of this Agreement, the Grantee shall ensure the Nonprofit will maintain its “Active” status with the California Secretary of State, maintain its “Current” status with the California Attorney General’s Registry of Charitable Trusts, and maintain its federal and State of California tax-exempt status.
 - d. All of the information in its Grant Application and all materials submitted are true and accurate.

TERMS AND CONDITIONS

N. AIR OR WATER POLLUTION VIOLATION

1. Under the state laws, the Grantee shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

O. GRANTEE NAME CHANGE

1. Grantee agrees to immediately inform the State in writing of any changes to the name of person within organization with delegated signing authority.
2. An amendment is required to change the Grantee's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

P. RESOLUTION

1. A county, city, district, or other local public body shall provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an Agreement, authorizing execution of the Agreement.

Q. PAYEE DATA RECORD FORM STD. 204

1. This form shall be completed by all non-governmental Grantees.

R. GOVERNMENT AGENCY TAXPAYER ID FORM

1. This form shall be completed by governmental Grantees.

S. CONFLICT OF INTEREST

1. This section serves to make the Grantee aware of specific provisions related to current or former state employees. If Grantee has any questions regarding the status of any person rendering services or involved with the Agreement, the Grantee shall contact the State (California Highway Patrol, Impaired Driving Section) immediately for clarification.
2. Current State Employees:
 - a. No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial

TERMS AND CONDITIONS

- interest, and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
- b. No officer or employee shall contract on their own behalf as an independent Grantee with any state agency to provide goods or services.
3. Former State Employees:
 - a. For the two-year period from the date they left state employment, no former state officer or employee may enter into a contract in which they engaged in any of the negotiations, transactions, planning, arrangements, or any part of the decision-making process relevant to this Agreement while employed in any capacity by any state agency.
 - b. For the 12-month period from the date they left state employment, no former state officer or employee may enter into a contract with any state agency if they were employed by that state agency in a policy-making position in the same general subject area as the proposed Agreement within the 12-month period prior to their leaving state service.
 4. The authorized representative of the Grantee organization named within this Agreement warrants their organization and its employees have no personal or financial interest and no present or past employment or activity which would be incompatible with participating in any activity related to this Agreement. For the duration of this Agreement, the organization and its employees will not accept any gift, benefit, gratuity or consideration, or begin a personal or financial interest in a party who is associated with this Agreement.
 5. The Grantee organization and its employees shall not disclose any financial, statistical, personal, technical, media-related, and/or other information or data derived from this Agreement made available for use by the State for the purposes of providing services to the State in conjunction with this Agreement, except as otherwise required by law or explicitly permitted by the State in writing. The Grantee shall immediately advise the State of any person(s) who has access to project confidential information and intends to disclose that information in violation of this Agreement.
 6. The Grantee will not enter into any Agreement or discussions with third parties concerning materials described in paragraph 5 prior to receiving written confirmation from the State that such third party has an Agreement with the State similar in nature to this one.
 7. The Grantee warrants that only those employees who are authorized and required to use the materials described in paragraph 5 will have access to them.

TERMS AND CONDITIONS

8. If Grantee violates any provisions of above paragraphs, such action by Grantee shall render this Agreement void.

T. EQUIPMENT-USE TERMS

1. The Grantee agrees any equipment purchased under this Grant Agreement shall be used for impaired driving efforts.
2. Law Enforcement Projects:
 - a. Oral Fluid Drug Screening Devices and Cannabis/Marijuana Breath Testing Equipment - The Grantee agrees to ensure all personnel using road-side drug testing equipment, including oral fluid drug testing devices and/or cannabis/marijuana breath testing devices, purchased with grant funds from this Agreement, are trained to recognize alcohol and drug impairment. At a minimum, personnel using these devices should receive Standardized Field Sobriety Testing training. These personnel are also encouraged to attend Advanced Roadside Impaired Driving Enforcement and Drug Recognition Evaluator training. Prior to using these devices, the Grantee agrees to obtain permission from their local prosecutor's office; establish a policy ensuring appropriate use; and require the staff using these devices to receive appropriate training, which may include training from the manufacturer. This will help ensure the equipment is used appropriately. The Grantee shall advise the State (California Highway Patrol, Impaired Driving Section), of any legal challenges or other items of significance that may affect the use or legal acceptance of these devices. Additionally, the State may request additional information about the performance of these devices, including information about their use, accuracy, and feedback from personnel using the devices.
 - b. Law Enforcement Vehicles – The Grantee agrees any law enforcement vehicles purchased with funds from this agreement will be primarily used for the enforcement of driving under the influence laws and/or providing public education related to the dangers of driving under the influence. Additionally, any vehicle purchased using funds from this Agreement shall comply with all California Vehicle Code and California Code of Regulation requirements. The State may require the Grantee to mark these vehicles with a decal and/or emblem indicating the vehicle is used for driving under the influence enforcement.

Schedule A

Berkeley Police

Law Enforcement FY 2021/2022

Project Description

According to NHTSA, traffic deaths were up 12% in the beginning of the pandemic (April to September 2020) compared to the same period in 2019. The report released in Dec 2020 cited unsafe driving habits to include drivers with drugs or alcohol in their system. In 2020, Berkeley Police officers investigated 46 collisions where the driver was impaired, 12 were injury collisions.

Best practice strategies will be conducted to reduce the number of persons killed and injured in collisions involving impaired drivers. The funded strategies would focus on reducing impaired driving through special enforcement operations, and increasing public awareness through education, and media. Additional training for BPD officers in SFST, ARIDE, DRE will add to the collective effort of reducing fatal and serious injury collisions caused by impaired drivers.

Problem Statement

In California alone, there are 49 cities with larger populations than Berkeley. In Alameda County, Berkeley is ranked number four in population behind Oakland, Fremont, and Hayward. Yet, the City of Berkeley is famous around the globe.

As of 2018, Berkeley's population was over 121,000. The population density was over 11,000 per square mile. Nearly 48 percent of Berkeley residents use a motor vehicle to commute to work, just under 8 percent used a bicycle and 16 percent walked. Berkeley makes up only 8 percent of Alameda County's population but more than 37 percent of the county's population of people who walk and ride bikes to work. Additionally, there are 5 dispensaries in the city, and In February 2020, the Berkeley city council voted unanimously to permit Smoking, vaping and consuming cannabis in storefront retailers (previously referred to as dispensaries).

In 2020, Berkeley Police made 100 misdemeanor DUI arrests (79 alcohol, 13 drugs only, 6 combo), 7 felony DUI arrests, and 2 minors with BAC over .05.

Over the past 6 years (1/2015-1/2021), 168 injuries occurred in collisions where alcohol or drugs were a factor. Continued, proactive enforcement through DUI saturation patrols funded through the CHP grant will be an effective aid for taking dangerously impaired drivers off the road, and also educating the community as to the dangers of drug and alcohol impaired driving.

Currently, the Traffic Bureau at the Berkeley Police Department is staffed by four motor officers, one traffic data analyst, one sergeant and one lieutenant. Motor officers' responsibilities include injury-collision investigations and traffic enforcement; however, resources often deplete rapidly due to ancillary duties and personnel shortages in the operations/patrol division. Additionally, Berkeley Police Department is in a hiring freeze and is forecasting even more staffing problems in the future. Grant funding would build upon our current traffic safety efforts by allowing patrol and motor officers opportunities to address traffic safety and impaired driving — in addition to and outside of their regularly scheduled duties. Additionally, the funds would provide opportunities for leadership development and learning in traffic safety and DUI/impaired driving enforcement and enhance the department's overall mission of public safety.

Performance Measures

Grant funds would allow for officer training, public education, and enforcement opportunities in regards to impaired driving. Berkeley Police would use grant funds to purchase and implement the use of Field Presumptive Technology.

Each of these goals in addition to activities and timeline would be monitored by the grant administrator. By tracking the activity of the funded projects, BPD would be able to account for and report on the effectiveness of the proposed projects.

Goal One - Officer Training: Provide our community with well-trained Officers and with the investigative skills needed to investigate impaired driving incidents/crashes. To do this, Berkeley PD will seek out SFST, ARIDE, and DRE training.

Schedule A

Berkeley Police

Law Enforcement FY 2021/2022

Objective 1.A. 2 police officers will be trained in SFST within the one-year term of this grant. This will be accomplished between Quarters 1 and 2.

Objective 1.B. 2 police officers will be trained in ARIDE within the one-year term of this grant. This will be accomplished during Quarter 3.

Objective 1.C. 2 police officers will be trained and certified in DRE within the one-year term of this grant. This will be accomplished during Quarter 4.

Objective 1.D. 1 police officer will be trained and certified in SFST Instructor Training within the one-year term of this grant. This will be accomplished during Quarter 4.

Goal Two - Education and Outreach through Press Releases and Social Media: Change social norms within our community related to cannabis-impaired driving. Berkeley PD will create informational/educational materials to publicize the costs, risks, and dangers associated with cannabis-impaired driving.

Objective 2.A. Issue 4 press releases; first to announce the kick-off of the grant. Subsequent releases to coincide with DUI Saturation patrol enforcement.

Objective 2.B. Berkeley PD press information officer to use social media to broadcast CHP approved educational messages, advisories and materials once per quarter.

Goal Three - Enforcement:

Objective 3.A. Implement DUI Saturation Patrols – Berkeley PD will conduct 8 DUI saturation patrols per quarter (a minimum of 2 officers per saturation patrol on 8-hour shifts). These patrols will focus their efforts in areas known to have a high incidence of impaired driving crashes.

Performance Plan:

Goal Name	Goal Type	Goal Details
SFST Officer Training	2	Number to be Achieved 2
ARIDE Training	2	Number to be Achieved 2
DRE Officer Training	2	Number to be Achieved 2
SFST Instructor Training	1	Number to be Achieved 1
Press Release/ Announcements	4	Number to be Achieved 4
Saturation Patrols	32	Number to be Achieved 32

Proposed Solutions

Berkeley Police Department will continue to take a proactive and comprehensive approach to public safety where injury-collisions are concerned. The department will address impaired drivers in city limits by way of DUI saturation patrols. DUI saturation patrols allow officers to both proactively seek out impaired drivers and to deploy targeted enforcement tactics based on DUI arrest and injury-collision data, enhancing the overall training and experience of those officers.

Berkeley PD will continue to work with local media to publicize our proactive enforcement efforts and to educate the community by way of public awareness campaigns and strategies.

Schedule A

Berkeley Police

Law Enforcement FY 2021/2022

In addition, grant funds will assist our training program. Training officers in SFST, ARIDE and DRE will enhance our overall effectiveness as a department at detecting, deterring, and apprehending impaired drivers. The purchase of Field Presumptive Technology related equipment will contribute to our effectiveness and overall efficiency and will greatly assist the officers in their saturation patrol efforts.

The use of oral fluid drug screening devices will be limited to Berkeley Police personnel who have attended training to recognize impairment, including Standardized Field Sobriety Testing (SFST), Advanced Roadside Impaired Driving Enforcement (ARIDE), and Drug Recognition Evaluator (DRE) training.

Berkeley Police will obtain permission from Alameda County prosecutor's office prior to deploying oral fluid drug screening devices; establish a policy for using oral fluid drug screening devices; and require personnel using these devices to receive training from the device manufacture prior to use to ensure these devices are used appropriately. The process of implementing these steps and purchasing the oral fluid drug screening device will begin at the execution of the grant agreement. Berkeley Police agrees to provide documentation if/when requested and will contact CHP Impairment Unit if additional assistance is needed.

Berkeley Police will record and provide additional information related to the number of times oral fluid drug screening devices were used, including providing information as to how the results compared to blood or urine chemical test results/DRE opinion. Additionally, Berkeley Police agrees to notify the CHP of any court cases where oral fluid drug screening devices have a favorable or negative outcome. Berkeley Police is aware that the test kits have an expiration date and will need to order appropriately to maximize their usefulness.

The Berkeley PD Traffic Unit already employees two strategies. First, the use of internal collision and SWITRS data to identify the top PCF's and the most dangerous roadways in the city for vehicles, pedestrians, and bicyclists, and to direct the majority of available resources to those areas. Secondly, alerting traffic violator behavior through vigorous traffic enforcement- by issuing citations, and arresting impaired drivers.

The Berkeley Police Traffic Bureau will coordinate with our Community Service Bureau and patrol officers to include impaired driving awareness into any public education opportunity.

All of these projects will be achieved through the timeline of the grant cycle, with emphasis on training conducted as early as possible to use the new training as much as possible during enforcement opportunities.

Method of Evaluation

Berkeley PD has a plan to evaluate the progress of each project and by the end of the grant term will be able to analyze each projects success and share the results with internal and external stakeholders. This plan includes setting goals for each quarter with regards to training, public education through media, the purchase of equipment, and special enforcement opportunities. At the end of each quarter the grant administrator will be able to use appropriate data to support the progress of goals and objectives set.

Program Sustainability

With more officers trained in SFST's, ARIDE, and DRE, there will be more personnel on patrol who actively engage in and seek out assignments in both our DUI detection and apprehension efforts in the course of their current work assignment. As other officers see the success of this training and the ability to reduce the number of impaired drivers, they will also seek to receive this training, or come up with innovative approaches to combat impaired driving.

Grant funding builds upon our current traffic safety efforts by allowing officers opportunities in saturation enforcement to address impaired driving— in addition to and outside of their regularly scheduled duties. Additionally, the funds provide opportunities for community outreach with emphasis on impaired driving through education to include many types of media.

This in addition to the purchase of equipment that our department might not otherwise be able to purchase, will hopefully have a bit of a butterfly effect on the safety of our roadways.

Schedule A

Berkeley Police

Law Enforcement FY 2021/2022

Administrative Support

The department maintains a fulltime Traffic Data Analyst within the Traffic Bureau for both collision data analysis and reporting. In addition, the department has a full-time civilian Administrative and Fiscal Manager, who has several years of successful management experience with grant programs both at the state and local levels, and the Assistant Fiscal/Management Analyst whose responsibilities include preparation of fiscal reporting and justification. The Assistant Fiscal/Management Analyst and the Traffic Bureau Sergeant work in unison to effectively manage and deploy grant resources.

Schedule B

Detailed Budget Estimate

Award Number	Organization/Agency	Total Amount
3682	Berkeley Police	\$135,462.00

Cost Category	Line Item Name	Total Cost to Grant
Other Direct Costs	Field Presumptive Technology	\$7,000.00
	Category Sub-Total	\$7,000.00
Personnel	Salary Overtime DUI Saturation	\$111,420.00
	Benefits overtime DUI saturation	\$11,042.00
	Category Sub-Total	\$122,462.00
Travel	SFST	\$1,500.00
	ARIDE	\$1,500.00
	SFST Instructor	\$3,000.00
	Category Sub-Total	\$6,000.00

Grant Total	\$135,462.00
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Schedule B-1

Budget Narrative

Berkeley Police

Law Enforcement FY 2021/2022

Other Direct Costs

Field Presumptive Technology \$7,000.00

The purchase of Field presumptive technology will enhance BPD Officers ability to test for drug impairment roadside. Drager 5000 is a fast and accurate means of testing oral fluid samples and data management software for maintaining record

DRÄGER 5000 ANALYZER	\$4,975.00
STK 7-Panel Test Kit (20 PCS.)	\$464.00
Training Test Kit (POS.)	\$21.20
Training Test Kit (NEG.)	\$21.20
DrugTest 5000 Transport Bag	\$173.00
Dräger Mobile Printer	\$714.00
Printer Paper Roll	\$3.00
Compact Keyboard	\$44.00
Comm. Cable, USB A/B, 6ft.	\$10.00
DrugTest 5000 12V vehicle charger	\$22.00
Tax 9%	\$580.26
Total	\$7027.66

Conditional Requirements from CHP Panel as mentioned in Proposed Solution will be adhered to by Berkeley PD.

Personnel

\$111,420.00

Salary Overtime DUI Saturation

Amount calculated for 500 hours of DUI Saturation OT
Hourly OT rate 111.42 = 111,420
Benefit Rate 9.91% = 11,042
Total cost = 122,461

Benefits overtime DUI saturation \$11,042.00

DUI Saturation Patrol 500 hours
Hourly OT rate 111.42 = 111,420
Benefit Rate 9.91% = 11,042
Total cost = 122,461

Travel

SFST \$1,500.00

travel/lodging for 2 students to attend SFST training

ARIDE \$1,500.00

Travel/lodging for 2 students to attend ARIDE training

SFST Instructor \$3,000.00

Travel/Lodging for 1 student to attend SFST Instructor Training



Office of the City Manager

CONSENT CALENDAR
July 13, 2021

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Liam Garland, Director, Department of Public Works
 Subject: Approval and Levy of 2018 Clean Stormwater Fee in FY 2022

RECOMMENDATION

Adopt a Resolution approving the proposed adjusted fees for the 2018 Clean Stormwater Fee and ordering the levy of the fees in Fiscal Year 2022.

FISCAL IMPACTS OF RECOMMENDATION

The Resolution would approve and order the levy of the 2018 Clean Stormwater Fee in Fiscal Year (FY) 2022. The fees are to be filed with the Alameda County Auditor and included in the County's assessment roll. After collection by the County the total amount of the assessment minus a collection fee is paid to the City of Berkeley. The revenue is posted in the Clean Storm Water Fund (Fund 616). Approximately \$2.73 million are expected to be collected from the 2018 Clean Stormwater Fee in FY 2022. A summary of the total FY 2022 revenue and expenditures for Fund 616 is shown in the table below.

Table 1 - FY 2022 Fund 616 Forecast

Estimated Beginning Balance (Fund 616)	\$ 6,398,797
Clean Stormwater Program Expenditures	\$ 4,944,517
Revenue	
Clean Stormwater Fee (1991)	\$ 1,914,255
2018 Clean Stormwater Fee	\$ 2,734,827
University in Lieu (KRPD)	\$ 311,595
Total Revenue	\$ 4,960,677
Deficit/Surplus	\$ 16,160
Estimated End Balance (Fund 616)	\$ 6,414,957

CURRENT SITUATION AND ITS EFFECTS

The 2018 Clean Stormwater Fee ("2018 Fee") is subject to an annual adjustment tied to the Consumer Price Index - U for the San Francisco Bay Area as of December of each succeeding year (the "CPI"). Per the voter approved measure, any increase in the CPI in excess of 3% shall be cumulatively reserved as "Unused CPI" and shall be used to

increase the maximum authorized rate in years in which the CPI is less than 3%. To date there is a current “Unused CPI” balance of 0.95%. For the period beginning in December 2019 and ending in December 2020, the CPI increased by 2.00%¹. Using “Unused CPI” balance, the proposed annual adjustment can be increased to 2.95%.

As approved by voters, the annual adjustment may be calculated by taking the sum of the 1991 Clean Stormwater Fee (“1991 Fee”) and the 2018 Clean Stormwater Fee, and multiplying the sum by the allowable CPI increase. Calculating the adjustment in this manner allows for the inclusion of a 1991 Fee adjustment as part of the annual 2018 Fee increase. The cumulative adjustment of the 1991 Fee and the 2018 Fee result in 2018 Fee increases of approximately 5.2%.

Proposed rate increases and the methodology used in the calculation of these rates are in accordance with the voter approved measure. Therefore, the proposed adjustments are exempt from the notice, protest, and hearing requirements of State Proposition 218 as set forth in Government Code Section 53753.5 (Article XIII D, Sec. 5). The table below details prior year and proposed FY 2022 rates for the property-related fee.

Table 2 - 2018 Clean Stormwater Fee Rate Summary

Rate Category	FY 2021 Fee	Proposed FY 2022 Fee	Unit
Single-Family Residential			
Small	\$ 38.06	\$ 40.06	parcel
Medium	\$ 47.58	\$ 50.08	parcel
Large	\$ 57.54	\$ 60.56	parcel
Condominium	\$ 38.06	\$ 40.06	parcel
Single-Family Residential parcels with multiple single-family residences pay 22% higher rate			
Non-Single-Family Residential**			
Multi-Family Residential	\$ 830.04	\$ 873.48	acre
Comm / Industrial / Parking	\$ 926.56	\$ 975.06	acre
Office	\$ 868.66	\$ 914.12	acre
Institutional / Church	\$ 791.44	\$ 832.86	acre
School / Hospital	\$ 723.88	\$ 761.76	acre
Recreational	\$ 559.80	\$ 589.10	acre
Vacant (developed)	\$ 48.26	\$ 50.78	acre
Open Space / Agricultural		exempt	

* Single-Family Residential category also includes duplex, triplex and four-plex units.

** Non-Single-Family Residential parcel size is calculated to the tenth of an acre or portion thereof

Detailed calculations of the annual adjustment and the corresponding rate increases are included in the 2018 Clean Stormwater Fee - Fiscal Year 2022 Adjustment Report (Attachment 2). Adoption of the Resolution would approve and order the levy of the 2018 Fee in FY 2022 at the rates described in this report. Following adoption, the fees will be filed with the Alameda County Auditor and included on the County’s assessment roll for collection. Revenue from the Fee will provide needed funding for the Stormwater Program which includes flood management, compliance with clean water requirements, operations and maintenance, and major capital improvements, all of which advance the

¹ Bureau of Labor Statistics, Data Series CUUSS49BSA0

strategic goals of: 1.) Providing state-of-the-art, well-maintained infrastructure, amenities, and facilities; and 2.) Being a global leader in addressing climate change, advancing environmental justice, and protecting the environment.

BACKGROUND

In 1991, the City was required to obtain a National Pollutant Discharge Elimination System (NPDES) permit from the San Francisco Bay Regional Water Quality Control Board to improve the water quality of urban runoff and discharge storm water runoff to the City’s waterways. The permit requires that the City implement a stormwater control program and best management practices.

To meet the NDPES permit requirements, the City implemented a Clean Storm Water Fee in 1991 for all residences and businesses in the City. The City has been collecting approximately \$2 million annually for this fee and rates have not been increased since the fee was established in 1991. In addition, the City receives an annual allocation from UC Berkeley’s long-range development plan of approximately \$310,000 that is used toward the operations and maintenance of the City’s stormwater infrastructure. Initially, collected revenues were sufficient to fund ongoing maintenance, operations, and capital improvements. However, beginning in Fiscal Year 2014, the program began operating at a deficit. In 2018, in an effort to increase revenues for the program, the City introduced the 2018 Clean Stormwater Initiative to establish a new property-related fee to be assessed separately and in addition to the existing 1991 Fee. Following a Proposition 218 process the initiative was approved by voters and the City Council adopted Resolution No. 68,483-N.S., ordering the levy. The assessment has been levied for the 2019 through 2021 fiscal years.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The 2018 Stormwater Fee funds the construction of new and the maintenance of existing green infrastructure features which promote sustainable development, improve the water quality of storm runoff, increase groundwater recharge, and contribute to an increased number of green spaces. Increased groundwater recharge makes the City more resilient to drought conditions and the addition of green spaces helps reduce the effects of localized urban heat islands. In addition to providing funding for green infrastructure development, the Fee also funds improvements and maintenance of the City’s storm drain system, which enhances its ability to convey storm flows from increasingly intense storms which are a direct result of climate change.

RATIONALE FOR RECOMMENDATION

The additional funding will allow the City to fund the operating deficit, continue maintenance service levels, meet clean water regulatory requirements, and develop a long-term financial plan for capital projects, to continue improving water quality and minimizing the impacts of flooding in local areas.

CONTACT PERSON

Liam Garland, Director, Department of Public Works, (510) 981-6303
Joe Enke, Acting Manager of Engineering/City Engineer, (510) 981-6411
Ricardo Salcedo, Associate Civil Engineer, Public Works, (510) 981-6407

Attachments:

- 1: Resolution – Ordering the Levy of 2018 Clean Stormwater Fee in Fiscal Year 2022
- 2: 2018 Clean Stormwater Fee – Fiscal Year 2022 Adjustment Report

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

APPROVING THE LEVY AND COLLECTION OF THE CITY OF BERKELEY 2018
CLEAN STORMWATER FEE IN FISCAL YEAR 2022

WHEREAS, on February 13, 2018, the Council adopted Resolutions No. 68,334-N.S. and No. 68,335-N.S., to initiate the property related fee process and establish the balloting procedures for the 2018 Clean Stormwater Initiative consistent with California Constitution Article XIII D; and

WHEREAS, on April 3, 2018, the council conducted a public hearing at which a majority protest was not achieved, and subsequently adopted Resolution No. 68,831-N.S. directing the mailing of fee ballots to all property owners of properties within the City subject to the fee; and

WHEREAS, on May 29, 2018, following tabulations of fee ballots and confirming voter approval of the 2018 Clean Stormwater Initiative, Council adopted Resolution No. 68,483-N.S. accepting the ballot tabulations and ordering the levy of the 2018 Clean Stormwater Fee; and

WHEREAS, pursuant to the authority granted by voters, the 2018 Clean Stormwater Fee is subject to an annual increase based on the San Francisco - U Consumer Price Index (CPI); and any increase in excess of 3% shall be cumulatively reserved as "Unused CPI" and shall be used to increase the maximum authorized rate in years in which the CPI is less than 3%. The maximum annual CPI adjustment for each property shall be calculated based upon the sum of the 1991 Clean Stormwater Fee and the 2018 Clean Stormwater Fee, and multiplying the sum by the CPI or 3% whichever is lower; and

WHEREAS, for the annual period ending in December 2020 the CPI increased by 2.00%. Using "Unused CPI" balance of 0.95%, the proposed annual adjustment can be increased to 2.95%; and

WHEREAS, the annual adjustment may be calculated by taking the sum of the 1991 Clean Stormwater Fee ("1991 Fee") and the 2018 Clean Stormwater Fee, and multiplying the sum by the allowable CPI increase the cumulative adjustment of the 1991 Fee and the 2018 Fee, resulting in 2018 Fee increases of approximately 5.2%.

WHEREAS, the proposed fee rate for FY 2022 of FIFTY DOLLARS AND EIGHT CENTS (\$50.08) per single-family equivalent unit is in accordance with a City staff authored report dated June 2021 and titled "2018 Clean Stormwater Fee – Fiscal Year 2022 Fee Adjustment Report" ("Report"); and

WHEREAS, the rate increases and the methodology used in the calculation of the rates are described in the Report and are in accordance with the voter approved measure. Therefore, the proposed adjustments are exempt from the notice, protest, and hearing requirements of State Proposition 218 as set forth in Government Code Section 53753.5 (Article XIII D, Section. 5).

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Berkeley authorizes the levy and collection of fees for FY 2022 at the rates specified in the Report.

BE IT FURTHER RESOLVED that shortly after the adoption of this Resolution, but in no event later than August 10th following such adoption, the City Clerk shall file a certified copy of this Resolution and a fee levy roll with the Auditor of Alameda County ("County Auditor"). Upon such filing, the County Auditor shall enter on the County's assessment roll opposite each lot or parcel of land the amount of fee thereupon as shown in the levy roll.

CITY OF BERKELEY

2018 CLEAN STORMWATER FEE

Fiscal Year 2022
Fee Adjustment Report

June 2021

Prepared by

JOSEPH ENKE, PE
CITY OF BERKELEY
DEPARTMENT OF PUBLIC WORKS
ENGINEERING DIVISION

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INTRODUCTION

OVERVIEW

In 1991, the City of Berkeley was required to obtain a national Pollutant Discharge Elimination System (NPDES) permit from the San Francisco Bay Regional Water Quality Control Board to improve the water quality of urban runoff and discharge storm water runoff to the City's waterways. The permit requires that the City of Berkeley implement a stormwater control program and best management practices. The City adopted the Clean Stormwater Fee in 1991 to comply with clean water regulations and provide a secure funding source for stormwater operations, maintenance, and capital improvements. The program includes flood management, compliance with clean water requirements, operations and maintenance, and major capital improvements. Stormwater fees are paid by property owners and the fees have not been increased since the program's inception in 1991. The program has been running a deficit since 2014 attributable to basic operations, maintenance, and compliance with clean water regulations. The Stormwater program also faces a backlog in capital improvements, with more than \$208 million in project costs identified in the 2011 Watershed Management Plan¹.

In order to increase revenues for the Stormwater program, the City adopted Resolutions No. 68,334-N.S. and Resolution No. 68,335-N.S., to initiate the property related fee process and establish balloting procedures for the 2018 Clean Stormwater Initiative consistent with California Constitution Article XIII D. A public hearing was conducted on April 3, 2018 at which a majority protest was not achieved, subsequently Resolution No. 68,381-N.S. was adopted ordering the mailing of fee ballots to all property owners of properties within the City subject to the fee. Following the tabulation of votes, and confirming approval of the measure, Council adopted Resolution No. 68,483-N.S., accepting the ballot tabulations and ordering the levy of the City of Berkeley's 2018 Clean Stormwater Fee.

As approved by voters, the 2018 Clean Stormwater Fee is subject to an annual adjustment tied to the Consumer Price Index-U for the San Francisco Bay Area as of December of each succeeding year (the "CPI"), with a maximum annual adjustment not to exceed 3%. Per the voter approved measure any increase in the CPI in excess of 3% shall be cumulatively reserved as the "Unused CPI" and shall be used to increase the maximum authorized rate in years in which the CPI is less than 3%. The maximum authorized rate is equal to the maximum rate in the first fiscal year the Fee was approved adjusted annually by the lower of either 3% or the increase in the CPI plus any Unused CPI as described above. In order for the City's dedicated storm drainage revenue sources to satisfy costs requirement into the future, the annual

¹ Watershed Management Plan: https://www.cityofberkeley.info/Public_Works/Sewers_-_Storm/Watershed_Management_Plan.aspx

adjustment for property may be calculated based upon the sum of the storm drainage fee and the existing Clean Storm Water Fee.

In accordance with Government Code Section §53739, adjustments for inflation pursuant to a clearly identified formula stated in the voter approved measure do not required further voter approval. Thus, the annual adjustment described above is exempt from the notice, protest, and hearing requirements of State Proposition 218 as set forth in Government Code Section §53753.5 (Article XII D, Sec. 5).

This abbreviated fee adjustment report, has been prepared by City staff to document the annual adjustment of the 2018 Clean Stormwater Fee for Fiscal Year 2022. The report also includes an abbreviated description of the storm drainage system, the program's funding sources, and a five-year fund forecast.

CITY'S FACILITIES

The City operates and maintains a storm drainage system, as it is empowered to do so per Government Code Sections §38900 and §38901. It is comprised of an integrated system of storm drain pipes, culverts and ditches. Local creeks are not considered part of the City's storm drain system, although they receive most of the urban runoff and are impacted by how the City's storm drainage system functions.

The Berkeley area began experiencing residential development over one hundred years ago. As the community grew, the storm drainage system was developed along with the neighborhoods and commercial areas while still maintaining many native creek segments. Although the City is highly urbanized, there are a large number of open creek segments that cross streets, private properties and roadways through numerous culvert sections.

In the early 1990s, in response to the federal Clean Water Act amendment of 1987, municipalities were, for the first time, required to obtain an NPDES² permit from the California Regional Water Quality Control Board to address urban storm drainage runoff pollution. Under this permit, the City works to reduce stormwater pollution, protect and enhance its watersheds, preserve beneficial uses of local waterways, and implement State and federal water quality regulations within the limits of its jurisdiction. Over the years, the range of actions taken by the City has greatly increased in response to evolving regulatory requirements and community needs.

² NPDES stands for the National Pollutant Discharge Elimination System as specified in the Federal Clean Water Act. The City is one of the co-permittees named on the Alameda County NPDES permit issued by the Regional Water Board. The most recent MRP was issued in November 2015, however, these permits typically are renewed every five years, with each new iteration containing additional requirements.

STORM DRAINAGE FUNDING

In response to the NPDES permit requirements, the City implemented a Clean Storm Water Fee in 1991 for all residences and businesses in the City. The City collects approximately \$2 million annually from this fee which has not been increased since its 1991 inception. In addition, the City receives an annual allocation from UC Berkeley's long-range development plan ("LRDP") of approximately \$293,000. Initially these revenues were sufficient to fund ongoing maintenance, operations and capital improvement projects. However, beginning in Fiscal Year 2014, the program began operating at a deficit. In response to this deficit, the City implemented the 2018 Clean Stormwater Fee.

FINANCIAL NEEDS SUMMARY

A Clean Stormwater Fund forecast for FY 2022 is provided below as Table 1.

Table 1- FY 2022 Fund Forecast

Beginning Available Fund Balance Clean Stormwater Fund (616)	\$ 6,398,797
Costs	
<i>Personnel Costs</i>	\$ 1,747,128
<i>Non-Personnel Costs</i>	
<i>Capital Improvement Program</i>	\$ 1,215,000
<i>Non-Personnel</i>	\$ 1,982,389
Subtotal Non-Personnel Costs	\$ 3,197,389
Total Costs	\$ 4,944,517
Revenue	
<i>Clean Stormwater Fee (1991)</i>	\$ 1,914,255
<i>2018 Clean Stormwater Fee</i>	\$ 2,734,827
<i>University in Lieu (LRPD)</i>	\$ 311,595
Total Revenue	\$ 4,960,677
Annual Surplus/Shortfall	\$ 16,160
Estimated End Balance Clean Stormwater Fund (616)	\$ 6,414,957

2018 CLEAN STORMWATER FEE RATE STRUCTURE ANALYSIS

All properties which generate storm and urban runoff which flow into the City's MS4 are served by the system. The amount of use attributed to each parcel is proportional to the amount of storm and urban runoff flow contributed by the parcel, which is proportional to the amount of impervious surface area (e.g. building roofs, pavement, etc.) on a parcel.

In this Report, the median single-family residential parcel is used as the basic unit of measure, called the single-family equivalent, or "SFE." Accordingly, since the primary quantifiable attribute for this fee structure is impervious surface area, the amount of impervious surface area on the median SFR parcel serves as the basic unit of impervious area.

The basic unit of impervious area can be expressed by the following formula:

$$\begin{aligned} & \textit{Median SFR Parcel Area} \\ & \times \textit{Average SFR Impervious Percentage} \\ & = \textit{SFE Impervious Area} \end{aligned}$$

The median SFR parcel is 0.11 acres (4,792 square feet). Careful analysis revealed that the average percentage of impervious area ("%IA") of the medium class of SFR parcels is 44.82%. Therefore, the amount of impervious area for the SFE is 2,148 square feet. This becomes the basis for calculating the SFEs for all other types of land uses. In order to accomplish this, a representative sample of each land use category was studied through aerial photographs to measure the actual impervious area, which was, in turn, used to calculate the %IA for each land use category.

SINGLE-FAMILY RESIDENTIAL PARCELS

Berkeley has a wide range of sizes of SFR parcels, which have varying levels of %IA. Generally, smaller parcels tend to have a higher proportion of impervious area than larger parcels, which tend to have a lower percentage of impervious area. (This can be best visualized by the fact that larger residential properties tend to have a larger proportion of pervious landscaping, and therefore less impervious area.) Therefore, the range of SFRs were broken into three size categories as shown in Table 4 below. Since the size of a parcel is considered in finite groups, the resultant SFEs were calculated on a per-parcel basis for each size category using the formula above.

It should be noted that the SFR category also includes multiplex parcels of two, three or four units, since their lot development characteristics do not vary significantly from the SFR parcels of similar size. In all, this includes the approximately 3,400 multiplex parcels in the City. Any residential structure with five or more units is categorized as multi-family residential ("MFR"), which is calculated separately. For parcels with multiple SFRs, analysis showed that those parcels contained 22% more impervious area than single-home SFRs within the same size category. Therefore, multiple-SFR parcels are computed separately.

Special Notes on Condominiums

Condominium units are particularly difficult to categorize as they are often on very small individual parcels, yet share larger common areas that are made up of landscaped (pervious) areas; parking lots and shared roofs (impervious); and other recreational uses (either pervious or impervious). The data for these variables are not readily available, so it is assumed that overall their characteristics were most similar to the small lot make up. Overall, condominium units are smaller than the average SFR, and may include two or more stories of residences in some cases. When combined with the various common areas (which were exempted from the SFE process), the overall effect would be less runoff impact than the median size SFR. Thus, the Small SFR rate was used.

Table 2- Summary of Single-Family Residential Parcels

Lot Type	Parcel Size Range (sf)	Total Parcels	% Imperv Area	SFE per Parcel	
				Single Home	Multiple Homes
Small	Under 3,200	2,157	65.73%	0.80	0.98
Medium	3,200 to 7,200	16,644	44.82%	1.00	1.22
Large	7,200 and over	2,632	29.81%	1.21	1.48
Condos	n/a	2,506	n/a	0.80	n/a
TOTAL		23,939			

NON-SINGLE-FAMILY RESIDENTIAL PARCELS

Unlike the SFR parcels, the non-SFR parcels can vary widely in size as well as characteristics. For this reason, the parcels have been grouped into land use categories according their %IA characteristics (as shown in Appendix B) so that SFE per acre can be computed for each category using the following formula:

$$\frac{(43,560 \text{ sf/acre}) \times \%IA}{2,148 \text{ sf/SFE}} = \text{SFE per Acre}$$

Where 2,148 square feet is the amount of the impermeable area in one SFE.

Table 3 below shows a summary of the non-single-family parcel SFEs for each non-SFR land use category.

Table 3 – Summary of Non-SFR Parcels

Land Use Category	Total Parcels	% Imperv Area	SFE per Acre
Multi-Family (Apartments)	1,457	86%	17.44
Commercial / Retail / Industrial	1,628	96%	19.47
Office	242	90%	18.25
Institutional / Church	218	82%	16.63
School / Hospital	98	75%	15.21
Recreational	33	58%	11.76
Vacant (developed)	591	5%	1.01
Open Space / Agricultural	n/a	Exempt	
	4,267		

Each individual parcel's SFE is then calculated by multiplying the parcel size (in acres³) times the SFE per acre for that land use category, as shown in the following formula:

Developed Vacant Parcels

Developed vacant parcels are distinguished from undeveloped vacant land by one of several characteristics. Typically, a developed vacant parcel has been graded to be ready for building construction (possibly as part of the original subdivision or adjacent street grading). In some cases, the parcel was previously improved, but the improvement has been removed. Although developed vacant parcels may have significant vegetative cover, the underlying soil conditions resulting from grading work can usually cause some rainfall to run off into the storm drainage system. The %IA for developed vacant parcels is conservatively assumed to be 5%. Vacant parcels that have significant impervious paving remaining from prior improvements may be classified as Commercial or some other classification best representing the %IA of the parcel.

³ Parcel size for non-single-family residential parcels is calculated to the tenth of an acre or portion thereof.

Open Space and Agricultural Parcels are Exempt

The City's MS4 was developed in response to land development over the past several decades. Tracts of land that have not yet been developed, or have been used primarily for agricultural purposes, have not created an impact on the drainage system beyond the natural condition, and are therefore considered to receive no service from the MS4. In practical terms, these parcels generate no additional storm runoff beyond the natural condition. For these reasons, open space and agricultural parcels are exempt from the storm drainage fee.

Berkeley is a City with some open space land, which can be situated on portions of developed parcels. For parcels that have a significant portion that is considered open space (or agricultural), those portions have been taken into consideration in the calculations of the %IA and SFEs. For SFR parcels, these open space lands have been included in the sampled lots size when calculating the average %IA, which produced a lower %IA for the large parcel category, and, thus, a lower SFE and Fee to accommodate the open space areas. For non- SFR parcels the fees are calculated on individual acreage. However, the open space portion has been deducted from the acreage prior to all analyses including %IA as well as SFE and fee calculation.

EFFECTS OF LOW IMPACT DEVELOPMENT

The current NPDES Permit requires certain properties to construct storm drainage treatment and attenuation facilities, also known as low impact development ("LID"). These facilities often are designed to capture a portion of the storm flows, retain them, and enable them to infiltrate into the ground. While this is intended to help filter pollutants from the water, it also can reduce the parcel's storm drainage runoff quantity to some extent. However, LID is designed to capture, retain and treat frequent, but low intensity storms. Conversely, the MS4 is designed around the infrequent, high intensity storms, those storms which will typically overflow most LID facilities. For this reason, no discount in the storm drainage fees is made available for parcels with LID facilities.

STORM DRAINAGE FEE CALCULATION

The primary metric in this analysis is the SFE as illustrated above. To arrive at the fee amount for the various land use categories, the total SFEs must be divided into the total revenue requirement to arrive at the rate per SFE. That calculation is represented by the following formula:

$$\frac{\text{Total Assessments to be Collected}}{\text{Total SFEs}} = \text{SFE Rate}$$

The total assessment to be collected in FY 2022, includes an allowable adjustment. As described in the Overview section of this report, the fee is subject to an annual adjustment calculated by taking the sum of the 1991 Clean Stormwater Fee and the 2018 Clean Stormwater Fee and multiplying the sum by the allowable CPI increase not to exceed 3%. For the period beginning in December 2019 and ending in December 2020, the CPI increased by 2.00%. As discussed in the Overview section

of this report, “Unused CPI” balance from previous years can be used to increase the annual adjustment in years with CPI increases less than 3%. Using the current “Unused CPI” balance of 0.95%, the proposed adjustment for FY 2022 can be increased to 2.95%.

The SFE calculation can be rewritten as follows:

$$\frac{2018 \text{ Fee in FY 21} + (2018 \text{ Fee in FY 21} + 1991 \text{ Fee}) \times \% \text{ Increase}}{\text{Total SFEs}} = \text{SFE Rate in FY 22}$$

Or, using numbers from the analysis, the SFE Rate is:

$$\frac{\$2,601,609 + (\$2,601,609 + \$1,914,255) \times 0.0295}{54,614.338 \text{ SFEs}} = \$50.08 \text{ per SFE}$$

This SFE rate amount is then multiplied by the SFE per parcel or SFE per acre for the various land use categories to arrive at the Storm Drainage Fee Rate Schedule shown in Table 4 below.

Table 4 - Storm Drainage Fee Schedule

Rate Category	SFE Rate	Proposed Fee	Unit
Single-Family Residential			
Small	0.79992	\$ 40.06	parcel
Medium	1.00000	\$ 50.08	parcel
Large	1.20933	\$ 60.56	parcel
Condominium	0.79992	\$ 40.06	parcel
Multiple SFR on a single parcel pay 22% higher rate			
Non-Single-Family Residential**			
Multi-Family Residential	17.44360	\$ 873.48	acre
Commercial / Industrial / Parking	19.47193	\$ 975.06	acre
Office	18.25493	\$ 914.12	acre
Institutional / Church	16.63227	\$ 832.86	acre
School / Hospital	15.21244	\$ 761.76	acre
Recreational	11.76429	\$ 589.10	acre
Vacant (developed)	1.01416	\$ 50.78	acre
Open Space / Agricultural		exempt	
* Single-Family Residential category also includes duplex, triplex and four-plex units.			
** Non-Single-Family Residential parcel size is calculated to the tenth of an acre or portion thereof			

The proposed \$50.08 SFE rate is well within the range of storm drainage rates adopted by other municipalities.



Office of the City Manager

CONSENT CALENDAR
July 27, 2021

To: Honorable Mayor and Members of the City Council
From: Dee Williams-Ridley, City Manager
Submitted by: Liam Garland, Director, Department of Public Works
Subject: Contract: Rainbow Waterproofing & Restoration Co., Inc. for the Central Library Stucco Restoration Project.

RECOMMENDATION

Adopt a Resolution:

1. Approving plans and specifications for Central Library Stucco Restoration Project, Specification No.20-11405-C;
2. Accepting the bid of Rainbow Waterproofing & Restoration Co., Inc. as the lowest responsive and responsible bidder; 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, for an amount not to exceed \$702,384, which includes a contingency of \$117,064.

FISCAL IMPACTS OF RECOMMENDATION

Funding for this project is fully programmed in the proposed FY 2022 budget in the Library Tax Fund (101-22-241-263-0000-000-463-662110). Costs will be assigned Project Code LB1940.

All costs will be paid from the Library Tax Fund including amendments, extensions or other change orders until completion of the project.

- \$702,384: Library Tax Fund (101-22-241-263-0000-000-463-662110)

Low bid by Rainbow Waterproofing	\$585,320
20% Contingency	\$117,064
Total Construction Cost NTE	\$702,384

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

CURRENT SITUATION AND ITS EFFECTS

The Public Works Department, jointly with the Library, is requesting the execution of a construction contract between the City of Berkeley and Rainbow Waterproofing & Restoration Co., Inc. to rehabilitate the exterior concrete walls of the Central Library's Bancroft building annex in which the stucco was previously removed in November 2019

due to poor stucco bonding and for the waterproofing and sealing of appurtenant windows.

The required rehabilitation is important for the integrity of the building. The work consists of treating and repairing the concrete and the application of a high-performance coating system with stucco finish to prevent water from entering the building. This project will not only improve the long-term durability of the exterior walls, but it will also provide a more welcoming, safe, and comfortable environment, which is consistent with the service priorities in the Library's 2008-2011 Strategic Plan.

In March 2019, the City and Library initiated redesign and replacement of the demolished stucco system with the architectural engineering firm Allana Buick & Bers, Inc. leading up to the release on Monday, April 12, 2021 of RFP Specification No. 20-11405-C for the Central Library Stucco Restoration Project.

Bids were opened on Thursday, May 6, 2021. The City received 7 bids ranging from \$585,320 to \$1,186,000. Rainbow Waterproofing & Restoration Co., Inc. was the lowest responsive and responsible bidder and their references were provided and verified satisfactorily. Staff recommends that a construction contract for the Central Library Stucco Restoration Project be awarded to Rainbow Waterproofing & Restoration Co., Inc.

This project shall be considered a public works project and be subject to the terms of the community workforce agreement with existing prevailing wage requirements.

BACKGROUND

In April 2002, the Central Library completed a major renovation and earthquake retrofitting project financed by Measure S, a 1996 voter bond measure financing rehabilitation of the library and other civic center improvements in the downtown Berkeley area. Consequently, the Central Library enlarged its footprint with a new wing – the Bancroft building annex – allowing for expanded public service areas on two floors, a Community Meeting Room, and dedicated staff and administrative office areas.

In March 2018, a section of exterior stucco wall cladding on the Bancroft building annex detached in an area not visible from either Kittredge Street or Bancroft Way. With the assistance of the General Services Department and in consultation with other City departments, the Library on an emergency basis engaged the services of a general contractor to secure the area and remove any other proximate potential stucco-related hazards to ensure the safety of Library patrons and staff. Concurrently, the Library engaged the services of an architectural and engineering consultancy firm to determine the extent of failing and or compromised stucco and the causes of the stucco failure. The entirety of accessible walls of the Bancroft annex were examined where stucco was present to evaluate and assess the overall condition as well as the bonding strength of the stucco layer to the underlying concrete wall; the final accepted engineering report confirmed extensive conditions of potential risks due to stucco failure. Consequently, the emergency agreement with the general contractor was amended for the demolition of exterior stucco from all areas of the Bancroft building annex. Demolition work was completed in November 2019.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

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RATIONALE FOR RECOMMENDATION

Contracted services are required for this project as the City does not have the in-house expertise to complete this specialized work.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Elmar Kapfer, P.E., Supervising Civil Engineer, (510) 981-6435
Tess Mayer, Director of Library Services, (510) 981-6195

Attachments:

- 1: Resolution
- 2: Abstract of Bids

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

CONTRACT: RAINBOW WATERPROOFING & RESTORATION CO., INC. FOR THE CITY OF BERKELEY'S CENTRAL LIBRARY STUCCO RESTORATION PROJECT

WHEREAS, the project consists of exterior rehabilitation and upgrade to the Central Library; and

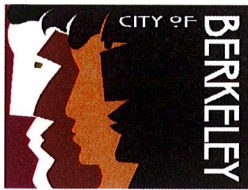
WHEREAS, The City has neither the labor nor the equipment necessary to undertake this repair project; and

WHEREAS, an invitation for bids (Plans and Specifications No. 20-11405-C) was duly advertised, and Rainbow Waterproofing & Restoration Co., Inc. was determined to be the lowest responsive and responsible bidder; and

WHEREAS, funds are programmed in the proposed FY 2022 budget in the Library Tax Fund.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that Plans and Specification No. 20-11405-C for the Central Library Stucco Restoration Project are approved, and Rainbow Waterproofing & Restoration Co., Inc. is determined to be the lowest responsive and responsible bidder.

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 Rainbow Waterproofing & Restoration Co., Inc. for the Central Library Stucco Restoration Project at 2090 Kittredge Street, in an amount not to exceed \$702,384. A record signature copy of the agreement and any amendments will be on file in the Office of the City Clerk.



City of Berkeley
Abstract of Bid Worksheet

Finance Department
General Services Division

Spec. #20-11405-C


Bid Date:

5/6/2021

FOR: Central Library Stucco Restoration Project

	Bidders	Base Bid	Alt. #1	Alt. #2	Alt. #3	Bid Bond	Addendum (1)	Reg/Exp	Subs	Non-coll	Certs
1	Angotti & Riley	\$ 922,000				X	X	X	X	X	X
2	CWS Construction	\$ 973,000				X	X	X	X	X	X
3	DL Falk	\$ 1,164,000				X	X	X	X	X	X
4	Pacific Contractors Group	\$ 1,186,000				X	X	X	X	X	X
5	Rainbow Waterproofing ⁹ Proj	\$ 585,320				X	X	X	X	X	X
6	Urban Waterproofing	\$ 595,000				X	X	X	X	X	X
7	Wickman Development ⁹ cons.	\$ 970,000				X	X	X	X	X	X
8											
9											
10											

Bid Recorder:  Darryl Sweet

Bid Opener:  Josh Roben

Project Manager:  (Per)



Office of the City Manager

CONSENT CALENDAR
July 13, 2021

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Liam Garland, Director, Public Works
 Subject: Contract No. 32000092 Amendment: New Image Landscape Company for On-Call Landscaping Services

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32000092 with New Image Landscape Company to increase the spending authority by \$150,000 for a total not to exceed \$200,000 and to extend the contract term an additional two years to November 30, 2023 for on-call landscaping services.

FISCAL IMPACTS OF RECOMMENDATION

Funding for the contract amendment is subject to appropriation in the FY 2022 budget in the Building Maintenance Fund, Zero Waste Fund, Clean Storm Water Fund, General Fund, Streetlight Assessment District Fund, Off Street Parking Fund, and Sewer Fund for projects as they arise with the majority of the funding from the Clean Storm and Zero Waste funds.

CURRENT SITUATION AND ITS EFFECTS

The Public Works Department has utilized New Image Landscape Company (New Image) to perform landscape maintenance on an as-needed basis for Green Infrastructure¹, Building Grounds, Bikeways, Pathways, Retaining Walls, Traffic Calming Installations, Parking Lots, Green Roofs, and additional locations as needed.

Having an on-call landscaping contractor supports the Strategic Plan goal to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.

BACKGROUND

A Request for Proposals #18-11250-C was released on July 22, 2019 soliciting written proposals from qualified landscape maintenance firms. On August 13, 2019 one qualifying response was received from New Image Landscape Company. A panel of staff reviewed the proposal and selected New Image as more than meeting the

¹ https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_General/03-Green%2520Infrastructure%2520Plan%25202019.pdf

requirements. A contract was executed and they have been providing ongoing satisfactory service.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no anticipated negative environmental effects or climate impacts of this action. This contract amendment will help ensure proper maintenance of green infrastructure installations which slow runoff by dispersing it to vegetated areas, promotes infiltration and evapotranspiration, and/or uses bioretention to improve the water quality of stormwater runoff. In addition, any replacement plantings or new landscaping will be Bay-Friendly, drought tolerant and pollinator supportive. In addition, any vegetative debris generated from their services will be converted into usable compost.

RATIONALE FOR RECOMMENDATION

The services provided by New Image are necessary to support our green infrastructure installations and support the goals of Vision Zero² by ensuring street lighting and safety signage are not blocked. Additionally, they have particular expertise in green infrastructure maintenance.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Joy Brown, Senior Management Analyst, Public Works, 510-981-6629

Attachment:

1: Resolution

² <https://www.cityofberkeley.info/visionzero.aspx>

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

CONTRACT NO. 32000092 AMENDMENT: NEW IMAGE LANDSCAPE COMPANY FOR
ON-CALL LANDSCAPING SERVICES

WHEREAS, Public Works needs an on-call landscaping service to maintain green infrastructure and other landscaped areas; and

WHEREAS, the on July 22, 2019, the City released a request for proposals (Specification No. #18-11250-C) seeking firms to provide on-call landscaping services and on August 13, 2019 one qualified submission was received; and

WHEREAS, the City and New Image Landscape Company entered into Contract No. 32000092 effective September 27, 2019 for on-call landscape services; and

WHEREAS, funding of \$150,000 for the contract amendment is subject to appropriation in the FY 2022 budget as projects arise; and

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. 32000092 with New Image Landscape Company for continued on-call landscaping services increasing the contract by \$150,000 for a total not to exceed \$200,000 and extending the contract term to November 30, 2023. A record signature copy of said contract and any amendments to be on file in the Office of the City Clerk.



CONSENT CALENDAR
July 13, 2021

To: Honorable Mayor and Members of the City Council
 From: Councilmember Taplin and Councilmember Hahn
 Subject: Resolution in Support of Ending Qualified Immunity Act

RECOMMENDATION

Adopt a Resolution in Support of the Ending Qualified Immunity Act by Rep. Ayanna Pressley (D-Mass.) and Sen. Ed Markey (D-Mass) and send copy of resolution to the office of Rep. Barbara Lee (CA-13).

FINANCIAL IMPLICATIONS

None.

CURRENT SITUATION AND ITS EFFECTS

Qualified immunity is a legal doctrine that courts have applied to exempt law enforcement officers from liability in civil rights lawsuits, particularly in cases of police brutality. Federal legislation introduced by Representative Ayanna Pressley and Senator Ed Markey of Massachusetts would amend 42 U.S.C. Section 1983 to clarify that “it shall not be a defense or immunity to any action brought under this section” if the law enforcement officer was acting in good faith or “that the defendant believed, reasonably or otherwise” that their actions were lawful and constitutional.

According to an investigation¹ by Reuters, courts have granted immunity to law enforcement officers in the majority of suits since 2005. One of those cases included a cyclist in Dallas who was killed after being shot 17 times by 5 officers. Since 2009, the Supreme Court has allowed courts to disregard the Fourth Amendment’s prohibition on excessive force, traditionally the first step in determining whether the plaintiff qualifies for immunity. From 2005-2007, 56% of court cases favored the plaintiffs bringing civil rights suits against law enforcement officers; from 2017-2019, 57% of cases favored police.

In one example, the Fifth Circuit Court of Appeals granted qualified immunity to a correctional officer in 2020 who had pepper sprayed a prison inmate in the face without provocation.² In *Frasier v. Evans* (2021), the Tenth Circuit Court of appeals granted

¹ Chung, A., et al. (2020, May 8). For cops who kill, special Supreme Court protection. *Reuters*. Retrieved from <https://www.reuters.com/investigates/special-report/usa-police-immunity-scotus/>

² Fifth Circuit Upholds Qualified Immunity for Guard Pepper-spraying Prisoner Without Provocation. *Prison Legal News*, Apr. 2, 2020. Retrieved from <https://www.prisonlegalnews.org/news/2020/apr/2/fifth-circuit-upholds-qualified-immunity-guard-pepper-spraying-prisoner-without-provocation/>

qualified immunity to police officers who violated First Amendment rights by confiscating a civilian's video recordings of police use of force.³ In March of 2021, the US Supreme Court declined to review a case in which qualified immunity was granted to police who used force against a Black man in Cleveland while trying to enter his home.⁴

BACKGROUND

The doctrine of qualified immunity was first applied by the Supreme Court in 1967 to grant exemptions to law enforcement officers from the private right of action against state and local officials who violate civil rights. This doctrine shielding police officers from liability in cases of abuse, misconduct, and negligence has undermined the substance and intent of the Civil Rights Act of 1871, now codified in 42 U.S.C. Section 1983. Qualified immunity is not codified in any civil statute; this proposed bill would explicitly prohibit it in order to provide greater accountability in cases of police misconduct.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

None.

CONTACT PERSON

Councilmember Terry Taplin, Council District 2, 510-981-7120

Attachments:

1: Resolution

2: Ending Qualified Immunity Act (Bill Text)

³ <https://www.ca10.uscourts.gov/opinions/19/19-1015.pdf>

⁴ Chung, A. (2021, Mar. 8). U.S. Supreme court rejects case over 'qualified immunity' for police. *Reuters*. Retrieved from <https://www.reuters.com/article/us-usa-court-qualifiedimmunity/u-s-supreme-court-rejects-case-over-qualified-immunity-for-police-idUSKBN2B01L6>

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

RESOLUTION IN SUPPORT OF ENDING QUALIFIED IMMUNITY ACT OF 2021

WHEREAS, in the wake of George Floyd's killing and a nationwide reckoning on systemic racism and police violence, the City of Berkeley has commenced a Reimagining Public Safety process; and

WHEREAS, Congress granted individuals the right to sue state and local officials who violate their rights, including police officers, in the Civil Rights Act of 1871, now found under title 42 of the United States Code, Section 1983; and

WHEREAS, since 1967 the Supreme Court has issued several decisions gutting this protection by inventing the qualified immunity doctrine, shielding law enforcement officers from liability for misconduct, negligence, or abuse; and

WHEREAS, in *Harlow v. Fitzgerald* (1982), the U.S. Supreme Court ruled that judges could adequately determine whether an action falls within the scope of qualified immunity based on whether the government official facing litigation knew or should have known that their actions would violate the plaintiff's constitutional rights, under an "objective reasonableness" standard requiring that the rights being violated were "clearly established" at the time; and

WHEREAS, the doctrine of qualified immunity restricts accountability of government officials, prevents genuine justice from being served, and exacerbates violent racial inequities;

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it hereby registers its support for the Ending Qualified Immunity Act of 2021.

.....
(Original Signature of Member)

117TH CONGRESS
1ST SESSION

H. R.

To amend the Revised Statutes to remove the defense of qualified immunity in the case of any action under section 1979, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. PRESSLEY introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Revised Statutes to remove the defense of qualified immunity in the case of any action under section 1979, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Ending Qualified Im-
5 munity Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds as follows:

1 (1) In 1871, Congress passed the Ku Klux
2 Klan Act to enforce the Fourteenth Amendment and
3 combat rampant violations of civil and constitu-
4 tionally secured rights across the nation, particularly
5 those of newly freed slaves and other black Ameri-
6 cans in the post-Civil War South

7 (2) Included in the act was a provision, now
8 codified at section 1983 of title 42, United States
9 Code, which provides a cause of action for persons
10 to file lawsuits against people acting under color of
11 state law, including State or local officials, who vio-
12 late their federal legal and constitutionally secured
13 rights.

14 (3) Under section 1979 of the Revised Statutes
15 (42 U.S.C. 1983) a person may be held liable for
16 acting under color of State or local law, even if they
17 are not acting in accordance with State law.

18 (4) Section 1979 has never included a defense
19 or immunity for government officials who act in
20 good faith when violating rights, nor has it ever had
21 a defense or immunity based on whether the right
22 was "clearly established" at the time of the violation.

23 (5) From the law's beginning in 1871, through
24 the 1960s, government actors were not afforded
25 qualified immunity for violating rights.

1 (6) In 1967, the Supreme Court in *Pierson v.*
2 *Ray*, 386 U.S. 547, suddenly found that government
3 actors had a good faith defense for making arrests
4 under unconstitutional statutes based on a common
5 law defense for the tort of false arrest.

6 (7) The Court later extended this beyond false
7 arrests, turning it into a general good faith defense
8 for government officials.

9 (8) Finally, in *Harlow v. Fitzgerald*, 457 U.S.
10 800 (1982), the Court found the subjective search
11 for good faith in the government actor unnecessary,
12 and replaced it with an “objective reasonableness”
13 standard that requires that the right be “clearly es-
14 tablished” at the time of the violation for the de-
15 fendant to be liable.

16 (9) This doctrine of qualified immunity has se-
17 verely limited the ability of many plaintiffs to re-
18 cover damages under section 1983 when their rights
19 have been violated by State and local officials. As a
20 result, the intent of Congress in passing the law has
21 been frustrated, and Americans’ rights secured by
22 the Constitution have not been appropriately pro-
23 tected.

1 **SEC. 3. SENSE OF THE CONGRESS.**

2 It is the sense of the Congress that we must correct
3 the erroneous interpretation of section 1979 of the Revised
4 Statutes which provides for qualified immunity, and reit-
5 erate the standard found on the face of the statute, which
6 does not limit liability on the basis of the defendant's good
7 faith beliefs or on the basis that the right was not "clearly
8 established" at the time of the violation.

9 **SEC. 4. REMOVAL OF QUALIFIED IMMUNITY.**

10 Section 1979 of the Revised Statutes (42 U.S.C.
11 1983) is amended by adding at the end the following: "In
12 any suit pending on, or filed after, the effective date of
13 the Ending Qualified Immunity Act of 2021, it shall not
14 be a defense or immunity to any action brought under this
15 section that the defendant was acting in good faith, or
16 that the defendant believed, reasonably or otherwise, that
17 his or her conduct was lawful at the time when it was
18 committed. Nor shall it be a defense or immunity that the
19 rights, privileges, or immunities secured by the Constitu-
20 tion or Federal laws were not clearly established at the
21 time of their deprivation by the defendant, or that the
22 state of the law was otherwise such that the defendant
23 could not reasonably have been expected to know whether
24 his or her conduct was lawful."



Office of the Mayor

ACTION CALENDAR

July 13, 2021

To: Members of the City Council

From: Mayor Jesse Arreguín, Councilmember Sophie Hahn, and Councilmember Susan Wengraf

Subject: Endorse All Home CA Regional Action Plan on Homelessness

RECOMMENDATION

- 1) Receive a presentation from All Home CA, a regional collective impact partnership, on their Regional Action Plan on homelessness.
- 2) Endorse the All Home CA Regional Action Plan and the 1-2-4 framework to support ending homelessness in the San Francisco Bay Area, with a goal of a 75% reduction by 2024.
- 3) Refer to the City Manager to utilize the assistance of All Home to analyze the City of Berkeley's current homelessness expenditures and programs and explore recalibrating and prioritizing investments to align with the 1-2-4 RAP framework. The City Manager should return to the City Council and the Homeless Services Panel of Experts with a report on the findings of this analysis.

BACKGROUND

In 2020, All Home¹ a regional collective impact partnership, funded through Tipping Point and the San Francisco Foundation, established the Regional Impact Council (RIC). The RIC is a nine-county effort convened to devise a unified approach to advance system level changes to solve poverty, housing insecurity, racial inequity and homelessness crisis facing our region and state. RIC members believe that homelessness can be rare, brief, and non-recurring for those that experience it. This council is composed of policymakers, affordable housing, social equity and economic mobility stakeholders, housing and homelessness service providers, and business and philanthropic partners. Mayor Arreguin serves on the Regional Impact Council. Since its initial convening, the RIC has worked to develop immediate solutions that lead with racial equity, build solutions to ensure housing stability, develop measures for accountability, and targeted funding and interventions towards the most vulnerable communities.

The result is an ambitious Regional Action Plan (RAP)² to reduce the number of people experiencing homelessness in the Bay Area by 75% in three years. In order to house

¹ <https://www.allhomeca.org/>

² <http://www.allhomeca.org/regionalactionplan/>

and stabilize the unhoused, while also initiating preventative measures, the RAP defines eight strategic priorities, some of which are already underway.

A vital component of the RAP is the 1-2-4 Framework. This approach acknowledges that an effective and sustainable plan to transition people out of homelessness requires investment in multiple strategies at once. This includes homelessness prevention, interim or emergency housing, permanent, deeply affordable, or permanent supportive housing, and housing subsidies. It is not enough to simply provide emergency shelter if there are insufficient long-term housing options to provide outflow and insufficient focus on reducing inflow. 1-2-4 is a ratio that illustrates proportionate investment in three strategies simultaneously and requires rethinking how existing resources are allocated and provides a practical framework for future federal and state investments. This will change the current approach of resource distribution and will require a combination of new and existing sources of funding.

1-2-4 framework

+1 Unit of Interim Housing

Bring unsheltered people indoors immediately by funding the interim housing that is needed to do so.

+2 units of Permanent Housing

Allow families to heal, rebuild, and plan for the future by providing long-term, flexible housing solutions, such as subsidies and supportive housing.

For every one unit of interim housing, we should provide two units of these permanent solutions.

+4 units of Homelessness Prevention

Keep at-risk families housed through interventions like financial assistance coupled with housing problem-solving and legal services.

For every one unit of interim housing, we should provide four units of these interventions to keep families housed.

The RAP will work to establish a “system flow” in which unsheltered populations move toward a permanent exit from homelessness through interim housing options. The approach addresses the near-term crisis, creates more permanent housing solutions and a broad array of preventative initiatives to mitigate the unsheltered population inflow. Cities and Counties are encouraged to plan for and invest in a wider range of deeply affordable housing options. This includes a mix of new construction, acquisition/rehab, and rental subsidies applied to immediately available rental units. Successful implementation of this approach will not only reduce the number of people experiencing homelessness, it will also reduce the number of people at imminent risk of becoming homeless.

CURRENT SITUATION AND ITS EFFECTS

The Bay Area has the third largest and one of the fastest growing homeless populations in the nation, currently more than 35,000 people live outside. 79% of Bay Area residents believe housing affordability is a big problem – this is larger than any other

area in California. The need to act to address this crisis is made more pressing by the COVID-19 pandemic. It devastated the job market and added to the population of 35,000 Bay Area residents who were already unhoused and, once eviction moratoriums are lifted, even more people will lose their housing without the right interventions. In addition, over 50% of extremely low income (ELI) renters do not receive housing subsidies or rent protections, and 34% have controlled rents that are still unaffordable without assistance.

Homelessness in the Bay Area is enormously costly, in economic as well as moral terms. Many of these costs are visible and many are hidden. In a recent Silicon Valley Leadership survey, 47% of respondents (housed and unhoused) said that they had considered leaving the region as a result of the homelessness situation. Indirect costs of homelessness on healthcare, criminal justice, and social services are nearly \$2 billion annually, based on estimates using real costs from Santa Clara County.

Under the current homeless systems framework, jurisdictions throughout the region apply different strategies to address homelessness based on their community's needs and do not allocate resources that would result in regional strategic impact. All of these components must work together for a systemwide response. Success in addressing the current crisis of our unhoused community, and to ensure that people do not slip into homelessness, will require partnership between cities, the State of California and federal government, county leaders, businesses, and philanthropies through co-funding and coordinated action.

The COVID-19 pandemic has exacerbated the already large chasm in economic equality and mobility in the Bay Area, impacting vulnerable communities that are disproportionately Black, brown, Indigenous and low income. As a region our experience of COVID-19 is unequal. The true impact of historic unemployment, racial injustice, and the continued economic pressure low-income residents have forced us to explore systemic solutions previously deemed too bold. New solutions must be advanced more quickly than what the Bay Area's jurisdictions have tried before.

Response to the COVID-19 outbreak also proved that communities can rapidly and creatively providing interim and permanent housing options for unsheltered households. Meaningful regional action is possible by lifting up what works.

City of Berkeley Policies

The City of Berkeley has many programs, resources and policies that align with the elements of the 1-2-4 framework. These programs include unrestricted resources from Measure P, restricted funding for housing and supportive services from the Federal and State government that are allocated consistent with Housing First policies through Coordinated Entry, and housing vouchers allocated to the Berkeley Housing Authority. Men, Veterans, Women & BOSS Family Shelters, the STAIR Navigation Center, Dorothy Day Emergency Shelter and the new Horizons shelter are also available for limited and emergency short-term housing. Eviction defense and rental assistance programs, through City of Berkeley community-based organizations, offer prevention services and, during the pandemic, Berkeley Relief Fund resources kept over 700 people from losing their homes.

IMPLEMENTATION

City of Berkeley HHCS staff would work with All Home to ascertain alignment with the 1-2-4 Framework and return to City Council with a report suggesting resource allocation adjustments and the amount of additional funding that would be required under the 1-2-4 Framework/timelines suggested by the RAP to meet the needs of the unhoused population in Berkeley.

FINANCIAL IMPLICATIONS

Staff time to meet with All Home CA. Future allocations to fully actualize the 1-2-4 Framework and timelines would be addressed through the City Budget process.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental impacts associated with this report.

CONTACT PERSON

Mayor Jesse Arreguín 510-981-7100

Attachments:

1. All Home Regional Action Plan



REGIONAL ACTION PLAN

A Call to Action from the Regional Impact Council

February 2021 | All Home

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EMERGENCY STATEMENT

A PROBLEM WE CAN SOLVE

The Bay Area's homelessness crisis is a chronic problem, arguably the region's greatest and most serious challenge. The scale and complexity of this challenge is undeniably daunting. As a region we have fought to solve this crisis for decades, to limited avail. However, the problem can and will be solved. We need a new approach to homelessness, marked by new levels of regional cooperation. The Regional Impact Council (RIC) envisions a Bay Area that is united and coordinated against homelessness: a Bay Area that is organized to seamlessly share best practices, data systems, advocacy efforts, and resources. In the Bay Area we envision homelessness is a rare, brief, and non-recurring situation for those who experience it. In this future vision, we have closed racial and economic disparities and created an equitable, stable, and prosperous region. The path to this future will not be easy. It will require action and commitment from all levels of government and community. The RIC believes that we can and must do the work to make this vision real. The first step is to acknowledge that homelessness is an emergency requiring immediate action.

A REGION IN CRISIS

The longstanding homelessness crisis in the Bay Area— described by a global expert as “systemic cruelty”¹— is particularly tragic because the crisis expanded during an economic boom in the wealthiest region in North America. In 2020, the homelessness crisis further deepened as a result of the COVID-19 pandemic: without sizable, coordinated action and investment, it will continue to destabilize our region as time, and the pandemic, goes on.

In our nine-county Bay Area today, **more than 35,000² of our neighbors, a population larger than many of the region's suburban cities and towns**, lack housing or even the prospect of securing it - despite many working full-time. Seniors, people with disabilities and many people working demanding jobs live out of their vehicles, in tents, and in other situations not fit for human habitation because they simply cannot afford housing in the region that they call home. For some, this problem continues for generations. Many “essential” workers (e.g., home health aides, grocery store clerks, cleaning staff at medical facilities) are literally homeless, with tens of thousands more of these workers at-risk of becoming homeless. In particular, extremely low income (ELI) renters face significant housing insecurity: 50% receive neither housing subsidies nor rent protection, and another 34% have controlled rents which are still unaffordable without subsidy.

Doing nothing to address the Bay Area homelessness crisis is enormously costly, in economic as well as moral terms. Many of these costs to our society are in plain sight, and many are hidden. Confronted by human suffering on a daily basis, residents and businesses are leaving the region. In a recent Silicon Valley Leadership survey, 47% of respondents said that they had considered leaving the region as a result of the homelessness situation. As a result of the impacts that homelessness has on individuals and the community as a whole, the indirect costs of homelessness on healthcare, criminal justice, and social services are nearly \$2 billion annually, based on estimates using real costs from Santa Clara county. We must think holistically as a region about our response to this crisis, and

¹ Leilani Farha, United Nations Special Rapporteur, 2018.

² Given the lack of PIT count in 2021, we created an estimate of the total unsheltered homelessness in the Bay Area. If we apply the unsheltered homelessness growth rate from 2017-2019 in the Bay Area (~17%) to the unsheltered population in 2019, we estimate unsheltered homelessness to be ~30K. However, given the known impacts of COVID-19 on shelter capacity in the Bay Area and early evidence supporting a growth in homelessness, we estimated that unsheltered homelessness is likely closer to 35K in the Bay Area.

recognize that the investment required to address unsheltered homelessness is small compared to the long-term social and economic costs of our current course.

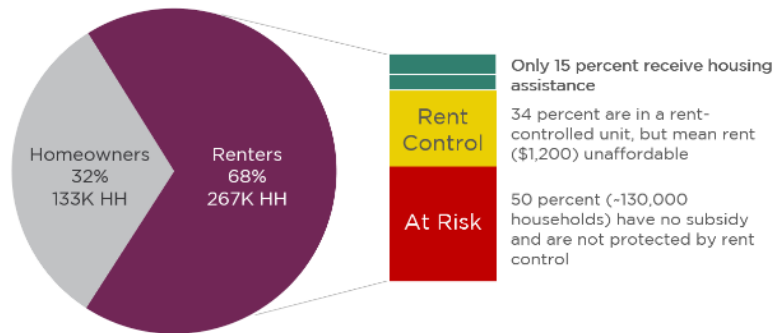


Figure 1: Breakdown of ELI Renter Households; Source: Turner Center for Housing Innovation

COVID-19 has made the region’s limited supply of congregate shelter unusable due to its primarily communal living arrangements, placing our most vulnerable neighbors at heightened risk of exposure. Housing is healthcare, a fact further underscored by the COVID pandemic. A person is unable to “shelter in place” when there is an inadequate supply of shelter and housing. The homelessness and COVID crises disproportionately harm Black, brown and Indigenous people of color (BIPOC). For example, African Americans comprise only 6% of San Francisco’s general population but make up 37% of the city’s homeless population. As these groups are also more vulnerable to becoming seriously ill or dying from COVID-19, the current situation puts our region’s low-income BIPOC population at ‘double jeopardy’ of becoming homeless and gravely ill as COVID cases surge across California and job losses continue to mount, disproportionately for BIPOC communities.

In our region of unparalleled ingenuity, creativity, and affluence for many, a failure to address the **homelessness crisis – a crisis that existed years before the COVID pandemic**, will weaken our communities, drive people and business away from the region, exacerbate existing labor market instabilities, and altogether undermine the prospects for a vibrant, prosperous future for the Bay Area.

Homelessness is no longer a challenge faced by a handful of Bay Area cities, it’s a regional crisis. Similar to our pandemic response, we must act together as a region. We must lift up what works. We’ve witnessed communities rapidly and creatively providing interim and permanent housing options for unsheltered households in response to the COVID-19 outbreak. We know given the will and coordinated action displayed by County Public Health Directors in response to the pandemic, that rapid and meaningful regional action is possible, and we must harness that momentum to fix our systems—systems that are clearly broken and that have failed to stop the tidal wave of people who have had no option but to live on the streets.

WE, THE UNDERSIGNED MEMBERS OF THE REGIONAL IMPACT COUNCIL (RIC), URGE IMMEDIATE ACTION. THE BAY AREA’S EPIDEMIC OF UNSHELTERED HOMELESSNESS MUST BE ADDRESSED AS AN EMERGENCY.

WE CALL UPON THE STATE OF CALIFORNIA, OUR CITIES AND COUNTIES, THE REGION’S BUSINESS AND PHILANTHROPIC COMMUNITIES, AND OUR FEDERAL PARTNERS TO ACT WITH UNPRECEDENTED URGENCY AND COORDINATED ACTION, AS IF LIVES ARE AT STAKE – BECAUSE THEY ARE.

CALL TO ACTION: SUMMARY

RIC Statement of Emergency Signatories	
Name	Signature
Andreas Cluver (Secretary-Treasurer, Alameda County Building Trades Council)	
David Chiu (California)	
Diana Reddy (City Council, City)	
Erin Connor (Manager, Cisco Systems)	
Hydra Mendoza (Chief of Strategic Relationships, Salesforce)	

Signatures in progress

THE UNDERSIGNED MEMBERS OF THE REGIONAL IMPACT COUNCIL CALL FOR THE FOLLOWING EMERGENCY ACTIONS:

ADDRESS THE UNSHELTERED CRISIS

We must accelerate work to bring 75% of the unsheltered indoors by 2024 by improving existing systems & investing in the 1-2-4 system flow model, described below (see the sidebar on page 9 for details):

- (1) Fund the interim housing needed to bring unsheltered people indoors immediately and ensure that those who were temporarily housed during COVID-19 have a safe permanent housing option
- (2) Fund 2 housing solutions for every interim housing unit added to the homelessness system
- (4) Fund 4 preventative interventions for every interim housing unit added to the homelessness system

To deliver on this ambitious goal, we will need to improve our existing systems and policies and secure more funding. This model is underpinned by our strategic pillars, which will guide our implementation of the 1-2-4 system flow model

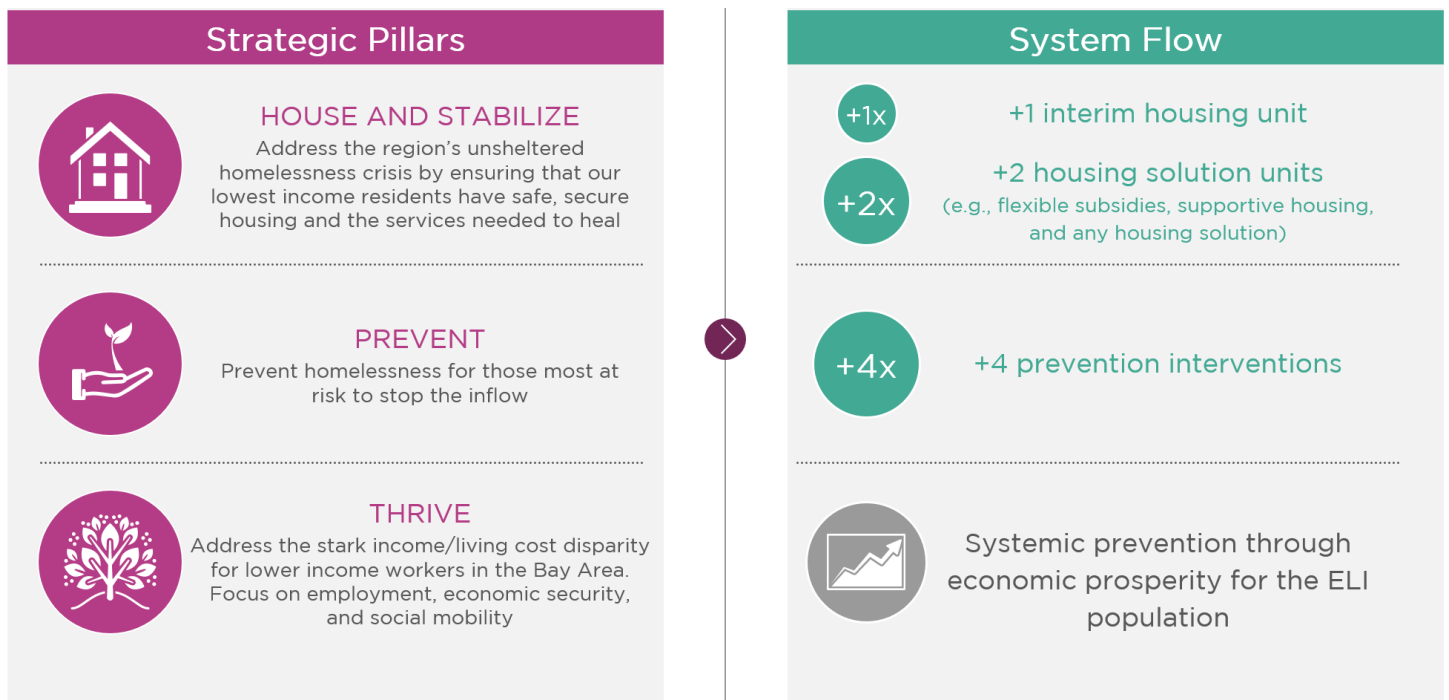


Figure 2: RIC strategic pillars underpins the 1-2-4 system flow model

LEAD WITH RACIAL EQUITY

This plan and its proposed actions - including the priorities for implementation outlined below - must be grounded in closing racial disparities - currently reflected by the disproportionately high percentage of Black, brown, and Indigenous peoples who are homeless or at-risk of becoming homeless. In particular:

- The **State of California** should establish standards and best practices for measuring current racial equity levels and for demonstrating progress; the **State** should increase accountability for outcomes by tying funding to demonstrated progress toward closing racial disparities.
- **Private and philanthropic partners** should actively prioritize funding interventions targeted to BIPOC experiencing homelessness or at risk of becoming homeless.
- **All Counties** should operationalize equity-based prioritization schemes, service provision, and rental assistance programs in the most vulnerable communities. Geographic targeting based on area deprivation index, high rates of poverty, lack of home ownership, high rates of eviction, rental burden, zip codes or some combination could be considered as possible ways to operationalize prioritized services.

CALL FOR FEDERAL PARTNERSHIP

These actions will require expanded Federal funding and partnership. The \$1.9 trillion Biden-Harris Administration “American Rescue Act” coronavirus relief package was a positive first step. We call upon Congress to act immediately on the following:

- Pass the Biden-Harris “American Jobs Plan,” an approximately \$2 trillion infrastructure and recovery package that includes \$213 billion “to produce, preserve, and retrofit more than two million affordable and sustainable places to live
- Provide HUD-Housing Choice Vouchers to every eligible household, prioritizing people who are experiencing or are at-risk of homelessness. Currently, only 1 out of 4 eligible households receive a Housing Choice Vouchers
- **Allocate \$44 billion annually** to the Housing Trust Fund to help states and localities, which responded quickly and creatively to move individuals experiencing homelessness into non-congregate settings, to now acquire and convert available properties, including hotels, motels, and other opportunity sites, into permanent housing solutions so that no one is returned to living outdoors
- Invest \$70 billion to repair and rehabilitate existing public housing
- Create innovative new funding strategies that facilitate cross-discipline investment and cross-jurisdictional collaboration
- Expand Medicaid funding to include stable housing as part of holistic treatment plans

In addition to these immediate actions, we call on the Federal government, in close coordination with the State, to provide **new funding needed to ensure all local jurisdictions are able to implement plans to house 75% of our unsheltered population by 2024 by implementing a full range of prevention and housing options.**

We commit to working with Congress and the Biden-Harris Administration to identify and develop innovative, scalable solutions to homelessness and poverty. We look forward to quickly turning our attention to “Housing as Infrastructure” and working with our California Congressional delegation to achieve the requisite scale of federal investment in affordable housing to truly make homelessness in the United States an experience that is rare and brief, not one that persists for decades.

OPERATIONALIZING THIS WORK

The total 5-year cost of sheltering 75% of the Bay Area's unsheltered population, while investing in the comprehensive system flow outlined by the 1-2-4 framework, is estimated at \$6.5 billion, with \$1.6 billion needed in 2021. Existing resources can (and are) being used to fund this approach. New resources may be required in jurisdictions where current plans are not consistent with the 1-2-4 approach; that is, where resources are insufficient to fund prevention, interim housing, and permanent housing solutions simultaneously and at scale.

- **The State of California should condition existing and new funds on implementing the three-pronged 1-2-4 framework**, starting with a pilot project in the Bay Area in 2021
- **The State should provide expanded technical assistance** to local jurisdictions, to enable seamless implementation of the 1-2-4 framework in our region
- **Local jurisdictions will be provided with assistance** from All Home that recognizes the unique local circumstances as they work to activate the 1-2-4 framework. All Home will also provide support for inter-jurisdictional coordination within and between the region's counties
- **If new funds are required**, this coalition will work to raise the necessary resources from the state and federal governments

Our funding estimates reflect the cost of adding intervention capacity in a 1:2:4 ratio across interim housing, permanent housing solutions, and homelessness prevention interventions over time. Based on our high-level analysis, approximately \$6.5 billion in total investment is required over 5 years, split roughly evenly between capital and operating costs. The cost estimates are designed using Bay Area (9-county) averages, and assume limited interim capacity is available to shelter the currently 35,000 unhoused individuals living in the region. We put forward the estimate with an understanding that the number of unsheltered people— and the costs to serve them— will continue to grow until we significantly reduce the inflow of individuals and households to homelessness.

PRIORITIES FOR IMPLEMENTATION

We have identified eight priorities for focus as we implement this work, expanded on in the Additional Detail section:

House & Stabilize

Strategic Priority #1: Secure Shelter-In-Place (SIP) housing locations

Strategic Priority #2: Streamline State funds and applications for housing and homeless services

Strategic Priority #3: Prioritize extremely low income (ELI) households for housing resources

Strategic Priority #4: Extend covenants of affordability to preserve affordable housing supply and fund ELI tenancy

Prevent

Strategic Priority #5: Extend eviction moratoriums

Strategic Priority #6: Accelerate cash payments to people impacted by COVID-19

Strategic Priority #7: Provide targeted rental assistance to those impacted by COVID-19, who are most vulnerable to homelessness

Strategic Priority #8: Accelerate targeted, data-informed regional homelessness prevention model

PLAN DETAILS

THE COMPREHENSIVE 1-2-4 FRAMEWORK

To ensure we can realize on our ambitions to reduce unsheltered homelessness, we need a model to operationalize across the Bay Area. The model outlined below will enable the region to move expeditiously toward disrupting homelessness and reducing the current level of unsheltered homelessness by 75% before 2024. We call for actions that accelerate progress toward this goal, which includes an interim target of housing 30% of today's unsheltered population in 2021.

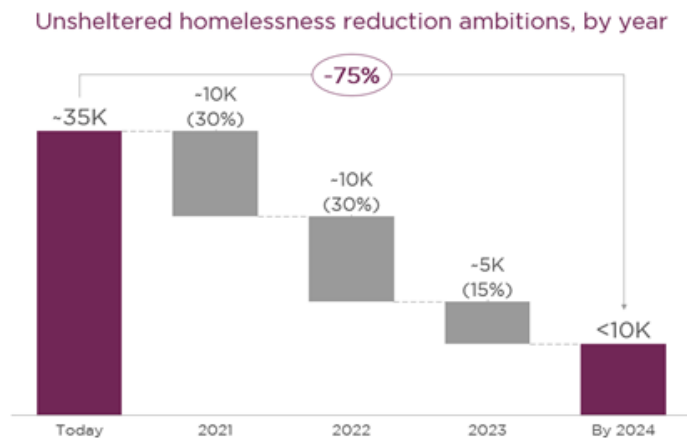


Figure 3: Unsheltered homelessness reduction ambitions by year, '21- '24

Successfully housing the unsheltered population and bringing them to a permanent exit from homelessness requires designing and investing commensurately in an expansion of permanent affordable housing or housing subsidy options to create “system flow,” which is the movement of people off the streets and into stable housing (in particular, housing with requisite, needs-based services attached). A comprehensive “system flow” includes:

- homelessness prevention,
- interim housing options (as needed),
- supportive housing,
- and a broad set of flexible subsidies or deeply affordable housing options for those who do not need permanent supportive housing.

We propose a flow that calls for capacity additions in the following ratio: 1 additional interim housing unit, 2 permanent housing solutions, and 4 prevention interventions. This model will add the capacity necessary to address the crisis in the near term.

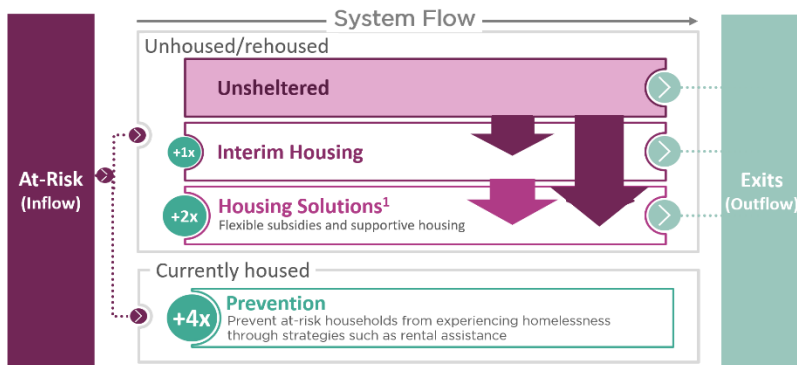
1-2-4 FRAMEWORK

Before the current pandemic conditions, several Bay Area counties were already exhibiting dramatic increases in their unsheltered homeless PIT counts from 2017-2019. Continuing on that trajectory is unacceptable. Our communities must do better at providing the dignity of a safe housing option, interim or permanent, for those who are living outdoors. The 1-2-4 Framework is an acknowledgement that an effective and sustainable plan to do better requires investment in multiple strategies at once – homelessness prevention, interim or emergency housing, permanent deeply affordable or permanent supportive housing, and housing subsidies. It is not enough to simply provide emergency shelter if there are (a) insufficient long-term housing options (“exits”) to provide outflow, and (b) insufficient focus on reducing inflow.

We live in a region with a large population of highly rent-burdened low-income households, who lack access to an available supply of more affordable housing. We will never break the cycle of unsheltered homelessness without a significant investment in homelessness prevention (short-term interventions to assist households experiencing a crisis that may cause them to lose housing).

“1-2-4” is not a prescription or a one-size-fits-all solution. It’s a ratio that illustrates proportionate investment in three strategies simultaneously. In order to reduce unsheltered homelessness rapidly, most cities or counties will need to frontload investment into interim housing options, such as leasing or purchasing motels, tiny homes, mobile homes or other temporary housing options.

The RIC workgroups have established a high-level cost assessment of the resources required to meet our goal of sheltering 75% of unsheltered people by 2024. We put forward the estimate with an understanding that the number of unsheltered people will continue to grow until we significantly reduce the inflow and increase the outflow, or exits. The estimate draws on cost and flow assumptions triangulated from various county-level sources and are taken as Bay Area (9-county) averages. These estimates reflect the cost of adding intervention capacity in a 1:2:4 ratio across interim shelter, permanent housing solutions, and homelessness prevention interventions over time. Based on these assumptions and analyses, approximately \$6.5 billion in total investment is required across five years, split roughly evenly between capital and operating costs.



1. Includes Permanent Supportive Housing, rapid re-housing, flexible subsidy pools and shallow subsidies, Section 8, group housing, and any other housing solution

Figure 4: Comprehensive System Flow Model

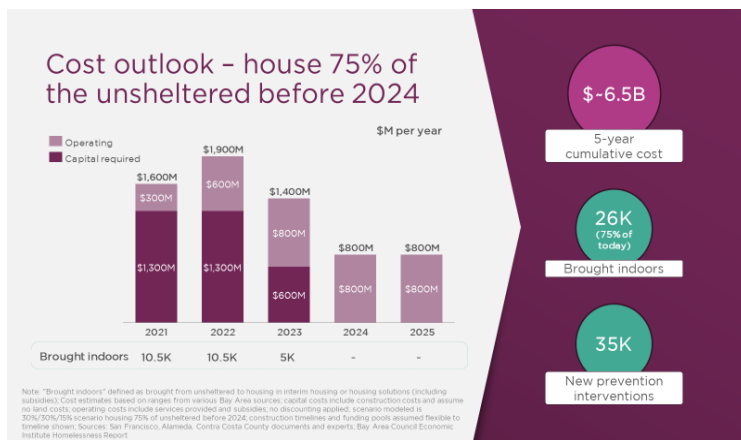


Figure 5: 1-2-4 Framework Cost Outlook (30%/30%/15% scenario shown)

Our recommendation is that for every unit of interim housing that is created (“1”), two permanent housing options (“2”) such as a housing subsidy that can write down the cost of a market rate apartment or a newly acquired or created affordable unit must be planned, so that people don’t linger for extended periods of time in interim housing. It is critical that people move from interim to permanent housing quickly, so that the interim options can be made available to others who still remain unsheltered. Simultaneously, we recommend that each unit of interim housing should be matched with sufficient homelessness prevention investment to serve four households (“4”).

Again, while we are rapidly moving people who are unsheltered either directly to permanent housing, perhaps with a subsidy, or first to interim and then as quickly as possible to permanent housing, the prevention investment will slow down the rate at which people are becoming homeless, and over time reach equilibrium once the correct balance of interim and permanent housing options is available in the community.

Some cities or counties, may need very little investment in interim housing, e.g., if their unsheltered population is relatively small or if they have already made marked investment in emergency housing options. Those communities could choose to focus on rental subsidies and permanent housing to house people quickly and homelessness prevention to stop people from becoming homeless. The bottom line is that each community can right-size the ratio to reach equilibrium, but investing in only one option will not be sufficient to reduce homelessness in any community in the short-term given the high cost of rental housing and the time and cost of construction and acquisition of affordable housing in the Bay Area.

STRATEGIC PILLARS FOR A COMPREHENSIVE RESPONSE

These efforts are grounded in the RIC's strategic pillars: to **House and Stabilize, Prevent**, and enable the region's most vulnerable populations to **Thrive** (see figure 2). COVID-19 has only highlighted the urgency and action needed to address this widening gap. The process of convening the RIC has already yielded results, forging connections and building alliances among our members. We will work to identify, recognize, and scale best practices and successful models across the region, and propose bold regional solutions. These priorities work in concert with the 1-2-4 framework to improve the foundations of a healthy, responsive Bay Area homeless services system—one that will continue to evolve after addressing the urgent crisis of more than 35,000 Bay Area residents living outdoors.

PRIORITIES FOR IMPLEMENTATION: HOUSE & STABILIZE



Strategic Priority #1: Secure Shelter-In-Place (SIP) housing locations

Counties across the Bay Area have put in place measures for temporarily housing their at-risk and unhoused populations in Shelter-in-Place (SIP) housing, to provide shelter and safety during the COVID-19 pandemic. There is broad agreement that individuals who found shelter through these programs should remain housed, be entered into Coordinated Entry Systems (CES), and guided first to non-congregate interim and then to permanent housing (in some cases these individuals may go directly from SIP hotels to permanent housing if it is available and situationally appropriate). Some counties have already begun this process, but others lack a plan for these residents to remain housed. In many counties, the lack of interim and permanent housing options will pose a major barrier in achieving this goal, pointing to the need to expand housing voucher availability.

Priority #1 aims to develop a framework for all Bay Area counties that provides a pathway for those who moved indoors during the pandemic to transition from interim housing into a range of suitable permanent housing solutions.

Detailed call to action

- The **State of California** and the region's **Cities and Counties**, with **Federal funding and partnership**, should seek to retain as much of the Shelter-in-Place (SIP) housing (established in response to COVID-19) as possible, to be converted post-pandemic into interim housing for unsheltered individuals/households, while assisting people to transition quickly to permanent housing (Immediate, Ongoing).
- The **State** must recognize that for Project Homekey (acquisition and conversion of hotels to house vulnerable populations) to be successful, bond financing for acquisition and rehabilitation projects is essential. Therefore, we call for a \$10 billion state investment in affordable housing through passage of a new bond (SB 5).
- **All Home**, in collaboration with regional partners and local jurisdictions, will identify and advocate for funding for housing vouchers or other housing solutions at all levels of government, ensuring funds meet the demand from each county for interim housing options, flexible rental subsidies, and permanent housing solutions needed to prevent people from returning to the streets.
- **Counties** should identify locations or acquisition sites and make plans to implement interim housing options for individuals who cannot move directly into permanent housing, leveraging recent CEQA exemptions for emergency shelters and navigation centers, albeit non-congregate models.



Strategic Priority #2: Streamline State funds & applications for housing & homeless services

Four key state agencies contribute to the State's basic housing efforts, but there is not a well-coordinated plan to effectively use their collective financial resources to support affordable housing acquisition and development. Applicants for state funds for housing and homeless services are overburdened by duplicative application processes with varying timelines, eligibility criteria, and application requirements. The State Auditor commented on this complexity in November 2020, calling for the State to simplify its funding pools and award processes.

Detailed call to action

- The **State of California** should consolidate and streamline all affordable housing funding and application processes, coordinating between the California Debt Limit Allocation Committee (CDLAC), the Tax Credit Allocation Committee (TCAC), the Department of Housing and Community Development (HCD), and the California Housing Finance Authority (CalHFA) to eliminate waste and inefficiencies and to reduce the time needed to access funding (no later than July 2021).
- Existing state programs that fund services for people experiencing homelessness should, where possible, be consolidated into a joint funding pool with a single application process. This process should be jointly administered by California's Departments of Housing and Community Development (HCD) and Social Services (DSS). In cases where consolidation into a single pool is not possible, agencies should align standards and funding processes as much as possible, in coordination with HCD and DSS.
- CDLAC should avoid over-emphasizing cost containment in formulas affecting new construction projects especially through its inclusion in both the tiebreaker and as its own category, as it disadvantages Permanent Supportive Housing (PSH) housing projects, ELI housing projects, and projects located in areas with higher construction costs, such as the Bay Area. While we fully support cost-containment and urge the State to creatively incentivize lower cost construction, this formula disadvantages housing production in parts of the state with some of the highest rates of homelessness.
- The State should revise the opportunity map methodology to ensure that it does not de-prioritize BIPOC communities which tend to be overwhelmingly represented as "low resource" in HCD's opportunity maps, that map high opportunity communities, defined by income, school performance and other factors. While we support the concept of encouraging new development in high opportunity areas, communities that have suffered historic underinvestment should not be left behind as there are longstanding housing needs that must be met.



Strategic Priority #3: Prioritize ELI for housing resources

In its well-intended efforts to serve all Californians, the state's agencies, with increasing momentum, are targeting higher AMI categories, resulting in less funding for housing that is desperately needed to house ELI households. As a state and a region where all housing has been under-produced for decades, we must stop pitting the needs of one income group against another. What we do know is this – our 9-county Bay Area has produced only 9% of the housing units needed for very low income (VLI) households (below 50% AMI) based upon the current Regional Housing Needs Allocation (RHNA). This coalition calls for a reversal of this trend and a prioritization of ELI households (below 30%

AMI) in funding for housing. We support appropriate market reforms to increase production at other affordability levels including expanding the supply of “missing middle” housing.

Detailed call to action

- The **State of California** should ensure that a significant portion of all publicly funded affordable housing projects are inclusive of people with extremely low incomes given that they are at the highest risk of becoming homeless, particularly in the San Francisco Bay Area. The State should reverse its trend emphasizing an average of 60% of AMI in projects using State funds and ensure that at least 20% of new units are reserved for 30% of AMI or below and 20% are reserved for 50% of AMI or below. (Ongoing).
- In particular, **CDLAC** should make new housing construction for extremely (ELI) and very-low income (VLI) households a priority. It should adjust its current stated preference of 60% of AMI and instead require that at least 20% of the units are 30% of AMI or below and 20% are at 50% of AMI or below.
- Within the Homeless Set-Aside (provision of allocated units) - **CDLAC** should require that 25% of total units (minimum of 15) meet the homeless definition, not just the tax credit units.



Strategic Priority #4: Extend covenants of affordability to preserve affordable housing supply and fund ELI tenancy

A significant portion of the Bay Area’s affordable housing units are not permanently affordable. Instead these units have covenants, that if not extended, expire and the housing resets to market rate. This phenomenon displaces lower income tenants and puts them at risk of homelessness. Thousands of once affordable units have been lost in the Bay Area because affordable covenants were not renewed.

In addition to the loss of existing affordable housing units, most affordable housing is not designed to be affordable by Bay Area residents with extremely low incomes (below 30% AMI). Given our region’s exorbitant housing costs, affordable housing developments typically house tenants with household incomes at higher levels (e.g. a development’s tenants have incomes that average 60% AMI). Because their incomes are lower, households at or below 30% of AMI require deeper subsidies. Similarly, formerly homeless individuals or families may have extremely low incomes and may also need supportive services (either short-term or longer-term) to remain housed and successfully thrive after having endured the hardship of being homeless for an extended time.

Detailed call to action

- The **State of California** should, with **Federal funding and partnership**, provide funding to secure affordable housing properties for which covenants of affordability are expiring and provide funding for existing complexes to more deeply subsidize rents and fund supportive services to serve ELI and formerly homeless individuals and families (no later than July 2021).

PRIORITIES FOR IMPLEMENTATION: PREVENT



Strategic Priority #5: Extend eviction protections

In 2020, the COVID-19 crisis devastated the region, with a disproportionate impact on the lowest income individuals and families, particularly BIPOC households. The rent burden – already high – on the low income (< 50% AMI) and extremely low income (<30% AMI) populations was exacerbated by COVID-related job losses and financial hardship this year. To prevent a massive eviction crisis, eviction moratoriums were enacted at the local and state levels, including California’s AB 3088 in September 2020. In late January 2021, the California Legislature passed SB 91 to extend the state-wide eviction protection until June 30, 2021. Keeping people in their existing homes is critical to reducing spread of the coronavirus. Research led by Dr. Kathryn Leifheit of UCLA estimates that **our current statewide emergency eviction protection law has already prevented 186,000 COVID-19 cases and 6,000 deaths**, so we recommend minimally that eviction protections remain in place until at least 60 days after the end of the public health emergency is lifted. However, we also know that higher rates of COVID-19 related income and job loss have disproportionately impacted ELI households, particularly African American and Latinx households. These impacts are likely to linger for some time after the pandemic subsides and the economy begins to stabilize. If history is an example, homelessness began to increase three years after the 2008 Great Recession “ended” as unemployment remained stubbornly high for Blacks and Latinos.

Detailed call to action

- **The State extended eviction protections for California’s renters and enacted a framework for its rental assistance program with SB 91.** The State Legislature should monitor COVID-19 infection rates and rates of unemployment for the highest impacted groups. If both remain high that should be taken into account before allowing the current state-wide eviction protection to expire on June 30, 2021. The State should also take action to close loopholes in the current eviction protections and prevent landlords from evicting tenants for lease expirations or minor lease violations until the pandemic health emergency ends.
- **The Biden-Harris Administration** acted by Executive Order to direct the Centers for Disease Control (CDC) to extend the national eviction moratorium, which it did until March 31, 2021. The CDC later extended that eviction protection until June 30, 2021. We call on the CDC to further extend and improve the national eviction moratorium. The moratorium must be extended through the duration of the public health emergency, and it should be improved to address the shortcomings that have prevented some renters from making use of its protections. The moratorium should provide an automatic, universal protection to keep more renters throughout the U.S. in their homes and it should apply to all stages of eviction. Federal agencies must also actively enforce its protections. An extension to the CDC order could prove to be vital to Californians if the CA Legislature fails to extend the state-enacted eviction protections beyond June 30, 2021.
- **All Counties** should enact a universal eviction protections that last until at least 60 days after the County lifts its COVID-19 public health emergency (Immediate). Tenants should not be evicted during the pandemic for any reason, except for the protection of health and safety. Evictions for lease expirations, minor lease violations, move-in or Ellis Act evictions, or anything short of personal safety should not be permitted during the pandemic.
- **Counties and cities** should consider imposing fines or penalties on property owners that continue to send Notices to Pay or Quit or 3-Day eviction notices to tenants for non-payment of rent, if the property owner

is knowingly using notices to intimidate or confuse tenants in an effort to encourage them to move out, despite the fact that non-payment of rent is not currently permissible as a grounds for eviction at this time.



Strategic Priority #6: Accelerate cash payments to people impacted by COVID-19

While high-wage workers have experienced a 4.3 percent decrease in employment during the pandemic, low-wage workers have suffered a 26.9 percent decrease, a historically unprecedented divide during a recession. With the pandemic wearing on and economic recovery slow, ELI and minority households are being hit hardest, many with insufficient income to cover their basic needs as a result of pandemic-related job loss. Substantial evidence shows that direct cash assistance is the most effective, responsive, and targeted way to support ELI households and prevent them from becoming homeless. Priority #6 advocates for recurring cash payments and enhanced unemployment benefits for ELI households at the federal level. In the absence of further federal intervention, Priority #6 intends to highlight a path for California to expand and enhance refundable tax credits to provide additional income to ELI households. This priority also acknowledges the major intersection between ELI households and the unbanked population (individuals not served by banks due to financial or identity barriers) in California and aspires to address barriers to households claiming their benefits, so they have the resources needed to weather the pandemic.

Detailed call to action

- RIC Coalition joins income security advocates, in coalition with the Economic Security Project (initiative aimed at bolstering economic security for all Americans), calling for federal recurring cash payments of \$2,000 quarterly through 2021 or until the employment rate stabilizes.
- The State of California should approve the Governor's proposed Golden Gate Stimulus of \$600 for California residents who qualify for the state Earned Income Tax Credit on their 2019 tax returns.
- Federal government should extend emergency unemployment insurance programs through September 2021 while providing a \$600 per week unemployment insurance supplement.
- If the Federal effort described above is unsuccessful, state legislators should pass legislation to extend and expand refundable tax programs to maximize income for ELI households. Refundable tax programs are specifically highlighted because they do not impact household income eligibility for public benefit programs. This may include:
 - Removing the earnings requirement and age parameters for the Child Tax Credit (tax credit for parents with dependent children)
 - Doubling the California Earned Income Tax Credit (refundable cash back credit for qualified low-to-moderate income working Californians) for workers without children
- Address the barriers faced by under- and un-banked populations in accessing benefits by offering no-fee checking accounts or other distribution methods.



Strategic Priority #7: Provide targeted rental assistance to those impacted by COVID-19, who are most vulnerable to homelessness

Priority #7 aims to prevent the impending wave of evictions that could occur when the moratoriums eventually are lifted. We must ensure that the number of people becoming homeless in the Bay Area does not accelerate due to pandemic-related income loss and the inability to keep up with rent. SB 91 averted an immediate crisis by extending eviction protections until June 30, 2021. California also received \$2.6 billion in federal rental assistance from the in the form of U.S. Treasury Emergency Rental Assistance Program (ERAP) funds. Counties and cities with populations of >200,000 received roughly \$1.1 billion and the State received roughly \$1.5 billion. But still, millions of California renters will be burdened by amassed rental arrearages, small claims court judgments and lingering unemployment that will hobble them financially for an extended period of time.

Detailed call to action

- The State of California created a block grant program to distribute its \$1.5 billion portion in new COVID-response rental assistance. Although the framework for the State's program is complex, for tenants who have cooperative landlords it offers an opportunity not only to have the program pay the landlord 80% of the rent arrearage, but to have the other 20% forgiven if the landlord wishes to participate. However, for tenants whose landlords refuse to participate, it permits only 25% of their arrearage to be paid. The State has made an effort to prioritize based on equity and to households earning at or below 50% AMI. The recent Biden-Harris "American Rescue Act" package included an additional \$30 billion in ERAP funds. We urge the State to improve upon its current framework for rental assistance (enacted in SB 91) to ensure equal outcomes for all tenants and to implement the targeting strategies outlined below.
- The statutory language that authorized the ERAP allocation allows assistance to be provided to households earning up to 80%AMI, but indicates that households at or below 50% of AMI as well as those which have a household member who has been unemployed for 90 days or more should be prioritized. With hundreds of thousands of Californians behind on rent, there will be a gravitational pull to assist people at the full range of allowable income levels. However, in order to prevent a massive surge in homelessness later in 2021-2022, rental assistance must be targeted to those most at risk of homelessness. Local rental assistance programs should prioritize the following:
 - ELI households (<30% AMI)
 - Households with severe rent burden (>50% of income spent on rent)
 - Households or individuals who have had a previous experience of homelessness
 - Census tracts or zip codes with high rates of housing insecurity or homelessness, high rates of eviction, high rates of COVID-19 infection, high rates of poverty and/or a high area deprivation index
 - Hard to reach communities (e.g., those who have language barriers and people who are in informal living arrangements); and
 - Groups that don't have access to other benefit programs (e.g., undocumented immigrants)
- Any new or expanded rental assistance program should include the following elements:
 - Low-barrier flexible cash assistance, including acceptance of self-certifications regarding income, housing and, employment status. Programs should permit payment directly to the household if the

landlord refuses to accept rental payment from the program or fails to respond within the prescribed time period

- Access to landlord mediation or legal services as needed
- Effective and culturally relevant outreach:
 - Partner with, and build capacity of, BIPOC led community organizations located in and serving impacted communities while expanding the ecosystem of organizations providing program services
 - Co-design outreach processes with CBOs that serve the hardest hit communities and offer access at common intersections with people at-risk of homelessness including food pantries, schools/day care, housing court, community health clinics, institutional discharging or correctional system release. Coordinate with COVID-19 vaccination outreach efforts to maximize efficiency.
 - Work with community groups representing tenants and people who have experienced homelessness, to inform prioritization and policies.
- Tackle racial disparity
 - Collect and publicly report disaggregated data on households served by race, ethnicity, and zip code.
 - Remove barriers that disproportionately impact BIPOC: accept applications by all methods - online, phone, in-person; do not limit assistance to one-time only; be explicit on all materials that information regarding immigration status will not be asked for nor shared at any time during the process.
- Fill gaps caused by ERAP funding constraints with other sources of public (e.g., CDBG-CV or ESG-CV) or private funds to offer more holistic housing stabilization plans to families and individuals.

See [“Local Strategies to Protect Tenants and Prevent Homelessness in Bay Area COVID-19 Emergency Rental Assistance Programs\(ERAPs\)”](#) for more detailed recommendations.



Strategic Priority #8: Accelerate targeted, data-informed regional prevention model

Prior to the pandemic, the Bay Area had the distinction of having more than 35,000 people who were homeless. With massive job and income loss among low wage workers due to the pandemic, many of whom were severely rent-burdened, we can expect that poverty and homelessness will rise in 2021. In 2019, two to three people were becoming homeless for every one person who was successfully assisted to move from homelessness to housing in the Bay Area. We desperately need a regional homelessness prevention system to slow down the rate at which people are becoming homeless; this starts by coordinating resources and services within the region. Priority #8 aims to build upon prevention efforts and infrastructure that already exist and to create a program for coordinated service delivery. All Home has launched a pilot in three cities - Oakland, Fremont and San Francisco - to facilitate a research and data-informed approach that focuses on using new federal ERAP funding to target those who are most vulnerable to homelessness. The pilot is intended to extend into Contra Costa County later in 2021, in advance of full implementation and coverage of all nine Bay Area counties within three years. Ultimately, the goal is to blend public and private funds and bring about a higher degree of coordination among anti-eviction/displacement, rental subsidy, homelessness prevention, diversion, and rapid-rehousing programs in the region.

Detailed call to action

- Since September 2021, All Home in partnership with RIC members and others has embarked on a consensus-building design process to launch its homelessness prevention pilot. In order to maximize the opportunity to align federal ERAP funding with homelessness prevention efforts, All Home accelerated its regional homelessness prevention efforts to launch by April 2021. The pilot is a work in progress to build consistency in best practices for risk assessment and service delivery, using a common data platform and evaluation framework. Initially the regional homelessness prevention program model will include the following services:
 - Financial assistance – flexible cash assistance, rental arrears, rental assistance, security deposit, move-in expenses, reunification or relocation expenses, transportation expenses
 - Eviction prevention/legal assistance
 - Utility assistance
 - Housing problem-solving
 - Landlord mediation and connecting residents to advocacy organizations
 - Linkages to other community resources and public benefit programs
- As the program reaches its full implementation, the following services will also be provided:
 - Assistance with housing search, placement, and stabilization, including limited term rental subsidies and case management
 - Financial counseling
 - Income stabilization through workforce development partnerships
- Implement a three-county pilot regional homelessness prevention system that is rolled out with an eye toward regional expansion to all nine Bay Area counties. The pilot offers the following elements:
 - Emphasis on reducing racial and ethnic disparities among households that are experiencing homelessness for the first time through targeted financial assistance and program design:
 - Targeting resources to racial/ethnic groups facing high rates of homelessness (in the Bay Area, Black, Indigenous, Latinx and Pacific Islander communities) and groups that don't have access to other benefit programs.
 - Meeting non-traditional needs, for instance offering interventions that stabilize support networks or kinship networks, as defined by marginalized communities, to include chosen families.
 - Addressing funding/program gaps that exist for undocumented immigrants.
 - Ensure effective and culturally relevant outreach as described above in Strategic Priority #7.
 - Reducing barriers to long-term success by connecting households to economic mobility programs and eliminating limitations on "one-time only" assistance because an ELI household may encounter one or more periods of economic shock on the way to getting back on their feet.
 - Common program elements as discussed above.
 - New, web-based data platform for applicants and service providers which includes:
 - Online financial assistance application portal

- Evidence-based risk assessment tool that promotes effective and efficient targeting of services to those who are at highest risk³ of homelessness.
- Back-end service provider module for case management, management approvals and fund disbursements.
- Consistency in staff training in housing problem-solving/diversion techniques and learning collaboratives to promote cross- county collaboration and sharing of useful resolution ideas.
- Evaluate program efficacy of the initial three-county level programs and adapt as necessary to expand to the regional scale within three years.
- All Home, in collaboration with regional partners and local jurisdictions, will work to identify and collaborate with a regional entity with the capacity to manage a regional homelessness prevention system for the long-term. In 2020, the Bay Area Housing and Financing Authority (BAHFA) was established by the Association of Bay Area Governments (ABAG) and the Metropolitan Transportation Commission (MTC). BAHFA is positioned to provide a powerful new set of financing and policy tools to improve housing affordability and may be well suited to play this role in the future.
- Combine public and private funding streams to maximize the prevention system's function and flexibility At the federal, state and local levels, there are many programs that support homelessness prevention, each having slightly different eligibility and other requirements - Emergency Solutions Grants (ESG and ESG-CV), Community Development Block Grants (CDBG and CDBG-CV), new U.S. Treasury Emergency Rental Assistance Program (ERAP), State Homeless, Housing, Assistance and Prevention (HHAP), CalWorks Homeless Assistance Program, local tax measure funds that are required to be spent on homelessness prevention. These funding streams should be streamlined so that they can be used more flexibly and holistically to keep people housed. Currently, private and philanthropic funds are used to fill gaps and provide the flexibility for the program to meet each household's needs. The goal of a regional homelessness prevention program is to leverage these funds in the creation of a public-private partnership that weaves together a stronger, more viable safety net that is truly available and capable of preventing a household from becoming homeless or quickly assisting with the resources necessary to find alternative housing, regardless of where one lives in the Bay Area.

³ Female Head of Household, pregnancy, child younger than two, history of public assistance, eviction threat, high mobility in last year, history of protective services, high conflict in household, disruptions as a child (e.g. foster care, shelter history as youth), shelter history as an adult, recent shelter application, seeking to reintegrate into community from an institution, high number of shelter applications.

IMPACT METRICS & TRACKING

We have developed a series of impact metrics to track progress against our 8 strategic priorities, while systematically advancing All Home’s vision and informing forthcoming work. These metrics will be reviewed on a regular cadence and progress will be shared back to counties, stakeholders, and RIC members.

- **Overall**- Reduce unsheltered homelessness by 75% by 2024, overall homelessness by 75% by 2030
- **System flow**- % of new episodes, PIT count, eviction rate, # of days between shelter and permanent exits
- **Availability**- # of interim housing units, # of permanent housing solution units, # of prevention interventions by 2024 and 2030, utilization rate over time (match of resources available to interventions needed in each category)
- **Diversity**- Homelessness population segmentation and population comparison by race/gender/age to reduce disparity
- **Employment**- ELI unemployment rate, income levels
- **Data**- Consistency in format and metrics across region, clear indicators of coordinated efforts among Bay Area counties
- **Revenue**- Match of funding available with needs to implement priorities

Furthermore, we will track stakeholder perceptions of progress through an annual survey to RIC members to measure the extent to which they believe goals are being met. We will also convene counties on a quarterly basis, and other stakeholder groups on an ad hoc basis, to review progress and identify barriers to be mitigated. We will also draw on those with lived experience to understand their perceptions of system efficacy (access to resources, employment opportunities, etc.) and provide real-time tracking.

HomeBase research finds that a regional data sharing system would enhance the ability of jurisdictions and care providers to conduct local planning, measure outcomes and investment impacts, and support care and support coordination. Data enrichment options that allow identifiable client-level data sharing across jurisdictions would have an even greater impact by creating opportunities to coordinate across systems of care—ensuring individuals have continuity without having to restart the process of seeking help every time they transition to a new location.

Therefore, it may be helpful to establish a regional data sharing system utilizing existing research and tools developed by Homebase to enhance the ability of jurisdictions and care providers to conduct local planning, measure outcomes and investment impacts, and support care and support coordination across cities and counties.

Cumulatively, advancement across these metrics will enable the broader social change we are committed to enacting: increasing racial equity, inclusivity of all communities, greater economic and social mobility, shifting our paradigm to recognize ELI people’s value, and highlighting regionalism as imperative to driving progress.

INTRODUCTION TO THE REGIONAL IMPACT COUNCIL

LETTER FROM THE CO-CHAIRS

The Regional Impact Council (RIC) convened in 2020, when our members – from across the Bay Area – organized around the belief that homelessness can be rare, brief, and non-recurring for those that experience it. We believe a coordinated regional response is needed to advance system level changes to solve poverty, housing insecurity, racial inequity and homelessness crisis facing our region and state.

The COVID-19 pandemic has exacerbated the already large chasm in economic equality and mobility in the Bay Area, impacting vulnerable communities that are disproportionately Black, brown, Indigenous and low income. As a region our experience of COVID-19 is unequal. For affluent professional workers, the recession’s direct economic impact has been minimal. Indeed, the wealth of some in the professional class has gone up since the pandemic. For Black, brown and Indigenous communities and extremely low-income populations, this recession is worse than the Great Financial Crisis of 2008-2010. The true impact of historic unemployment, racial injustice, and the continued economic pressure on small businesses will be an uphill challenge. The magnitude of these changes has forced us to explore systemic solutions previously deemed too bold. We must seek new solutions and advance them more quickly than what the Bay Area’s jurisdictions have tried before.

The RIC complements existing efforts around homelessness and housing by bringing together key stakeholders, and policymakers across a diversity of communities and sectors including representatives from the state legislature, local government, non-profit organizations ‘s the business community and private philanthropy with their collective assets to achieve population-level regional outcomes.

The urgency has never been greater, and we are eager to get to work. We view the Bay Area’s regional response to the COVID-19 pandemic as an example of what our region can accomplish when we join together to address a shared challenge. After the current public health crisis, we will remain committed to our goals: house and stabilize those experiencing or at risk of homelessness, prevent future episodes of homelessness, and create economic prosperity across the region so that ELI individuals and families can thrive in the Bay Area.



Derecka Mehrens
Chief Executive Officer,
Working Partnerships USA



Jonathan Fearn
Senior Development Director,
Greystar



Joshua Simon
Chief Executive Officer, East
Bay Asian Location
Development Corporation



Sherilyn Adams
Executive Director
Larkin Street Youth Services

RIC MEMBERS

REGIONAL IMPACT COUNCIL MEMBERS

The RIC is a coalition across the nine-county Bay Area. The council includes 85 leaders that work in state and local legislation, direct service provision, affordable housing, labor, economic mobility, racial equity and private sector businesses.

Our collective goal: Share, develop and mobilize against regional solutions to House and Stabilize, Prevent, and enable our most vulnerable populations to Thrive.

CO-CHAIRS

Derecka Mehrens, Chief Executive Officer, Working Partnerships USA

Jonathan Fearn, Senior Development Director, Greystar

Joshua Simon, Chief Executive Officer, EBALDC

Sherilyn Adams, Executive Director, Larkin Street Youth Services

STEERING COMMITTEE

Amie Fishman, Executive Director, Non-Profit Housing Association of Northern California

Andreas Cluver, Secretary-Treasurer, Alameda County Building Trades Council

Ariane Hogan, Associate Director of Local Government Affairs, Genentech

Belia Ramos, Supervisor, Napa County 5th District

Candace Andersen, Supervisor, Contra Costa County

Cindy Chavez, Supervisor, Santa Clara County

Dave Cortese, State Senator, California

David Chiu, State Assemblymember, California

Diana Reddy, City Councilmember, Redwood City

Diane Burgis, Chair, Board of Supervisors, Contra Costa County

Eddy Zheng, Founder & President, New Breath Foundation

Erin Connor, Manager, Cisco Crisis Response

Hydra Mendoza, VP, Chief of Strategic Relationships Office of the Chair and CEO, Salesforce

Jake MacKenzie, Board Member, Greenbelt Alliance

Jennifer Loving, Chief Executive Officer, Destination Home

Jesse Arreguin, Mayor, City of Berkeley; President, Association of Bay Area Governments

Jim Spering, Supervisor, Solano County

Jim Green, Senior Vice President, Government Affairs and Public Policy, Salesforce

Jim Wunderman, CEO, Bay Area Council

Keith Carson, Supervisor, Alameda County District 5

Ken Cole, Director, Human Services Agency, San Mateo County

Libby Schaaf, Mayor, City of Oakland

Liz Ortega-Toro, Executive Secretary-Treasurer, Alameda Labor Council

London Breed, Mayor, City and County of San Francisco

Matt Franklin, President, MidPen Housing Corporation

Melissa Jones, Executive Director, Bay Area Regional Health Inequities Initiative

Nicole Taylor, President & CEO, Silicon Valley Community Foundation

Robert Powers, General Manager, BART

Rosanne Foust, President & CEO, San Mateo County Economic Development Association (SAMCEDA)

Sam Liccardo, Mayor, City of San Jose

Scott Weiner, State Senate, California

Susan Gorin, Supervisor, Sonoma County

Therese McMillan, Executive Director, Association of Bay Area Governments (ABAG)/Metropolitan Transportation Commission (MTC)

Warren Slocum, Supervisor, San Mateo County

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Vivian Wan, Chief Operating Officer, Abode Services
William Pickel, Chief Executive Officer, Brilliant Corners
Zak Franet, Youth Policy & Advisory Committee Member, City and County of San Francisco

ALL HOME STAFF

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Ken Kirkey, RIC Project Lead, Chief Partnership Officer
Charlie Sun, Chief of Staff
Gail Gilman, Chief Strategy Officer
Jay Banfield, Chief Economic Mobility Officer
Joanne Karchmer, Chief Impact Officer
Terrance Thompson, Director, Regional Homelessness Prevention System

ACKNOWLEDGEMENTS

The Co-Chairs wish to acknowledge the invaluable contributions of everyone that has contributed to developing the Regional Action Plan and that continue to support the Regional Impact Council.

GLOSSARY

AB – 15 – COVID-19 relief: Tenancy: Tenant Stabilization Act of 2021

This bill would extend the definition of “COVID-19 rental debt” as unpaid rent or any other unpaid financial obligation of a tenant that came due between March 1, 2020, and December 31, 2021. The bill would also extend the repeal date of the act to January 1, 2026. The bill would make other conforming changes to align with these extended dates. By extending the repeal date of the act, the bill would expand the crime of perjury and create a state-mandated local program. (CA legislature)

AB – 16 – Tenant, Small Landlord, and Affordable Housing Provider Stabilization Act of 2021

This bill would state the intent of the Legislature to enact the Tenant, Small Landlord, and Affordable Housing Provider Stabilization Act of 2021 to address the long-term financial impacts of the COVID-19 pandemic on renters, small landlords, and affordable housing providers, ensure ongoing housing stability for tenants at risk of eviction, and stabilize rental properties at risk of foreclosure. This bill would include legislative findings and declarations in support of the intended legislation. (CA legislature)

AB – 3088 – Tenancy: rental payment default: Mortgage forbearance: state of emergency: COVID-19

This bill, the Tenant, Homeowner, and Small Landlord Relief and Stabilization Act of 2020, would, among other things, until January 1, 2023, additionally apply those protections to a first lien mortgage or deed of trust that is secured by residential real property that is occupied by a tenant, contains no more than four dwelling units, and meets certain criteria, including that a tenant occupying the property is unable to pay rent due to a reduction in income resulting from the novel coronavirus. (CA legislature)

AMI – Average Monthly Income

Most federal and State housing assistance programs set maximum incomes for eligibility to live in assisted housing, and maximum rents and housing costs that may be charged to eligible residents, usually based on their incomes. HUD’s limits are based on surveys of local area median income (AMI)

CA BCSHA – California Business, Consumer Services and Housing Agency

The Business, Consumer Services and Housing Agency assists and educates consumers regarding the licensing, regulation, and enforcement of professionals and businesses in California.

CalHFA – California Housing Finance Agency

Established in 1975, CalHFA was chartered as the state’s affordable housing lender. The Agency’s Multifamily Division finances affordable rental housing through partnerships with jurisdictions, developers and more, while its Single Family Division provides first mortgage loans and down payment assistance to first-time homebuyers.

CEQA – CEQA – California Env. Quality Act

CEQA, or the California Environmental Quality Act, is a statute that requires state and local agencies to identify the significant environmental impacts of their actions and to avoid or mitigate those impacts, if feasible.

The purpose of CEQA is to: Disclose to the public the significant environmental effects of a proposed discretionary project, through the preparation of an Initial Study (IS), Negative Declaration (ND), or Environmental Impact Report (EIR). (CA Office of Planning and Research)

CDBG-CV – CARES Relief Community Development Block Grants

Congress provided \$5 billion in the CARES Act for the Community Development Block Grant (CDBG) program to states, metropolitan cities, urban counties, and insular areas. (HUD)

CDLAC – California Debt Limit Allocation Committee

CDLAC's programs are used to finance affordable housing developments for low-income Californians, build solid waste disposal and waste recycling facilities, and to finance industrial development projects (CA State Treasurer's Office)

ESG-CV – CARES Relief Emergency Solutions Grants

These special ESG-CV funds are to be used to prevent, prepare for, and respond to the coronavirus pandemic (COVID-19) among individuals and families who are homeless or receiving homeless assistance. The funds will also support additional homeless assistance and homelessness prevention activities to mitigate the impacts of COVID-19. (HUD)

HCD – California Department of Housing and Community Development

The California Department of Housing and Community Development awards loans and grants to public and private housing developers, nonprofit agencies, cities, counties, state and federal partners. This money supports the construction, acquisition, rehabilitation, and preservation of affordable rental and ownership homes, provides permanent supportive housing options as well as stable, safe shelter for those experiencing homelessness. (HCD)

HUD – US Department of Housing and Urban Development

LI, VLI, ELI – Low Income, Very Low Income and Extremely Low Income

Low-income applicants earn less than 80% of the area median

Very low-income applicants earn less than 50% of the area median

Extremely low-income earn less than 30% of the area median

NGO – Non-government Organization

PHA – Public Housing Authority

The U.S. Department of Housing and Urban Development (HUD) administers Federal aid to local housing agencies (HAs) that manage the housing for low-income residents at rents they can afford. HUD furnishes technical and professional assistance in planning, developing and managing these developments. (HUD)

PSH – Permanent Supportive Housing

Permanent Supportive Housing (PSH) is a model that combines low-barrier affordable housing, health care, and supportive services to help individuals and families lead more stable lives. PSH typically targets people who are

homeless or otherwise unstably housed, experience multiple barriers to housing, and are unable to maintain housing stability without supportive services. (National Health Care for the Homeless Center)

TCAC – California Tax Credit Allocation Committee

The California Tax Credit Allocation Committee (CTCAC) administers the federal and state Low-Income Housing Tax Credit Programs. Both programs were created to promote private investment in affordable rental housing for low-income Californians. (CA State Treasurer’s Office)

Section 8 / HCV – Section 8 Housing Vouchers

The housing choice voucher program is the federal government’s major program for assisting very low-income families, the elderly, and the disabled to afford decent, safe, and sanitary housing in the private market. Since housing assistance is provided on behalf of the family or individual, participants are able to find their own housing, including single-family homes, townhouses and apartments. Expanded rental assistance like the Housing Choice Voucher (HCV) program is a substantial component of any strategy to address the severe housing shortage and instability faced by ELI renters. Seventy-three percent of current HCV recipients are extremely low-income (HUD, 2018).



Office of the City Manager

PUBLIC HEARING
July 13, 2021

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Jordan Klein, Director, Department of Planning and Development
 Subject: Referral Response: General Plan Re-Designation and Zoning Map
 Amendment of Parcels Located at 1709 Alcatraz Avenue, 3404 King
 Street, 3244 Ellis Street, 1717 Alcatraz Avenue, and 2024 Ashby Avenue

RECOMMENDATION

Conduct a public hearing and, upon conclusion:

1. Adopt first reading of an Ordinance rezoning five parcels located at 1709 Alcatraz Avenue (APN 052-1533-001-03), 3404 King Street (APN 052-1435-001-02), 3244 Ellis Street (APN 052-1533-005-00), 1717 Alcatraz Avenue (APN 052-1533-006-00) and 2024 Ashby Avenue (APN 053-1592-022-00) to Commercial – Adeline Corridor District (C-AC), and
2. Adopt a Resolution changing the General Plan designation of the five parcels to Adeline Corridor Mixed Use and to revise the boundaries of the Adeline Corridor Specific Plan Area to include the five parcels (*Attachments 1 and 2*).

FISCAL IMPACTS OF RECOMMENDATION

There are no direct fiscal impacts to the City of Berkeley by considering this General Plan redesignation and rezoning.

CURRENT SITUATION AND ITS EFFECTS

All five parcels, shown in Table 1 below, are adjacent to the Adeline Corridor Specific Plan Area. The proposed amendments would result in the expansion of the Adeline Corridor Specific Plan boundary to include the five parcels and change their General Plan and zoning designations to the Adeline Corridor Mixed Use General Plan Land Use Classification and the Commercial-Adeline Corridor zoning district, respectively.

Table 1. Parcels Proposed for General Plan and Zoning Map Amendments

Address/Assessor Parcel Number	Existing General Plan	Existing Zoning
2024 Ashby Avenue (APN 053-1592-022-00)	Avenue Commercial	C-SA
1709 Alcatraz Avenue (APN 052-1533-001-03)	Avenue Commercial, Medium Density Residential	C-SA and R-2A
3244 Ellis Street (APN 052-1533-005-00)	Neighborhood Commercial	C-SA
1717 Alcatraz Avenue (APN 052-1533-006-00)		
3404 King Street (APN 052-1435-001-02)	Medium Density Residential	R-2A

The parcel located at 2024 Ashby Avenue currently serves as a parking lot for St. Paul's A.M.E. church, which is located on the adjacent parcel to the west. St. Paul's A.M.E. church owns both parcels. The parcel on which the church is located is within the Adeline Specific Plan Area boundary but 2024 Ashby Avenue is not. St Paul's A.M.E Church has indicated it is interesting in developing an affordable housing project on the site.

The parcel located at 1709 Alcatraz Avenue is owned by the Ephesian Church of God in Christ. It is located at the northern corner of King Street and Alcatraz Avenue, near the Adeline Corridor Specific Plan Area boundary. Current uses on the parcel include the Ephesian Church building, surface parking, and a vacant building. The Ephesian Church has indicated that it is interested in redeveloping 0.52-acres of the one-acre site with a 100% affordable senior housing project along King, Harmon, and Ellis Streets.

Existing uses on the two parcels at 3244 Ellis Street and 1717 Alcatraz Avenue include a mixed-use building and a six-unit apartment complex. If the proposed changes were made for 1709 Alcatraz, these two parcels would be entirely surrounded by parcels designated and zoned per the Adeline Corridor Specific Plan. Re-designating and re-zoning these two parcels would preserve the physical continuity of the Adeline Corridor Specific Plan General Plan designation and zoning district boundaries and avoid creating an unnecessarily complicated mix of land use regulations in a relatively small area.

The parcel located at 3404 King Street is owned by Fred Finch Youth and Family Services. The current use on the parcel is "Turning Point," a transitional housing program designed to assist homeless youth age 18-25 to obtain and maintain independent permanent housing. The use is not permitted in the property's current R-2A District; however, this property was granted a Use Permit (UP) with a Variance in 1978 to allow for a transitional home serving up to 12 youth. Any modification or expansion of this use would require another Variance. The proposed zoning would allow modification or expansion with the granting of a Use Permit (with a public hearing).

Re-designating and rezoning these five parcels is aligned with the City's Strategic Plan goal to encourage affordable housing for the most vulnerable community members.

BACKGROUND

At its meeting of November 17, 2020, the City Council referred to the Planning Commission consideration of the re-designation and rezoning of the five parcels at 1709 Alcatraz Avenue, 3404 King Street, 3244 Ellis Street, 1717 Alcatraz Avenue and 2024 Ashby Street to include them within the new land use controls shared by adjacent parcels within the Adeline Corridor Specific Plan area.

At its meeting of December 8, 2020, the City Council adopted the Adeline Corridor Specific Plan (Plan) and associated General Plan and zoning amendments. The Plan created the new Adeline Corridor Mixed Use General Plan land use classification and the new Commercial – Adeline Corridor District (C-AC) zoning to all the parcels within the Specific Plan boundary. The new Adeline Corridor Mixed Use General Plan Land Use Classification and C-AC zoning district are designed to incentivize more affordable housing through providing streamlined approval and incrementally more density, height and floor-area ratio, in return for specified amounts of on-site affordable housing units; and the zoning permits uses that align with the vision and goals expressed for the Plan Area.

At its meeting of May 5, 2021, the Planning Commission unanimously recommended that the City Council amend the General Plan and zoning for the five parcels and revise the boundaries of the Adeline Corridor Specific Plan Area to include them.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no direct environmental opportunities from these proposed actions. However, subsequent development encouraged by these land use changes could result in affordable multi-family housing near transit. Transit-oriented development (TOD) is energy-efficient and results in less private vehicle use, furthering state and local greenhouse gas reduction efforts.

An Addendum to the *Adeline Corridor Specific Plan Environmental Impact Report* (2020 EIR) evaluates the environmental effects of the proposed amendment.¹ The Addendum found that potential impacts associated with the amendments are consistent with potential impacts characterized in, and mitigation measures developed for, the 2020 EIR. Substantive revisions to the 2020 EIR are not necessary because no new significant impacts, or impacts of substantially greater severity than previously described, would occur.

RATIONALE FOR RECOMMENDATION

The proposed General Plan, zoning and Adeline Corridor Specific Plan boundary amendments serve the public interest by encouraging the development of new affordable housing either by permitting development at intensities that are not currently allowed under existing zoning or by providing a streamlined approval process. The proposed changes also support important cultural institutions, and ensure consistent

¹ Adeline Corridor Specific Plan EIR Addendum (April 2021) - See Attachment 4 of Item 10 of the 5/5/21 Planning Commission Meeting Packet:

[https://www.cityofberkeldsavAey.info/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Planning/2021-05-05_PC_Item%2010\(1\).pdf](https://www.cityofberkeldsavAey.info/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Planning/2021-05-05_PC_Item%2010(1).pdf)

land use regulation by incorporating isolated properties into the Adeline Corridor Mixed Use General Plan land use classification and C-AC zoning.

California Government Code section 66300(b)(1)(A) prohibits a locality from changing the General Plan designation or zoning of residential parcels to a less intensive use or in a manner which reduces the allowable intensity of a permitted residential use.

The Adeline Corridor General Plan designation does not encourage less intensive development than that encouraged in the existing Avenue Commercial, Neighborhood Commercial or Medium Density Residential designations. The Adeline Corridor General Plan encourages mixed-use, transit-oriented development with a wide-range of commercial and community uses with active street-fronts, including “maximizing” affordable housing at the Ashby BART station.

Compared to the parcels’ current designations, the C-AC zoning district increases development potential by allowing greater heights and requiring smaller setbacks. For the parcels currently zoned R-2A, the C-AC zoning district increases the allowable density and allowable heights. For the parcels currently zoned C-SA, C-AC includes a higher FAR maximum, encouraging larger projects.

ALTERNATIVE ACTIONS CONSIDERED

The Council may deny the amendments, or continue the public hearing, or take no action.

CONTACT PERSON

Justin Horner, Associate Planner, Department of Planning and Development, 510-981-7476.

Attachments:

- 1: Ordinance
 Exhibit A: Zoning Map Amendment
- 2: Resolution
 Exhibit A: General Plan Amendment Map
 Exhibit B: Adeline Corridor Specific Plan Boundary Revision Map
- 3: Public Hearing Notice

Links to Documents Mentioned in the Report:

- 1: Planning Commission Report -- May 5, 2021
[https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Planning/2021-05-05_PC_Item%2010\(1\).pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Planning/2021-05-05_PC_Item%2010(1).pdf)

Includes Addendum to the Adeline Corridor Specific Plan Environmental Impact Report (Attachment 4 (page 21 of pdf)) – April 21, 2021

ORDINANCE NO. -N.S.

AMENDING THE BERKELEY MUNICIPAL CODE (BMC), TITLE 23 (ZONING), OFFICIAL ZONING MAP, TO REZONE ASSESSOR PARCEL NUMBERS (APN) 052-1533-001-03, 052-1435-001-02, 052-1533-005-00, 052-1533-006-00 and 053-1592-022-00 FROM RESTRICTED MULTIPLE-FAMILY RESIDENTIAL DISTRICT (R-2A) AND SOUTH AREA COMMERCIAL (C-SA) TO THE COMMERCIAL-ADELINE CORRIDOR (C-AC) ZONING DISTRICT

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

Section 1. The City Council has certified that the Addendum to the *Adeline Corridor Specific Plan Environmental Impact Report (2020 EIR)* was prepared in conformance with the California Environmental Quality Act, and that the potential impacts of the proposed zoning map amendments are consistent with potential impacts characterized in, and mitigation measures adopted with, the 2020 EIR, and therefore, no further evaluation of environmental impacts is required, no Subsequent EIR is necessary per CEQA Guidelines Section 15162, and that the Addendum is the appropriate level of environmental analysis and documentation for the proposed project in accordance with CEQA Guidelines Section 15164.

Section 2. The City Council finds that the proposed zoning map amendment serves the public interest by encouraging the development of affordable housing, supporting important cultural institutions, and ensuring consistent land use regulation by incorporating isolated properties into the Commercial-Adeline Corridor (C-AC) zoning district.

Section 3. The City Council finds that the proposed zoning map amendments are compatible with adjacent zoning districts. The proposed zoning map amendments would only apply to parcels that are immediately adjacent to, or completely surrounded by, parcels located in the C-AC zoning district. Therefore, adoption of the proposed amendment would not result in any incompatibilities with adjacent zoning districts.

Section 4. The City Council finds that the proposed zoning map amendment allows uses that are compatible with adjacent uses. With the adoption of the C-AC zoning district, the City Council determined that the C-AC zoning district allowed uses that are compatible with adjacent zoning districts. The proposed zoning map amendments would only apply to parcels that are immediately adjacent to, or completely surrounded by, parcels located in the C-AC zoning district. Therefore, adoption of the proposed amendments would not result in allowable uses that are incompatible with adjacent zoning districts.

Section 5. The City Council finds that the potential effects of the proposed zoning map amendment will not be detrimental to the public health, safety and welfare. The amendment would not result in direct changes to the physical characteristics of the property or existing structures. New development would be reviewed for compliance with CEQA and be constructed to comply with the State Building and Safety Code as adopted by the City of Berkeley.

Section 6. The City Council finds that the proposed zoning map amendment does not result in a change to a less intensive use allowed under the existing General Plan or zoning pursuant to Gov. Code section 66300(b)(1).

Section 7. 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.

Exhibit

A: Map: Zoning Map Amendment

EXHIBIT A

Parcels Proposed for Zoning Map Amendments



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

AMEND THE BERKELEY GENERAL PLAN LAND USE DIAGRAM TO RE-DESIGNATE PARCELS WITH ASSESSOR PARCEL NUMBERS (APN) 052-1533-001-03, 052-1435-001-02, 052-1533-005-00, 052-1533-006-00 and 053-1592-022-00 FROM AVENUE COMMERCIAL, MEDIUM DENSITY RESIDENTIAL AND NEIGHBORHOOD COMMERCIAL GENERAL PLAN DESIGNATIONS TO THE ADELINE CORRIDOR MIXED USE GENERAL PLAN DESIGNATION AND TO EXPAND THE BOUNDARIES OF THE ADELINE CORRIDOR SPECIFIC PLAN AREA TO INCLUDE THESE PARCELS

WHEREAS, the City Council of the City of Berkeley has the authority to approve land use amendments to the General Plan in order to address unforeseen circumstances and changing priorities; and

WHEREAS, a General Plan amendment for re-designation was prepared based on a request from the City Council to modify the General Plan designation of five parcels adjacent to the Adeline Corridor Specific Plan Area, and to expand the boundaries of the Adeline Corridor Specific Plan Area to include the five parcels, to encourage the development of affordable housing, support long-standing community organizations, and to avoid unnecessarily complicated land use regulation in a small area; and

WHEREAS, the Planning Commission held a duly noticed public hearing and took public testimony on May 5, 2021, which was preceded by the distribution of notices in accordance with State and local noticing requirements; and

WHEREAS, on May 5, 2021, the Planning Commission voted to recommend that the City Council adopt a General Plan re-designation of Assessor Parcel Numbers (APN) 052-1533-001-03, 052-1435-001-02, 052-1533-005-00, 052-1533-006-00 and 053-1592-022-00 and to expand the boundaries of the Adeline Corridor Specific Plan Area to includes these parcels; and

WHEREAS, on July 13, 2021 the City Council held a duly noticed public hearing to consider the General Plan re-designation of Assessor Parcel Numbers (APN) 052-1533-001-03, 052-1435-001-02, 052-1533-005-00, 052-1533-006-00 and 053-1592-022-00 and to expand the boundaries of the Adeline Corridor Specific Plan Area to includes these parcels; and

WHEREAS, the proposed amendments are consistent with the General Plan and the Adeline Corridor Specific Plan by promoting transit-oriented development and facilitating the development of affordable housing; and

WHEREAS, the amendments serve the public interest by encouraging the development of affordable housing, supporting important cultural institutions, and ensuring consistent land use regulation by incorporating isolated properties into the Adeline Corridor Mixed Use General Plan land use classification; and

WHEREAS, the amendments would not be detrimental to the public health, safety and welfare of the City because they would not directly result in changes to the physical characteristics of any property or existing structure, but, as described above, could facilitate development that would be completed in compliance with current codes and regulations. New development also would be reviewed for compliance with BMC and CEQA and would be constructed in compliance with California Building and Safety Code as adopted by the City of Berkeley; and

WHEREAS the amendments do not change the designation to reduce the intensity of use allowed under the existing General Plan or zoning pursuant to Gov. Code section 66300(b)(1); and

WHEREAS staff prepared an Addendum to the Adeline Corridor Specific Plan Environmental Impact Report (2020 EIR) to evaluate the environmental effects of the proposed amendments. The Addendum found that potential impacts associated with the proposed project are consistent with potential impacts characterized in and mitigation measures developed for the 2020 EIR. Substantive revisions to the 2020 EIR are not necessary because no new significant impacts or impacts of substantially greater severity than previously described would occur as a result of the proposed project. Therefore, no further evaluation of environmental impacts is required for the proposed project, no Subsequent EIR is necessary per CEQA Guidelines Section 15162, and the Addendum is the appropriate level of environmental analysis and documentation for the proposed project in accordance with CEQA Guidelines Section 15164; and

WHEREAS, all documents constituting the record of this proceeding are and shall be retained by the City of Berkeley Planning and Development Department, Land Use Planning Division, at 1947 Center Street, Berkeley, California.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Berkeley that the General Plan Land Use Diagram is hereby amended, as shown in Exhibit A, and the boundaries of the Adeline Corridor Specific Plan are expanded as shown in Exhibit B.

Exhibits

A: Map of General Plan amendment of five parcels from Avenue Commercial, Medium Density Residential and Neighborhood Commercial to Adeline Corridor Mixed Use, at Assessor Parcel Numbers (APN) 052-1533-001-03, 052-1435-001-02, 052-1533-005-00, 052-1533-006-00 and 053-1592-022-00.

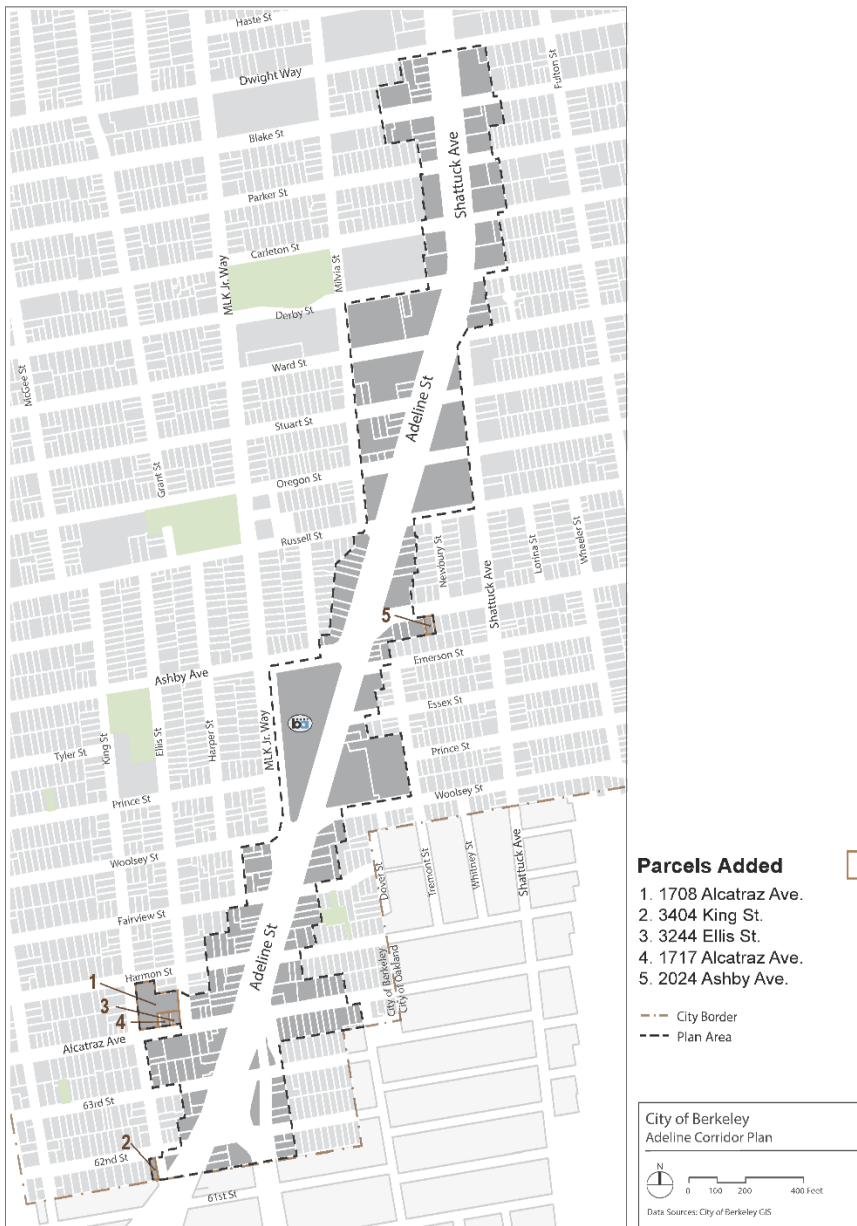
B: Map of boundary change for the Adeline Corridor Specific Plan area to include Assessor Parcel Numbers (APN) 052-1533-001-03, 052-1435-001-02, 052-1533-005-00, 052-1533-006-00 and 053-1592-022-00.

Exhibit A

Parcels Proposed for General Plan Map Amendments



Exhibit B



**NOTICE OF PUBLIC HEARING
BERKELEY CITY COUNCIL**

**1709 ALCATRAZ AVENUE, 3404 KING STREET, 3244 ELLIS STREET,
1717 ALCATRAZ AVENUE, 2024 ASHBY AVENUE
GENERAL PLAN REDESIGNATION AND ZONING MAP AMENDMENT**

The Department of Planning and Development is proposing a rezoning and General Plan amendment for the parcels located at 1709 Alcatraz Avenue (APN 052-1533-001-03), 3404 King Street (APN 052-1435-001-02), 3244 Ellis Street (APN 052-1533-005-00), 1717 Alcatraz Avenue (APN 052-1533-006-00) and 2024 Ashby Avenue (APN 053-1592-022-00), shown on the attached map. The proposed General Plan amendment would change these parcels from Avenue Commercial, Neighborhood Commercial, or Medium Density Residential to Adeline Corridor Mixed Use. The rezoning would change all of these parcels from South Area Commercial (C-SA) or Multiple Family Residential (R-2A) zoning districts to Adeline Corridor Commercial (C-AC).

The hearing will be held on July 13, 2021 at 6:00 p.m. The hearing will be held via videoconference pursuant to Governor's Executive Order N-29-20.

A copy of the agenda material for this hearing will be available on the City's website at www.CityofBerkeley.info as of **July 1, 2021**. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology.**

For further information, please contact Justin Horner at 510-981-7475.

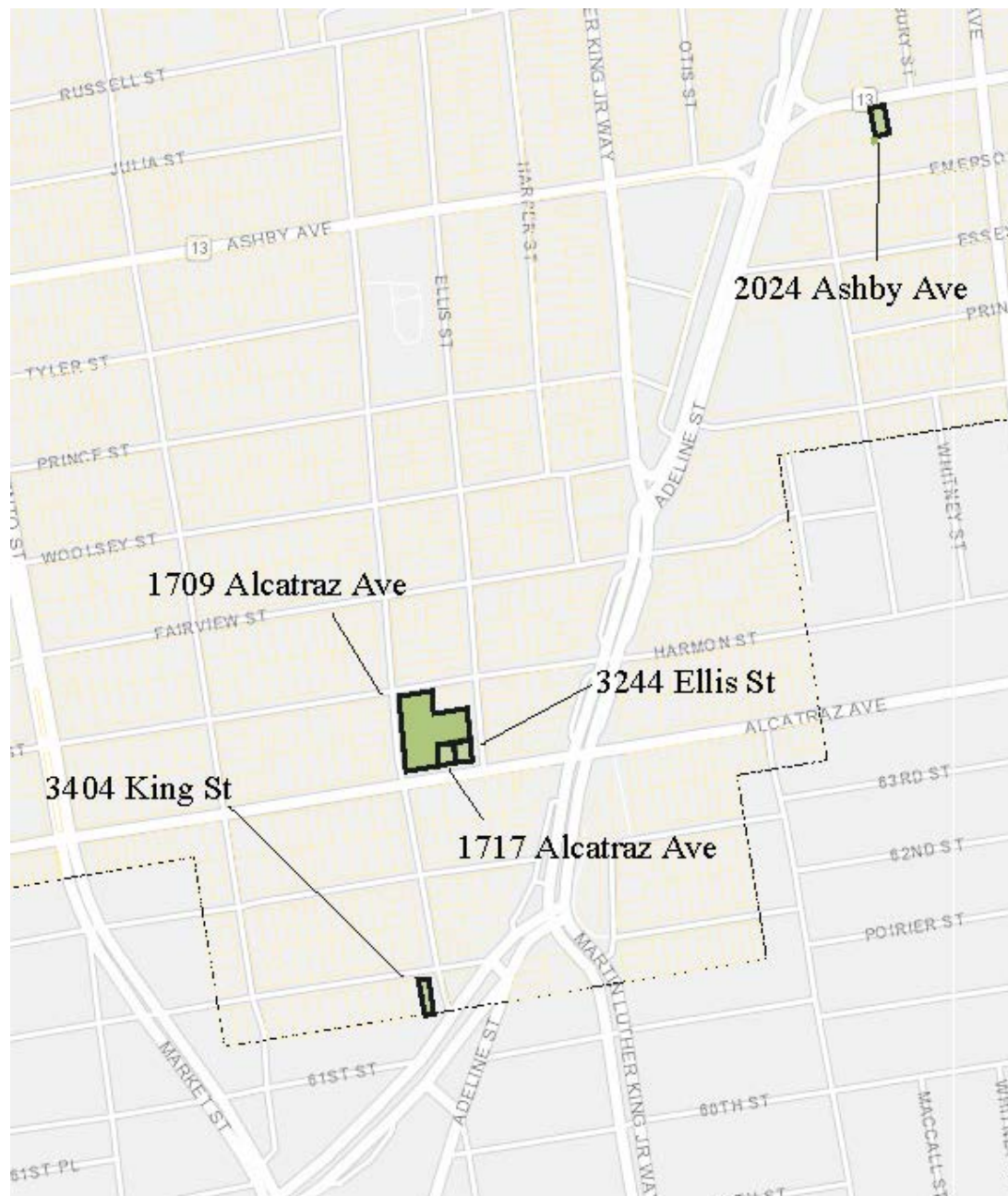
Written comments should be mailed directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or emailed to council@cityofberkeley.info in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

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. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or clerk@cityofberkeley.info for further information.

Published: July 2, 2021 – The Berkeley Voice
Per California Government Code Sections 65856(a) and 65090.

I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on July 1, 2021.

Mark Numainville, City Clerk





Office of the City Manager

PUBLIC HEARING

July 13, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Jordan Klein, Director, Planning and Development Department

Subject: Response to Short Term Referral for Amendments to Accessory Dwelling Unit (ADU) Ordinance to Address Public Safety Concerns; Amending BMC Chapters 23C.24 and 23F.04

RECOMMENDATION

Conduct a public hearing and, upon conclusion, adopt the first reading of a local Accessory Dwelling Unit (ADU) Ordinance [Berkeley Municipal Code (BMC) Chapter 23C.24] and amendments to relevant Definitions [BMC Chapter 23F.04] in the Zoning Ordinance.

SUMMARY

This report responds to a City Council referral from January 26, 2021, which requested a new local ADU Ordinance to provide public safety measures as allowed by State ADU law [Government Code Sections 65852.2 and 65852.22]. This report also provides background on State ADU regulations, explains where jurisdictions have flexibility to adopt local ordinances, and outlines the proposed Zoning Ordinance amendments recommended by Planning Commission for adoption by Council.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

A local ADU Ordinance is a Strategic Plan Priority Project, advancing our goal to create a resilient, safe, connected, and prepared city. Over the past five years, Berkeley has adopted three comprehensive ADU Ordinance amendments in order to maintain compliance with changing State ADU law. The most recent round of State regulations, which came into effect on January 1, 2020, replaced Berkeley's ADU Ordinance and significantly reduced jurisdictions' abilities to regulate ADU development.

State ADU Law

ADUs are recognized as low cost, low impact, infill development. As such, they provide much needed housing to the community. State law mandates a streamlined, ministerial permit process that removes barriers to ADU development. State law requires all jurisdictions to issue ministerial or "by-right" building permits for ADUs in accordance

with the regulations listed below. Jurisdictions can develop more lenient local ordinances to encourage ADU development but they cannot be more restrictive nor limit ADU development.

- Issue over-the-counter building permits for ADUs that comply with State regulations.
- Apply the following development standards:
 - Maximum size of no less than 800 to 1200 square feet (allowable scenarios are discussed below);
 - Maximum height of no less than 16 feet; and
 - Rear and side setbacks of no more than 4 feet.
- Allow at least one ADU on every lot that has an existing or proposed dwelling unit. More specifically, allow:
 - One ADU and one JADU on a lot with a Single Family Dwelling.
 - One ADU on a lot with multiple Single Family Dwellings.
 - At least two detached or at least one interior ADU on a lot with a Duplex or a Multifamily Dwelling or a mixed-use project.
- Allow ADUs created by conversions or re-construction of existing buildings or structures (such as garages and sheds) on a lot, even if existing structures don't conform to maximum size, maximum height and required setback (mentioned above) for ADUs.
- Require fire sprinklers only if the primary dwelling unit(s) has or requires fire sprinklers.
- Do not require off-street parking for the ADU if within a half-mile of public transit.
- Do not require off-street parking for the primary dwelling unit if the proposed ADU requires removal of existing off-street parking.
- Do not require owner occupancy of ADUs or associated primary dwelling units except in the case of a JADU, where an owner must live in either the primary unit or the JADU.
- Do not allow short term rentals of ADUs.

There are additional regulations in State law that dictate how ADUs can be created (e.g., by conversion, by new construction, by addition to existing structures), where they can be created (e.g., attached to primary dwelling units, within the walls of an existing structure, free-standing on a lot), and when and how fees can be assessed. In order to communicate the nuances of State ADU law, the Planning Department prepared a table of State ADU regulations (see Attachment 2). In the absence of a local ADU Ordinance, Berkeley has been and will continue to issue building permits for ADUs according to the State's regulations.

Public Safety

In previous versions of Berkeley's ADU Ordinance, the City took steps to ensure public safety in fire-prone areas such as the Environmental Safety Residential district

(Berkeley's Fire Zone 3) and lots with frontage on narrow roads in the Hillside Overlay district (Berkeley's Fire Zone 2). See Attachment 3 for a map of Berkeley's Fire Zones.

In previous iterations of the ADU Ordinance, the City addressed safety concerns by requiring an Administrative Use Permit (AUP) in Fire Zones 2 and 3 with required findings for minimum fire safety requirements. An AUP is a discretionary permit that allows public review and evaluations by staff in the Planning Department. This involves consultation with other departments, including the Fire Department, to identify detrimental impacts of projects and require mitigation measures, such as requiring fire sprinklers, adjusting the location of the ADU on the lot, and/or requiring off-street parking.

New State ADU regulations require the City to issue over-the-counter building permits for ADUs, removing the City's authority to require discretionary permits, such as AUPs. Recognizing public safety issues in Berkeley's most severe fire hazard districts, the City prohibited ADUs in Fire Zones 2 and 3 via an Urgency Ordinance adopted in December 2019 and extended in January 2020. This prohibition was rescinded in September 2020, when the California Department of Housing and Community Development (HCD) published guidance on State ADU law (see Attachment 4) stating that geographic prohibitions for public safety reasons could not be exercised through land use regulation. Guidance from the State clarified that public safety measures are only available through local amendments to the Fire Code, which limits the range of measures that can be utilized, particularly regarding the location of the unit and the provision of off-street parking.

To address this, City Council referred to the City Manager amendments to the Zoning Ordinance and the Fire Code aimed at reducing impacts of additional density in Fire Zones 2 and 3. The Disaster and Fire Safety Commission (DFSC) made separate recommendations to City Council in a Memorandum submitted on March 24, 2021 that addresses emergency access and egress impacts of on-street parking and fire sprinkler requirement. The Planning Commission is recommending modifications to development standards to limit ADU size and ADU placement in these areas.

Options for a Local ADU Ordinance

State law establishes a maximum size for all ADUs at 1,200 square feet, which can be reduced in a local ordinance to 850 square feet if designed as a studio or one-bedroom and 1,000 square feet if designed with two or more bedrooms¹.

¹ ADUs created by conversion of an existing building or structure (e.g. conversion of an attic or basement, conversion of a detached garage) can exceed maximum size requirements per State law. ADUs created in this manner are allowed no more than a 150 square foot addition, intended for ingress and egress.

State law also provides that the local development standards of underlying zoning districts do not apply to ADUs unless explicitly codified in a local ADU ordinance, and only for particular elements such as usable open space, lot coverage, front yard setbacks and design criteria, as long as these standards do not make ADU development “infeasible.” In other words, local ordinances must allow for an ADU of 800 square feet, with a height of 16 feet and side and rear setbacks of 4 feet, on all lots zoned for residential use with at least one proposed or existing dwelling unit, even if the project does not comply with objective development standards in the local ADU ordinance.

Planning Commission Recommendation

On January 26, 2021 City Council referred to the City Manager development of Zoning Ordinance amendments and Fire Code amendments that address emergency access and egress challenges created by new State ADU laws (see Attachment 5). Requested amendments to the Zoning Ordinance involve limitations on the base maximum size of an ADU and required compliance with objective development standards such as front yard setbacks, open space and/or lot coverage.

On April 7, 2021, Planning Commission discussed amendments that responded to Council’s short-term referral. At that meeting, Planning Commission discussed State ADU regulations and focused on allowable modifications to ADU size and height limits. Planning Commission unanimously voted to recommend a set of Zoning Ordinance amendments that update BMC Chapter 23C.24 [Accessory Dwelling Units] and related definitions in BMC Chapter 23F.04 [Definitions] (see Attachment 1). The proposed Zoning Ordinance amendments provide a new ADU Ordinance that is intuitive and written with language that is clear and easy to understand. The bullets below provide rationale where elements of the proposed ordinance are more lenient than State ADU law or involve a level of complexity that benefits from explanation:

- *The Maximum Size:* The referral asks that Berkeley implement size restrictions on ADUs. With no local ordinance, ADUs with a maximum size of 1200 square feet are allowed by State law. **The proposed ADU Ordinance allows a maximum size of 850 square feet for studio and one-bedroom ADUs and 1000 square feet for ADUs with two or more bedrooms. Maximum size is further limited to 800 square feet if a project is located in Fire Zones 2 or 3 or if a project cannot meet front yard setbacks.**
- *Maximum Height:* State law allows a maximum height of 16 feet for ADUs. **The proposed ADU Ordinance allows an 18-foot maximum height** to allow flexibility in ADU design. An 18-foot structure can accommodate two stories, thereby resulting in a possible 50% reduction in building footprint. Planning Commission’s recommendation helps achieve the referral’s goals of preserving open space and minimizing lot coverage, and providing flexibility in design.

- ***Objective Development Standards:*** The referral asks that Berkeley introduce objective standards for open space and lot coverage to control the maximum size of ADUs. Size controls were requested to ensure lots with ADUs maintain space for emergency access and egress in the event of a disaster. Instead of using open space and lot coverage as metrics, **the proposed ADU Ordinance uses a limit in the number of bedrooms (as explained above) and the location of the lot in Fire Zones 2 and 3 to control ADU size.** The proposal to use the location of lots in State-designated fire-prone area as an objective standard is a simple and intuitive way to limit ADU size for public safety reasons. This eliminates the need to calculate open space and/or lot coverage for proposed projects and provides a direct connection between fire-safety concerns and infill development.
- ***Setbacks:*** The referral asks that Berkeley introduce objective standards to provide guidance on setbacks. State law explicitly states that side and rear setback requirements can be no more than 4 feet and is silent on front yard setbacks. **The proposed ADU Ordinance utilizes setbacks of the underlying zoning district as an objective standard.**
 - The proposed ADU Ordinance is more lenient than the State if the underlying zoning district has a rear or side setback of less than four feet, such as in some mixed-use districts, where comparable accessory buildings may have a reduced setback requirement.
 - Front yard setbacks are applied in the draft ordinance as they would be in the underlying zoning district. These standards will not limit the ability for a property owner to build an ADU; instead they require objective standards for placement of the ADU. If there is no other location suited to placement of the ADU, then the maximum ADU size will be limited to minimize the impacts to the front yard.
- ***ADUs on lots with Group Living Accommodations:*** **The draft Zoning Ordinance amendments allow one ADU on lots with GLAs.** The State is silent on whether or not ADU Law applies to GLAs. Over the past year, the Zoning Officer interpreted State ADU law to extend to GLAs (excluding Fraternity Houses, Sorority Houses or Dormitories) by allowing one ADU per lot with a GLA, similar to the regulations for multifamily properties. GLAs are a common residential use in Berkeley and this interpretation is consistent with the State's direction to encourage ADU development. ADUs on lots with GLAs must not be offered for rent as an extension of the GLA, but rented as an independent unit, per State ADU law.

In addition to the items listed above, the proposed amendments include modifications to the ADU and JADU definitions to comply with State law and maintain consistency with the BMC. BMC Chapter 23C.24 is re-written to reflect the requirements of Government Code Section 65852.2 and 65852.22 in as clear and concise a manner as possible. The

proposed ADU Ordinance has been developed with feedback from members of the public, the ADU Task Force, Berkeley Planning staff, and colleagues from other jurisdictions. If City Council adopts the new ADU Ordinance, Planning staff will publish updated documentation, such as FAQs, a flow chart and a table of regulations. These will explain in non-technical language the regulations in Berkeley’s local ADU Ordinance.

BACKGROUND

In the past six years, Berkeley’s ADU Ordinance has been modified multiple times to conform to State law and to facilitate the construction of ADUs. Prior to the latest revisions to the State’s ADU regulations, Planning Commission was considering other amendments to the local ADU Ordinance to facilitate the construction of ADUs. However, State law that came into effect on January 1, 2020 requires increased flexibility, has rescinded the AUP process for ADUs, and streamlined the ADU permitting process significantly. In addition, the number of building permits issued for ADUs in Berkeley has increased steadily over the past five years, as illustrated in Table 1. For these reasons, and because of the short-term nature of this referral, the focus of this referral response is narrow and the need for additional amendments will be assessed (and implemented) as part of the Housing Element update.

Table 1. City of Berkeley ADU Building Permits Issued, 2016-2020

Year	2016	2017	2018	2019	2020
#	16	74	80	96	119

ENVIRONMENTAL SUSTAINABILITY

ADUs are generally low impact infill development that have the potential to decrease vehicles miles traveled and greenhouse gas emissions and increase availability of housing near various community amenities, the university campus, transit services and employment opportunities.

RATIONALE FOR RECOMMENDATION

State ADU law restricts the City from utilizing discretionary processes that mitigate public safety concerns associated with infill development. Ordinance amendments reduce ADU footprints, which will increase the possibility of better ingress, egress and emergency access in the event of a disaster.

ALTERNATIVE ACTIONS CONSIDERED

Council could take no action and continue to utilize State ADU regulations, with no local modifications.

CONTACT PERSON

Alene Pearson, Principal Planner, Planning & Development Department, (510) 981-7489

Katrina Lapira, Assistant Planner, Planning & Development Department, (510) 981-7488

Attachments:

- 1: Ordinance
- 2: Table of State ADU Regulations
- 3: Map of Berkeley's Fire Zones
- 4: HCD's ADU Guidance Document
- 5: Council Referral from January 26, 2021
- 6: April 7, 2021 Planning Commission Meeting Final Minutes
- 7: Public Hearing Notice

ORDINANCE NO. -N.S.

ACCESSORY DWELLING UNIT ORDINANCE

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

Section 1. That Berkeley Municipal Code Chapter 23C.24 is amended to read as follows:

**Chapter 23C.24
Accessory Dwelling Units**

Sections:

[23C.24.010](#) Applicability of Regulations

[23C.24.020](#) Purposes

[23C.24.030](#) Permit Procedures

[23C.24.040](#) ~~Repealed by Ord. 7683-NS.~~

[23C.24.050](#) ~~Repealed by Ord. 7683-NS.~~

[23C.24.060](#) ~~Repealed by Ord. 7683-NS.~~

[23C.24.070](#) ~~Repealed by Ord. 7683-NS.~~

23C.24.010 Applicability of Regulations

~~The provisions of this Chapter apply to all lots that are zoned for residential use except 1) in the following zoning districts: Environmental Safety Residential (ES-R), Manufacturing (M), Mixed Manufacturing (MM), Mixed Use Light Industrial (MU-LI), and Unclassified (U); and 2) on a lot with frontage on a roadway with less than 26 feet in pavement width in the Hillside Overlay.~~

- A. ~~The provisions of this Chapter apply to all lots that have at least one existing or proposed Dwelling Unit or Group Living Accommodation that is not a Fraternity House, Sorority House or Dormitory.~~
- B. ~~ADUs and JADUs are allowed on lots as follows:~~
- ~~1. One ADU and/or one JADU is allowed on a lot with one Single Family Dwelling.~~
 - ~~2. One ADU is allowed on a lot with multiple Single Family Dwellings.~~
 - ~~3. For lots with a Duplex or Multiple Dwelling Uses, one of the following is allowed:~~
 - ~~a. Up to two detached ADUs; or~~
 - ~~b. At least one ADU created from non-habitable portions of the existing dwelling structure (e.g. basement, attic, storage room). The maximum number of ADUs created from non-habitable portions of the existing dwelling structure shall not exceed 25% of the number of existing Dwelling Units on the lot.~~
 - ~~4. One ADU is allowed on a lot with a Group Living Accommodation that is not a Fraternity House, Sorority House or Dormitory.~~

23C.24.020 Purposes

The purposes of this Chapter are to:

- A. Implement California Government Code Section [65852.2](#) and [65852.22](#).
- B. Increase overall supply and range of housing options in Berkeley.
- C. Expedite small-scale infill development.
- D. Support Housing Element goals of facilitating construction of Accessory Dwelling Units and increasing the number of housing units that are more affordable to Berkeley residents.
- E. Encourage development of Accessory Dwelling Units in zoning districts with compatible land uses and infrastructure.
- F. Reduce potential impacts of new development in high fire hazard severity areas.

23C.24.030 Permit Procedures

~~Zoning Certificates will be issued for Accessory Dwelling Units and Junior Accessory Dwelling Units per California Government Code Section [65852.2](#) and [65852.22](#).~~

- A. An application for an ADU or JADU is subject to ministerial review. Review must be completed within 60 days of submission of a complete application.
- B. If an application to create an ADU or JADU is submitted as part of a project that requires discretionary review, a building permit shall not be issued for the ADU or JADU until the discretionary approval(s) has/have been granted and any applicable appeal periods have expired.

23C.24.040 Special Provisions Development Standards

~~Repealed by Ord. 7683-NS.~~

- A. Development Standards in Paragraphs B through G, below, apply as follows:
 - 1. Detached New Construction. A detached, new construction ADU is subject to Development Standards for ADUs. A detached, new construction ADU is defined as having a 3-foot separation from a Main Building per Section [23E.04.030](#).
 - 2. Converted or Rebuilt Entirely from an Existing Building or Structure. An ADU converted or rebuilt entirely from an existing building or structure, in the same location with the same dimensions and roof height, is not subject to Development Standards for ADUs. These include:
 - a. An ADU created entirely within an existing Single Family Dwelling.
 - b. An ADU created entirely within the existing non-habitable space of a Duplex or Multiple Dwelling Use.
 - c. An ADU created entirely within an existing detached Accessory Building or Accessory Structure.
 - d. An ADU created entirely within an existing Accessory Building or

Accessory Structure that is demolished and rebuilt.

3. Addition to an Existing or Rebuilt Building or Structure. An ADU, fully or partially created by an addition of square footage to or changes in roof height is subject to Development Standards for ADUs. Paragraph B applies to the ADU's maximum size and Paragraphs C through G apply to the added square footage and roof design. These include:
 - a. An ADU created by an addition or roof change to an existing Single Family Dwelling.
 - b. An ADU created by an addition or roof change to an existing detached Accessory Building or Accessory Structure.
 - c. And ADU created by an addition or roof change to an existing Accessory Building or Accessory Structure that is demolished and rebuilt.
4. Notwithstanding any other provision of this Chapter, no ADU is permitted to be built in the Hillside Overlay or Environmental Safety Residential (ES-R) districts unless it complies with the requirements of Government Code section 65852.2(e)(1).
5. A JADU is subject to applicable Development Standards in Paragraphs B and G.

B. Maximum Size

1. A detached, new construction ADU or an ADU fully or partially created by addition to an existing or proposed Single Family Dwelling is subject to the following maximum size limits:
 - a. 850 square feet for a studio or one-bedroom ADU.
 - b. 1000 square feet for an ADU with two or more bedrooms.
2. An ADU created from an existing Accessory Building or Accessory Structure that does not conform to the Development Standards in Paragraphs C and D may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing building or structure. Additions shall conform with the Development Standards in this Chapter
3. An ADU created from an existing Accessory Building or Accessory Structure that conforms to the Development Standards in Paragraphs C and D must comply with one of the following:
 - a. May include an expansion of not more than 150 square feet beyond the same physical dimensions of the existing building or structure; or
 - b. 850 square feet for a studio or one-bedroom ADU; or
 - c. 1000 square feet for an ADU with two or more bedrooms.
4. The maximum size of a JADU is 500 square feet.

C. Maximum Height is applied to ADUs as follows. See Chapter 23F.04 for definition.

1. Maximum Height of a detached, new construction ADU is 18 feet.
2. Maximum Height of new square footage added to a Single Family Dwelling, Accessory Building or Accessory Structure to create an ADU is 18 feet.

- D. Rear and Side Setbacks. The required rear and side setbacks for a detached, new construction ADU or addition to an existing building or structure are 4 feet, unless a lesser setback is allowed for a comparable Accessory Building or Accessory Structure in the underlying zoning district.
- E. Front Yard Setback. The required front yard setback is the same as is established in the underlying zoning district.
- F. Projections. Architectural features (Chimneys, Water Heater Enclosures, Flues, Heating and Cooling Equipment, Eaves, Cornices, Canopies, Awnings and Bay Window) may project two feet into the required setbacks, so long as there remains at least a two-foot setback from property lines.
- G. Parking
 - 1. Off-street parking is not required.
 - 2. Replacement parking is not required, but is allowed if in compliance with Chapter 23D.12 and/or Chapter 23E.28.
- H. Nothing in this Chapter shall preclude the issuance of Zoning Certificate for the construction or conversion of an ADU or JADU that complies with the requirements of Government Code section 65852.2(e)(1). The City shall not apply the Development Standards in this Chapter to the extent they are inconsistent with the requirements of Government Code sections 65852.2 and 65852.22.
- I. A Zoning Certificate for the construction of an ADU or JADU may not be denied based on the failure of the applicant to correct a nonconforming zoning condition.

23C.24.050 Development Standards Special Provisions

~~Repealed by Ord. 7683-NS.~~

- A. A rooftop deck may be established provided that the entire roof, deck and railing comply with Development Standards for ADUs in Section 23C.24.040 Paragraphs C through G.
- B. A JADU must be owner-occupied. For purposes of this paragraph, "owner-occupied" means that a person with legal title to the property must reside in either the Single Family Dwelling or the JADU as their legal permanent residence.
- C. The property owner shall file a deed restriction with the County Recorder providing that:
 - 1. The ADU and/or JADU shall not be sold separately from the Dwelling Unit.
 - 2. The ADU and/or JADU shall not be rented for a term that is shorter than 30 days.

3. The JADU or the Single Family Dwelling in which the JADU is located shall be owner-occupied per the definition in Section 23F.04.010

~~**23C.24.060 Modification of Development Standards with an Administrative Use Permit**~~

~~Repealed by Ord. 7683-NS.~~

~~**23C.24.070 Findings**~~

~~Repealed by Ord. 7683-NS.~~

Section 2. That the definition for Accessory Dwelling Unit in Berkeley Municipal Code Chapter 23F.04.010 is amended to read as follows:

Accessory Dwelling Unit (ADU): A secondary Dwelling Unit that is located on a lot ~~with a proposed or existing Single Family Dwelling, Duplex, Multiple Dwelling Use, or Group Living Accommodation, which is occupied by one legally established Single Family Dwelling that conforms to the standards of Section 23C.24.~~ An Accessory Dwelling Unit must comply with local building, housing, safety and other code requirements ~~unless the City is prohibited from applying such requirements by Government Code Section 65852.2 or 65852.22~~ and provide the following features independent of the Single Family Dwelling, ~~Duplex, Multiple Dwelling Use, or Group Living Accommodation~~: 1) exterior ~~or independent~~ access to Accessory Dwelling Unit; 2) living and sleeping quarters; 3) a full kitchen; and 4) a full bathroom. An Accessory Dwelling Unit also includes the following:

- A. An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code.
- B. A manufactured home, as defined in Section 18007 of the Health and Safety Code.

Section 3. That the definition for Primary Dwelling Unit in Berkeley Municipal Code Chapter 23F.04.010 is rescinded:

~~**Primary Dwelling Unit:** A legally established Single Family Dwelling that is on a lot with an Accessory Dwelling Unit.~~

Section 4. That the following two definitions are adopted into Berkeley Municipal Code Chapter 23F.04.010:

~~**Efficiency Kitchen:** A kitchen that includes a sink, a cooking facility with appliances (e.g. microwave, toaster, oven, hot plate), and food preparation counter space and cabinets.~~

~~**Junior Accessory Dwelling Unit (JADU):** A unit that is contained within the walls of a Single Family Dwelling and includes a separate exterior entrance. A JADU may not be located in an Accessory Building or an Accessory Structure. A JADU may include separate sanitation facilities, or may share sanitary facilities with a Single Family Dwelling. At a minimum, a JADU shall include an Efficiency Kitchen with a working refrigerator.~~

Section 5. 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.









ACCESSORY DWELLING UNIT ORDINANCE SUMMARY

Effective December 20, 2020

Processing + Land Use Development Standards

Ministerial land use approval for ADUs will be issued within **60-days** of receiving a **complete** building permit application.

	JADU ¹	ADU on LOT WITH SINGLE FAMILY DWELLING(S)			ADU on LOT WITH MULTI-FAMILY DWELLING(S)	
ADU Type	 Conversion JADU² <i>[interior conversion of some portion of a single-family dwelling]</i>	 Conversion ADU^{2&3} <i>[interior conversion of existing habitable or non-habitable area within a single-family dwelling, or conversion of a legally built detached accessory structure or accessory building]</i>	 Detached ADUs <i>[new construction]</i>	 Attached ADU <i>[addition/new construction]</i>	 Conversion ADU² <i>[interior conversion of existing non-habitable area of multifamily structures]</i>	 Detached ADUs <i>[new construction]</i>
Lot	A JADU may be established on a lot with one single family dwelling.	An ADU may be established on a lot that has an existing or proposed single-family or multi-family dwelling.				
Number of Accessory Units	1 ⁴	1 ⁵			Interior Conversion ADU: At least one and no more than 25% of the existing unit count in multifamily building. ⁶ OR Detached ADU: 2	
Maximum Size (Square Feet²)	500	N/A	1,200	1,200	N/A	1,200
Maximum Height (Feet)	N/A	N/A	16		N/A	16
Side Setbacks (Feet)	N/A	N/A	4		N/A	4
Rear Setbacks (Feet)	N/A	N/A	4		N/A	4
Entrance(s)	Exterior entrance required.	Exterior entrance required.			Independent entrance required. ⁷	
Kitchen	Efficiency kitchen required. ⁸	Full kitchen required. ⁹				
Parking Requirements	JADUs created in the attached garage are not subject to the same parking protections as ADUs.	No parking required for ADUs. Replacement parking for existing dwelling unit(s) not required when a garage, carport, covered parking structure, or designated uncovered parking area is physically replaced by an accessory dwelling unit.				
Deed Restrictions	The owner of the property must record a deed restriction to include the requirements listed in Government Sections 65852.2 and 658582.22.	The owner of the property must record a deed restriction with Alameda County that restricts the sale of the ADU from the existing dwelling unit(s) and prohibits Short Term Rentals.				
Owner Occupancy	Required for either single-family dwelling or JADU.	Not required for ADUs permitted between January 1, 2020 and January 1, 2025.				
Natural Gas Prohibition	Does not Apply	May Apply ¹⁰	Applies	Does not Apply	Does not Apply	Applies
Short Term Rentals	Prohibited					
Impact Fees	None	ADUs Less than 750 SF- None ADUs Equal to or Greater than 750 SF- Impact fees collected must be proportional to square footage of existing dwelling unit(s).				
Utility Fees and Connections	No connection fee or capacity charge and no direct line required between ADU or JADU and utility unless in conjunction with a new single-family dwelling.	Connection fee or capacity charge "proportionate to the burden" of the ADU and may require new or separate utility connections.				

¹ A Junior ADU (JADU) is a small dwelling unit created from some portion of a single family dwelling. These units can have their own bathroom facilities or share with the single family dwelling.

² Conversions do not allow modifications to building footprint/ dimensions of legally built structures or buildings, except where sufficient egress and ingress requires modifications -- in which case, an expansion of up to 150 square feet is allowed for ADUs on lots with single family dwellings.

³ A Conversion ADU is permitted in an existing accessory structure on both single/multi-family lot.

⁴ Lots with multiple detached single-family dwellings may only have one ADU.

⁵ Both a JADU and an ADU may exist on a lot zoned with one single-family dwelling.

⁶ When calculating, round up to the nearest integer.

⁷ Exterior entrance not required, but independent entrance (e.g. off hallway, stairwell or other common space) is required.

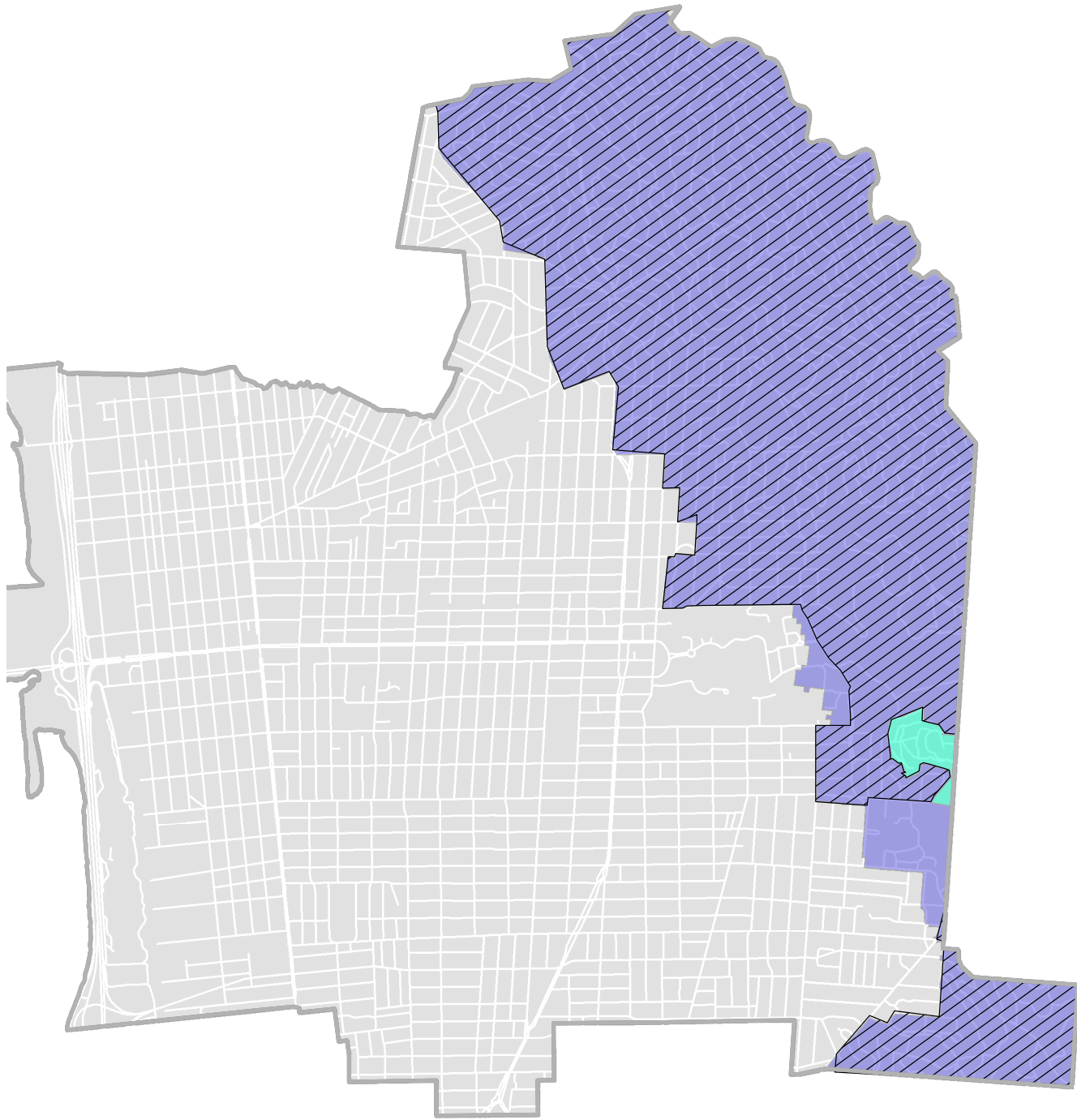
⁸ An efficiency kitchen includes 1) a sink; 2) a cooking facility with appliances; and 3) food preparation counter and storage cabinets.

⁹ A full kitchen requires habitable space used for preparation of food that contains at least a sink, a refrigerator of no less than 10 cubic feet, and either a cooktop and an oven, or a range.




¹⁰ Conversions of detached Accessory Buildings or Accessory Structures that involve Demolition are subject to the Natural Gas Prohibition.

N/A = not applicable SF = square feet

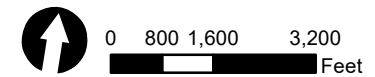
Hillside Overlay and Fire Zones 2 and 3




Legend

-  Hillside Overlay
-  Berkeley Fire Zone 2
-  Berkeley Fire Zone 3

Updated:
November 14, 2019



 **CITY OF BERKELEY**
Land Use Planning Division
Dep.t of Planning & Development
2120 Milvia Street, 2nd Floor
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California Department of Housing and
Community Development

Accessory Dwelling Unit Handbook



Where foundations begin

Updated December 2020



California Department of Housing and
Community Development

Accessory Dwelling Unit Handbook

December 2020



Where foundations begin

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Understanding Accessory Dwelling Units (ADUs) and Their Importance



California's housing production is not keeping pace with demand. In the last decade, less than half of the homes needed to keep up with the population growth were built. Additionally, new homes are often constructed away from job-rich areas. This lack of housing that meets people's needs is impacting affordability and causing average housing costs, particularly for renters in California, to rise significantly. As affordable housing becomes less accessible, people drive longer distances between housing they can afford and their workplace or pack themselves into smaller shared spaces, both of which reduce quality of life and produce negative environmental impacts.

Beyond traditional construction, widening the range of housing types can increase the housing supply and help more low-income Californians thrive. Examples of some of these housing types are Accessory Dwelling Units (ADUs - also referred to as second units, in-law units, casitas, or granny flats) and Junior Accessory Dwelling Units (JADUs).

What is an ADU?

An ADU is an accessory dwelling unit with complete independent living facilities for one or more persons and has a few variations:

- Detached: The unit is separated from the primary structure.
- Attached: The unit is attached to the primary structure.
- Converted Existing Space: Space (e.g., master bedroom, attached garage, storage area, or similar use, or an accessory structure) on the lot of the primary residence that is converted into an independent living unit.
- Junior Accessory Dwelling Unit (JADU): A specific type of conversion of existing space that is contained entirely within an existing or proposed single-family residence.

ADUs tend to be significantly less expensive to build and offer benefits that address common development barriers such as affordability and environmental quality. Because ADUs must be built on lots with existing or proposed housing, they do not require paying for new land, dedicated parking or other costly infrastructure required to build a new single-family home. Because they are contained inside existing single-family homes, JADUs require relatively

modest renovations and are much more affordable to complete. ADUs are often built with cost-effective one or two-story wood frames, which are also cheaper than other new homes. Additionally, prefabricated ADUs can be directly purchased and save much of the time and money that comes with new construction. ADUs can provide as much living space as apartments and condominiums and work well for couples, small families, friends, young people, and seniors.

Much of California's housing crisis comes from job-rich, high-opportunity areas where the total housing stock is insufficient to meet demand and exclusionary practices have limited housing choice and inclusion. Professionals and students often prefer living closer to jobs and amenities rather than spending hours commuting. Parents often want better access to schools and do not necessarily require single-family homes to meet their needs. There is a shortage of affordable units, and the units that are available can be out of reach for many people. To address our state's needs, homeowners can construct an ADU on their lot or convert an underutilized part of their home into a JADU. This flexibility benefits both renters and homeowners who can receive extra monthly rent income.

ADUs also give homeowners the flexibility to share independent living areas with family members and others, allowing seniors to age in place as they require more care, thus helping extended families stay together while maintaining privacy. The space can be used for a variety of reasons, including adult children who can pay off debt and save up for living on their own.

New policies are making ADUs even more affordable to build, in part by limiting the development impact fees and relaxing zoning requirements. A 2019 study from the Turner Center on Housing Innovation noted that one unit of affordable housing in the Bay Area costs about \$450,000. ADUs and JADUs can often be built at a fraction of that price and homeowners may use their existing lot to create additional housing, without being required to provide additional infrastructure. Often the rent generated from the ADU can pay for the entire project in a matter of years.

ADUs and JADUs are a flexible form of housing that can help Californians more easily access job-rich, high-opportunity areas. By design, ADUs are more affordable and can provide additional income to homeowners. Local governments can encourage the development of ADUs and improve access to jobs, education, and services for many Californians.

Summary of Recent Changes to Accessory Dwelling Unit Laws



In Government Code Section 65852.150, the California Legislature found and declared that, among other things, allowing accessory dwelling units (ADUs) in zones that allow single-family and multifamily uses provides additional rental housing, and is an essential component in addressing California's housing needs. Over the years, ADU law has been revised to improve its effectiveness at creating more housing units. Changes to ADU laws effective January 1, 2021, further reduce barriers, better streamline approval processes, and expand capacity to accommodate the development of ADUs and junior accessory dwelling units (JADUs).

ADUs are a unique opportunity to address a variety of housing needs and provide affordable housing

options for family members, friends, students, the elderly, in-home health care providers, people with disabilities, and others. Further, ADUs offer an opportunity to maximize and integrate housing choices within existing neighborhoods.

Within this context, the California Department of Housing and Community Development (HCD) has prepared this guidance to assist local governments, homeowners, architects, and the general public in encouraging the development of ADUs. The following is a summary of recent legislation that amended ADU law: AB 3182 (2020) and SB 13, AB 68, AB 881, AB 587, AB 670, and AB 671 (2019). Please see Attachment 1 for the complete statutory changes for AB 3182 (2020) and SB 13, AB 68, AB 881, AB 587, AB 670, and AB 671 (2019).

AB 3182 (Ting)

Chapter 198, Statutes of 2020 (Assembly Bill 3182) builds upon recent changes to ADU law (Gov. Code, § 65852.2 and Civil Code Sections 4740 and 4741) to further address barriers to the development and use of ADUs and JADUs.

This recent legislation, among other changes, addresses the following:

- States that an application for the creation of an ADU or JADU shall be *deemed approved* (not just subject to ministerial approval) if the local agency has not acted on the completed application within 60 days.
- Requires ministerial approval of an application for a building permit within a residential or mixed-use zone to create one ADU *and* one JADU per lot (not one or the other), within the proposed or existing single-family dwelling, if certain conditions are met.
- Provides for the rental or leasing of a separate interest ADU or JADU in a common interest development, notwithstanding governing documents that otherwise appear to prohibit renting or leasing of a unit, *and* without regard to the date of the governing documents.

- Provides for not less than 25 percent of the separate interest units within a common interest development be allowed as rental or leasable units.

AB 68 (Ting), AB 881 (Bloom), and SB 13 (Wieckowski)

Chapter 653, Statutes of 2019 (Senate Bill 13, Section 3), Chapter 655, Statutes of 2019 (Assembly Bill 68, Section 2) and Chapter 659 (Assembly Bill 881, Section 1.5 and 2.5) build upon recent changes to ADU and JADU law (Gov. Code § 65852.2, 65852.22) and further address barriers to the development of ADUs and JADUs.

This legislation, among other changes, addresses the following:

- Prohibits local agencies from including in development standards for ADUs requirements on minimum lot size (Gov. Code, § 65852.2, subd. (a)(1)(B)(i)).
- Clarifies areas designated by local agencies for ADUs may be based on the adequacy of water and sewer services as well as impacts on traffic flow and public safety (Gov. Code, § 65852.2, subd. (a)(1)(A)).
- Eliminates all owner-occupancy requirements by local agencies for ADUs approved between January 1, 2020, and January 1, 2025 (Gov. Code, § 65852.2, subd. (a)(6)).
- Prohibits a local agency from establishing a maximum size of an ADU of less than 850 square feet, or 1,000 square feet if the ADU contains more than one bedroom and requires approval of a permit to build an ADU of up to 800 square feet (Gov. Code, § 65852.2, subds. (c)(2)(B) & (C)).
- Clarifies that when ADUs are created through the conversion of a garage, carport or covered parking structure, replacement of offstreet parking spaces cannot be required by the local agency (Gov. Code, § 65852.2, subd. (a)(1)(D)(xi)).
- Reduces the maximum ADU and JADU application review time from 120 days to 60 days (Gov. Code, § 65852.2, subd. (a)(3) and (b)).
- Clarifies that “public transit” includes various means of transportation that charge set fees, run on fixed routes and are available to the public (Gov. Code, § 65852.2, subd. (j)(10)).
- Establishes impact fee exemptions and limitations based on the size of the ADU. ADUs up to 750 square feet are exempt from impact fees (Gov. Code § 65852.2, subd. (f)(3)); ADUs that are 750 square feet or larger may be charged impact fees but only such fees that are proportional in size (by square foot) to those for the primary dwelling unit (Gov. Code, § 65852.2, subd. (f)(3)).
- Defines an “accessory structure” to mean a structure that is accessory or incidental to a dwelling on the same lot as the ADU (Gov. Code, § 65852.2, subd. (j)(2)).
- Authorizes HCD to notify the local agency if HCD finds that their ADU ordinance is not in compliance with state law (Gov. Code, § 65852.2, subd. (h)(2)).
- Clarifies that a local agency may identify an ADU or JADU as an adequate site to satisfy Regional Housing Needs Allocation (RHNA) housing needs (Gov. Code, §§ 65583.1, subd. (a), and 65852.2, subd. (m)).
- Permits JADUs even where a local agency has not adopted an ordinance expressly authorizing them (Gov. Code, § 65852.2, subds. (a)(3), (b), and (e)).

- Allows a permitted JADU to be constructed within the walls of the proposed or existing single-family residence and eliminates the required inclusion of an existing bedroom or an interior entry into the single-family residence (Gov. Code § 65852.22, subd. (a)(4); former Gov. Code § 65852.22, subd. (a)(5)).
- Requires, upon application and approval, a local agency to delay enforcement against a qualifying substandard ADU for five (5) years to allow the owner to correct the violation, so long as the violation is not a health and safety issue, as determined by the enforcement agency (Gov. Code, § 65852.2, subd. (n); Health & Safety Code, § 17980.12).

AB 587 (Friedman), AB 670 (Friedman), and AB 671 (Friedman)

In addition to the legislation listed above, AB 587 (Chapter 657, Statutes of 2019), AB 670 (Chapter 178, Statutes of 2019), and AB 671 (Chapter 658, Statutes of 2019) also have an impact on state ADU law, particularly through Health and Safety Code Section 17980.12. These pieces of legislation, among other changes, address the following:

- AB 587 creates a narrow exemption to the prohibition for ADUs to be sold or otherwise conveyed separately from the primary dwelling by allowing deed-restricted sales to occur if the local agency adopts an ordinance. To qualify, the primary dwelling and the ADU are to be built by a qualified nonprofit corporation whose mission is to provide units to low-income households (Gov. Code, § 65852.26).
- AB 670 provides that covenants, conditions and restrictions (CC&Rs) that either effectively prohibit or unreasonably restrict the construction or use of an ADU or JADU on a lot zoned for single-family residential use are void and unenforceable (Civ. Code, § 4751).
- AB 671 requires local agencies' housing elements to include a plan that incentivizes and promotes the creation of ADUs that can offer affordable rents for very low, low-, or moderate-income households and requires HCD to develop a list of state grants and financial incentives in connection with the planning, construction and operation of affordable ADUs (Gov. Code, § 65583; Health & Safety Code, § 50504.5).

Frequently Asked Questions: Accessory Dwelling Units¹

1. Legislative Intent

a. Should a local ordinance encourage the development of accessory dwelling units?

Yes. Pursuant to Government Code Section 65852.150, the California Legislature found and declared that, among other things, California is facing a severe housing crisis and ADUs are a valuable form of housing that meets the needs of family members, students, the elderly, in-home health care providers, people with disabilities and others. Therefore, ADUs are an essential component of California's housing supply.

ADU law and recent changes intend to address barriers, streamline approval,

Government Code 65852.150:

(a) *The Legislature finds and declares all of the following:*

(1) *Accessory dwelling units are a valuable form of housing in California.*

(2) *Accessory dwelling units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, at below market prices within existing neighborhoods.*

(3) *Homeowners who create accessory dwelling units benefit from added income, and an increased sense of security.*

(4) *Allowing accessory dwelling units in single-family or multifamily residential zones provides additional rental housing stock in California.*

(5) *California faces a severe housing crisis.*

(6) *The state is falling far short of meeting current and future housing demand with serious consequences for the state's economy, our ability to build green infill consistent with state greenhouse gas reduction goals, and the well-being of our citizens, particularly lower and middle-income earners.*

(7) *Accessory dwelling units offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting architectural character.*

(8) *Accessory dwelling units are, therefore, an essential component of California's housing supply.*

(b) *It is the intent of the Legislature that an accessory dwelling unit ordinance adopted by a local agency has the effect of providing for the creation of accessory dwelling units and that provisions in this ordinance relating to matters including unit size, parking, fees, and other requirements, are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create accessory dwelling units in zones in which they are authorized by local ordinance.*

¹ Note: Unless otherwise noted, the Government Code section referenced is 65852.2.

and expand potential capacity for ADUs, recognizing their unique importance in addressing California's housing needs. The preparation, adoption, amendment, and implementation of local ADU ordinances must be carried out consistent with Government Code, Section 65852.150 and must not unduly constrain the creation of ADUs. Local governments adopting ADU ordinances should carefully weigh the adoption of zoning, development standards, and other provisions for impacts on the development of ADUs.

In addition, ADU law is the statutory minimum requirement. Local governments may elect to go beyond this statutory minimum and further the creation of ADUs. Many local governments have embraced the importance of ADUs as an important part of their overall housing policies and have pursued innovative strategies. (Gov. Code, § 65852.2, subd. (g)).

2. Zoning, Development and Other Standards

A) Zoning and Development Standards

- **Are ADUs allowed jurisdiction wide?**

No. ADUs proposed pursuant to subdivision (e) must be considered in any residential or mixed-use zone. For other ADUs, local governments may, by ordinance, designate areas in zones where residential uses are permitted that will also permit ADUs. However, any limits on where ADUs are permitted may only be based on the adequacy of water and sewer service, and the impacts on traffic flow and public safety. Further, local governments may not preclude the creation of ADUs altogether, and any limitation should be accompanied by detailed findings of fact explaining why ADU limitations are required and consistent with these factors.

Examples of public safety include severe fire hazard areas and inadequate water and sewer service and includes cease and desist orders. Impacts on traffic flow should consider factors like lesser car ownership rates for ADUs and the potential for ADUs to be proposed pursuant to Government Code section 65852.2, subdivision (e). Finally, local governments may develop alternative procedures, standards, or special conditions with mitigations for allowing ADUs in areas with potential health and safety concerns. (Gov. Code, § 65852.2, subd. (e))

Residential or mixed-use zone should be construed broadly to mean any zone where residential uses are permitted by-right or by conditional use.

- **Can a local government apply design and development standards?**

Yes. A local government may apply development and design standards that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Resources. However, these standards shall be sufficiently objective to allow ministerial review of an ADU. (Gov. Code, § 65852.2, subd. (a)(1)(B)(i))

ADUs created under subdivision (e) of Government Code 65852.2 shall not be subject to design and development standards except for those that are noted in the subdivision.

What does objective mean?

“objective zoning standards” and “objective design review standards” mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal. Gov Code § 65913.4, subd. (a)(5)

ADUs that do not meet objective and ministerial development and design standards may still be permitted through an ancillary discretionary process if the applicant chooses to do so. Some jurisdictions with compliant ADU ordinances apply additional processes to further the creation of ADUs that do not otherwise comply with the minimum standards necessary for ministerial review. Importantly, these processes are intended to provide additional opportunities to create ADUs that would not otherwise be permitted, and a discretionary process may not be used to review ADUs that are fully compliant with ADU law. Examples of these processes include areas where additional health and safety concerns must be considered, such as fire risk.

- **Can ADUs exceed general plan and zoning densities?**

Yes. An ADU is an accessory use for the purposes of calculating allowable density under the general plan and zoning that does not count toward the allowable density. For example, if a zoning district allows one unit per 7,500 square feet, then an ADU would not be counted as an additional unit. Further, local governments could elect to allow more than one ADU on a lot, and ADUs are automatically a residential use deemed consistent with the general plan and zoning. (Gov. Code, § 65852.2, subd. (a)(1)(C).)

- **Are ADUs permitted ministerially?**

Yes. ADUs must be considered, approved, and permitted ministerially, without discretionary action. Development and other decision-making standards must be sufficiently objective to allow for ministerial review. Examples include numeric and fixed standards such as heights or setbacks, or design standards such as colors or materials. Subjective standards require judgement and can be interpreted in multiple ways such as privacy, compatibility with neighboring properties or promoting harmony and balance in the community; subjective standards shall not be imposed for ADU development. Further, ADUs must not be subject to a hearing or any ordinance regulating the issuance of variances or special use permits and must be considered ministerially. (Gov. Code, § 65852.2, subd. (a)(3).)

- **Can I create an ADU if I have multiple detached dwellings on a lot?**

Yes. A lot where there are currently multiple detached single-family dwellings is eligible for creation of one ADU per lot by converting space within the proposed or existing space of a single-family dwelling or existing structure or a new construction detached ADU subject to certain development standards.

- **Can I build an ADU in a historic district, or if the primary residence is subject to historic preservation?**

Yes. ADUs are allowed within a historic district, and on lots where the primary residence is subject to historic preservation. State ADU law allows for a local agency to impose standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Resources. However, these standards do not apply to ADUs proposed pursuant to Government Code section 65852.2, subdivision (e).

As with non-historic resources, a jurisdiction may impose objective and ministerial standards that are sufficiently objective to be reviewed ministerially and do not unduly burden the creation of ADUs. Jurisdictions are encouraged to incorporate these standards into their ordinance and submit these standards along with their ordinance to HCD. (Gov. Code, § 65852.2, subs. (a)(1)(B)(i) & (a)(5).)

B) Size Requirements

- **Is there a minimum lot size requirement?**

No. While local governments may impose standards on ADUs, these standards shall not include minimum lot size requirements. Further, lot coverage requirements cannot preclude the creation of a statewide exemption ADU (800 square feet ADU with a height limitation of 16 feet and 4 feet side and rear yard setbacks). If lot coverage requirements do not allow such an ADU, an automatic exception or waiver should be given to appropriate development standards such as lot coverage, floor area or open space requirements. Local governments may continue to enforce building and health and safety standards and may consider design, landscape, and other standards to facilitate compatibility.

What is a statewide exemption ADU?

A statewide exemption ADU is an ADU of up to 800 square feet, 16 feet in height, as potentially limited by a local agency, and with 4 feet side and rear yard setbacks. ADU law requires that no lot coverage, floor area ratio, open space, or minimum lot size will preclude the construction of a statewide exemption ADU. Further, ADU law allows the construction of a detached new construction statewide exemption ADU to be combined on the same lot with a JADU in a single-family residential zone. In addition, ADUs are allowed in any residential or mixed uses regardless of zoning and development standards imposed in an ordinance. See more discussion below.

- **Can minimum and maximum unit sizes be established for ADUs?**

Yes. A local government may, by ordinance, establish minimum and maximum unit size requirements for both attached and detached ADUs. However, maximum unit size requirements must be at least 850 square feet and 1,000 square feet for ADUs with more than one bedroom. For local agencies without an ordinance, maximum unit sizes are 1,200 square feet for a new detached ADU and up to 50 percent of the floor area of the existing primary dwelling for an attached ADU (at least 800 square feet). Finally, the local agency must not establish by ordinance a minimum square footage requirement that prohibits an efficiency unit, as defined in Health and Safety Code section 17958.1.

The conversion of an existing accessory structure or a portion of the existing primary residence to an ADU is not subject to size requirements. For example, an existing 3,000 square foot barn converted to an ADU would not be subject to the size requirements, regardless if a local government has an adopted ordinance. Should an applicant want to expand an accessory structure to create an ADU beyond 150 square feet, this ADU would be subject to the size maximums outlined in state ADU law, or the local agency's adopted ordinance.

- **Can a percentage of the primary dwelling be used for a maximum unit size?**

Yes. Local agencies may utilize a percentage (e.g., 50 percent) of the primary dwelling as a maximum unit size for attached or detached ADUs but only if it does not restrict an ADU's size to less than the standard of at least 850 square feet (or at least 1000 square feet for ADUs with more than one bedroom). Local agencies must not, by ordinance, establish any other minimum or maximum unit sizes, including based on

a percentage of the primary dwelling, that precludes a statewide exemption ADU. Local agencies utilizing percentages of the primary dwelling as maximum unit sizes could consider multi-pronged standards to help navigate these requirements (e.g., shall not exceed 50 percent of the dwelling or 1,000 square feet, whichever is greater).

- **Can maximum unit sizes exceed 1,200 square feet for ADUs?**

Yes. Maximum unit sizes, by ordinance, can exceed 1,200 square feet for ADUs. ADU law does not limit the authority of local agencies to adopt less restrictive requirements for the creation of ADUs (Gov. Code, § 65852.2, subd. (g)).

Larger unit sizes can be appropriate in a rural context or jurisdictions with larger lot sizes and is an important approach to creating a full spectrum of ADU housing choices.

C) Parking Requirements

- **Can parking requirements exceed one space per unit or bedroom?**

No. Parking requirements for ADUs shall not exceed one parking space per unit or bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway. Guest parking spaces shall not be required for ADUs under any circumstances.

What is Tandem Parking?

Tandem parking means two or more automobiles that are parked on a driveway or in any other location on a lot, lined up behind one another. (Gov. Code, § 65852.2, subs. (a)(1)(D)(x)(l) and (j)(11).)

Local agencies may choose to eliminate or reduce parking requirements for ADUs such as requiring zero or half a parking space per each ADU.

- **Is flexibility for siting parking required?**

Yes. Local agencies should consider flexibility when siting parking for ADUs. Offstreet parking spaces for the ADU shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made. Specific findings must be based on specific site or regional topographical or fire and life safety conditions.

When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU, or converted to an ADU, the local agency shall not require that those offstreet parking spaces for the primary unit be replaced. (Gov. Code, § 65852.2, subd. (a)(D)(xi).)

- **Can ADUs be exempt from parking?**

Yes. A local agency shall not impose ADU parking standards for any of the following, pursuant to Government Code section 65852.2, subdivisions (d)(1-5) and (j)(10).

(1) Accessory dwelling unit is located within one-half mile walking distance of public transit.

- (2) Accessory dwelling unit is located within an architecturally and historically significant historic district.
- (3) Accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.
- (4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
- (5) When there is a car share vehicle located within one block of the accessory dwelling unit.

Note: For the purposes of state ADU law, a jurisdiction may use the designated areas where a car share vehicle may be accessed. Public transit is any location where an individual may access buses, trains, subways and other forms of transportation that charge set fares, run on fixed routes and are available to the general public. Walking distance is defined as the pedestrian shed to reach public transit. Additional parking requirements to avoid impacts to public access may be required in the coastal zone.

D) Setbacks

- **Can setbacks be required for ADUs?**

Yes. A local agency may impose development standards, such as setbacks, for the creation of ADUs. Setbacks may include front, corner, street, and alley setbacks. Additional setback requirements may be required in the coastal zone if required by a local coastal program. Setbacks may also account for utility easements or recorded setbacks. However, setbacks must not unduly constrain the creation of ADUs and cannot be required for ADUs proposed pursuant to subdivision (e). Further, a setback of no more than four feet from the side and rear lot lines shall be required for an attached or detached ADU. (Gov. Code, § 65852.2, subd. (a)(1)(D)(vii).)

A local agency may also allow the expansion of a detached structure being converted into an ADU when the existing structure does not have four-foot rear and side setbacks. A local agency may also allow the expansion area of a detached structure being converted into an ADU to have no setbacks, or setbacks of less than four feet, if the existing structure has no setbacks, or has setbacks of less than four feet. A local agency shall not require setbacks of more than four feet for the expanded area of a detached structure being converted into an ADU.

A local agency may still apply front yard setbacks for ADUs, but front yard setbacks cannot preclude a statewide exemption ADU and must not unduly constrain the creation of all types of ADUs. (Gov. Code, § 65852.2, subd. (c).)

E) Height Requirements

- **Is there a limit on the height of an ADU or number of stories?**

Not in state ADU law, but local agencies may impose height limits provided that the limit is no less than 16 feet. (Gov. Code, § 65852.2, subd. (a)(1)(B)(i).)

F) Bedrooms

- **Is there a limit on the number of bedrooms?**

State ADU law does not allow for the limitation on the number of bedrooms of an ADU. A limit on the number of bedrooms could be construed as a discriminatory practice towards protected classes, such as familial status, and would be considered a constraint on the development of ADUs.

G) Impact Fees

- **Can impact fees be charged for an ADU less than 750 square feet?**

No. An ADU is exempt from incurring impact fees from local agencies, special districts, and water corporations if less than 750 square feet. Should an ADU be 750 square feet or larger, impact fees shall be charged proportionately in relation to the square footage of the ADU to the square footage of the primary dwelling unit.

What is “Proportionately”?

“Proportionately” is some amount that corresponds to a total amount, in this case, an impact fee for a single-family dwelling. For example, a 2,000 square foot primary dwelling with a proposed 1,000 square foot ADU could result in 50 percent of the impact fee that would be charged for a new primary dwelling on the same site. In all cases, the impact fee for the ADU must be less than the primary dwelling. Otherwise, the fee is not calculated proportionately. When utilizing proportions, careful consideration should be given to the impacts on costs, feasibility, and ultimately, the creation of ADUs. In the case of the example above, anything greater than 50 percent of the primary dwelling could be considered a constraint on the development of ADUs.

For purposes of calculating the fees for an ADU on a lot with a multifamily dwelling, the proportionality shall be based on the average square footage of the units within that multifamily dwelling structure. For ADUs converting existing space with a 150 square foot expansion, a total ADU square footage over 750 square feet could trigger the proportionate fee requirement. (Gov. Code, § 65852.2, subd. (f)(3)(A).)

- **Can local agencies, special districts or water corporations waive impact fees?**

Yes. Agencies can waive impact and any other fees for ADUs. Also, local agencies may also use fee deferrals for applicants.

- **Can school districts charge impact fees?**

Yes. School districts are authorized but do not have to levy impact fees for ADUs greater than 500 square feet pursuant to Section 17620 of the Education Code. ADUs less than 500 square feet are not subject to school impact fees. Local agencies are encouraged to coordinate with school districts to carefully weigh the importance of promoting ADUs, ensuring appropriate nexus studies and appropriate fees to facilitate construction or reconstruction of adequate school facilities.

- **What types of fees are considered impact fees?**

Impact fees charged for the construction of ADUs must be determined in accordance with the Mitigation Fee Act and generally include any monetary exaction that is charged by a local agency in connection with the approval of an ADU, including impact fees, for the purpose of defraying all or a portion of the cost of public facilities relating to the ADU. A local agency, special district or water corporation shall not consider ADUs as a new residential use for the purposes of calculating connection fees or capacity charges for

utilities, including water and sewer services. However, these provisions do not apply to ADUs that are constructed concurrently with a new single-family home. (Gov. Code, §§ 65852.2, subd. (f), and 66000)

- **Can I still be charged water and sewer connection fees?**

ADUs converted from existing space and JADUs shall not be considered by a local agency, special district or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, unless constructed with a new single-family dwelling. The connection fee or capacity charge shall be proportionate to the burden of the proposed ADU, based on its square footage or plumbing fixtures as compared to the primary dwelling. State ADU law does not cover monthly charge fees. (Gov. Code, § 65852.2, subd. (f)(2)(A).)

H) Conversion of Existing Space in Single Family, Accessory and Multifamily Structures and Other Statewide Permissible ADUs (Subdivision (e))

- **Are local agencies required to comply with subdivision (e)?**

Yes. All local agencies must comply with subdivision (e). This subdivision requires the ministerial approval of ADUs within a residential or mixed-use zone. The subdivision creates four categories of ADUs that should not be subject to other specified areas of ADU law, most notably zoning and development standards. For example, ADUs under this subdivision should not have to comply with lot coverage, setbacks, heights, and unit sizes. However, ADUs under this subdivision must meet the building code and health and safety requirements. The four categories of ADUs under subdivision (e) are:

- b. One ADU and one JADU are permitted per lot within the existing or proposed space of a single-family dwelling, or a JADU within the walls of the single family residence, or an ADU within an existing accessory structure, that meets specified requirements such as exterior access and setbacks for fire and safety.**
- c. One detached new construction ADU that does not exceed four-foot side and rear yard setbacks. This ADU may be combined on the same lot with a JADU and may be required to meet a maximum unit size requirement of 800 square feet and a height limitation of 16 feet.**
- d. Multiple ADUs within the portions of multifamily structures that are not used as livable space. Local agencies must allow at least one of these types of ADUs and up to 25 percent of the existing multifamily structures.**
- e. Up to two detached ADUs on a lot that has existing multifamily dwellings that are subject to height limits of 16 feet and 4-foot rear and side yard setbacks.**

The above four categories are not required to be combined. For example, local governments are not required to allow (a) and (b) together or (c) and (d) together. However, local agencies may elect to allow these ADU types together.

Local agencies shall allow at least one ADU to be created within the non-livable space within multifamily dwelling structures, or up to 25 percent of the existing multifamily dwelling units within a structure and may also allow not more than two ADUs on the lot detached from the multifamily dwelling structure. New detached units are subject to height limits of 16 feet and shall not be required to have side and rear setbacks of more than four feet.

The most common ADU that can be created under subdivision (e) is a conversion of proposed or existing space of a single-family dwelling or accessory structure into an ADU, without any prescribed size limitations, height, setback, lot coverage, architectural review, landscape, or other development standards. This would enable the conversion of an accessory structure, such as a 2,000 square foot garage, to an ADU without any additional requirements other than compliance with building standards for dwellings. These types of ADUs are also eligible for a 150 square foot expansion (see discussion below).

ADUs created under subdivision (e) shall not be required to provide replacement or additional parking. Moreover, these units shall not, as a condition for ministerial approval, be required to correct any existing or created nonconformity. Subdivision (e) ADUs shall be required to be rented for terms longer than 30 days, and only require fire sprinklers if fire sprinklers are required for the primary residence. These ADUs shall not be counted as units when calculating density for the general plan and are not subject to owner-occupancy.

- **Can I convert my accessory structure into an ADU?**

Yes. The conversion of garages, sheds, barns, and other existing accessory structures, either attached or detached from the primary dwelling, into ADUs is permitted and promoted through the state ADU law. These conversions of accessory structures are not subject to any additional development standard, such as unit size, height, and lot coverage requirements, and shall be from existing space that can be made safe under building and safety codes. A local agency should not set limits on when the structure was created, and the structure must meet standards for health and safety. Finally, local governments may also consider the conversion of illegal existing space and could consider alternative building standards to facilitate the conversion of existing illegal space to minimum life and safety standards.

- **Can an ADU converting existing space be expanded?**

Yes. An ADU created within the existing or proposed space of a single-family dwelling or accessory structure can be expanded beyond the physical dimensions of the structure. In addition, an ADU created within an existing accessory structure may be expanded up to 150 square feet without application of local development standards, but this expansion shall be limited to accommodating ingress and egress. An example of where this expansion could be applicable is for the creation of a staircase to reach a second story ADU. These types of ADUs shall conform to setbacks sufficient for fire and safety.

A local agency may allow for an expansion beyond 150 square feet, though the ADU would have to comply with the size maximums as per state ADU law, or a local agency's adopted ordinance.

As a JADU is limited to being created within the walls of a primary residence, this expansion of up to 150 square feet does not pertain to JADUs.

I) Nonconforming Zoning Standards

- **Does the creation of an ADU require the applicant to carry out public improvements?**

No physical improvements shall be required for the creation or conversion of an ADU. Any requirement to carry out public improvements is beyond what is required for the creation of an ADU, as per state law. For example, an applicant shall not be required to improve sidewalks, carry out street improvements, or access improvements to create an ADU. Additionally, as a condition for ministerial approval of an ADU, an applicant shall not be required to correct nonconforming zoning conditions. (Gov. Code, § 65852.2, subd. (e)(2).)

J) Renter and Owner-occupancy

- **Are rental terms required?**

Yes. Local agencies may require that the property be used for rentals of terms longer than 30 days. ADUs permitted ministerially, under subdivision (e), shall be rented for terms longer than 30 days. (Gov. Code, § 65852.2, subs. (a)(6) & (e)(4).)

- **Are there any owner-occupancy requirements for ADUs?**

No. Prior to recent legislation, ADU laws allowed local agencies to elect whether the primary dwelling or ADU was required to be occupied by an owner. The updates to state ADU law removed the owner-occupancy allowance for newly created ADUs effective January 1, 2020. The new owner-occupancy exclusion is set to expire on December 31, 2024. Local agencies may not retroactively require owner occupancy for ADUs permitted between January 1, 2020, and December 31, 2024.

However, should a property have both an ADU and JADU, JADU law requires owner-occupancy of either the newly created JADU, or the single-family residence. Under this specific circumstance, a lot with an ADU would be subject to owner-occupancy requirements. (Gov. Code, § 65852.2, subd. (a)(2).)

K) Fire Sprinkler Requirements

- **Are fire sprinklers required for ADUs?**

No. Installation of fire sprinklers may not be required in an ADU if sprinklers are not required for the primary residence. For example, a residence built decades ago would not have been required to have fire sprinklers installed under the applicable building code at the time. Therefore, an ADU created on this lot cannot be required to install fire sprinklers. However, if the same primary dwelling recently undergoes significant remodeling and is now required to have fire sprinklers, any ADU created after that remodel must likewise install fire sprinklers. (Gov. Code, § 65852.2, subs. (a)(1)(D)(xii) and (e)(3).)

Please note, for ADUs created on lots with multifamily residential structures, the entire residential structure shall serve as the “primary residence” for the purposes of this analysis. Therefore, if the multifamily structure is served by fire sprinklers, the ADU can be required to install fire sprinklers.

L) Solar Panel Requirements

- **Are solar panels required for new construction ADUs?**

Yes, newly constructed ADUs are subject to the Energy Code requirement to provide solar panels if the unit(s) is a newly constructed, non-manufactured, detached ADU. Per the California Energy Commission (CEC), the panels can be installed on the ADU or on the primary dwelling unit. ADUs that are constructed within existing space, or as an addition to existing homes, including detached additions where an existing detached building is converted from non-residential to residential space, are not subject to the Energy Code requirement to provide solar panels.

Please refer to the CEC on this matter. For more information, see the CEC's website www.energy.ca.gov. You may email your questions to: title24@energy.ca.gov, or contact the Energy Standards Hotline at 800-772-3300. CEC memos can also be found on HCD's website at <https://www.hcd.ca.gov/policy-research/AccessoryDwellingUnits.shtml>.

3. Junior Accessory Dwelling Units (JADUs) – Government Code Section 65852.22

- **Are two JADUs allowed on a lot?**

No. A JADU may be created on a lot zoned for single-family residences with one primary dwelling. The JADU may be created within the walls of the proposed or existing single-family residence, including attached garages, as attached garages are considered within the walls of the existing single-family residence. Please note that JADUs created in the attached garage are not subject to the same parking protections as ADUs and could be required by the local agency to provide replacement parking.

JADUs are limited to one per residential lot with a single-family residence. Lots with multiple detached single-family dwellings are not eligible to have JADUs. (Gov. Code, § 65852.22, subd. (a)(1).)

- **Are JADUs allowed in detached accessory structures?**

No, JADUs are not allowed in accessory structures. The creation of a JADU must be within the single-family residence. As noted above, attached garages are eligible for JADU creation. The maximum size for a JADU is 500 square feet. (Gov. Code, § 65852.22, subds. (a)(1), (a)(4), and (h)(1).)

- **Are JADUs allowed to be increased up to 150 square feet when created within an existing structure?**

No. Only ADUs are allowed to add up to 150 square feet “beyond the physical dimensions of the existing accessory structure” to provide for ingress. (Gov. Code, § 65852.2, subd. (e)(1)(A)(i).)

This provision extends only to ADUs and excludes JADUs. A JADU is required to be created within the single-family residence.

- **Are there any owner-occupancy requirements for JADUs?**

Yes. There are owner-occupancy requirements for JADUs. The owner must reside in either the remaining portion of the primary residence, or in the newly created JADU. (Gov. Code, § 65852.22, subd. (a)(2).)

4. Manufactured Homes and ADUs

- **Are manufactured homes considered to be an ADU?**

Yes. An ADU is any residential dwelling unit with independent facilities and permanent provisions for living, sleeping, eating, cooking and sanitation. An ADU includes a manufactured home (Health & Saf. Code, § 18007).

Health and Safety Code section 18007, subdivision (a): **“Manufactured home,”** for the purposes of this part, means a structure that was constructed on or after June 15, 1976, is transportable in one or more sections, is eight body feet or more in width, or 40 body feet or more in length, in the traveling mode, or, when erected on site, is 320 or more square feet, is built on a permanent chassis and designed to be used as a single-family dwelling with or without a foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. “Manufactured home” includes any structure that meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification and complies with the standards established under the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C., Sec. 5401, and following).

5. ADUs and the Housing Element

- **Do ADUs and JADUs count toward a local agency’s Regional Housing Needs Allocation?**

Yes. Pursuant to Government Code section 65852.2 subdivision (m), and section 65583.1, ADUs and JADUs may be utilized towards the Regional Housing Need Allocation (RHNA) and Annual Progress Report (APR) pursuant to Government Code section 65400. To credit a unit toward the RHNA, HCD and the Department of Finance (DOF) utilize the census definition of a housing unit. Generally, an ADU, and a JADU with shared sanitation facilities, and any other unit that meets the census definition, and is reported to DOF as part of the DOF annual City and County Housing Unit Change Survey, can be credited toward the RHNA based on the appropriate income level. The housing element or APR must include a reasonable methodology to demonstrate the level of affordability. Local governments can track actual or anticipated affordability to assure ADUs and JADUs are counted towards the appropriate income category. For example, some local governments request and track information such as anticipated affordability as part of the building permit or other applications.

- **Is analysis required to count ADUs toward the RHNA in the housing element?**

Yes. To calculate ADUs in the housing element, local agencies must generally use a three-part approach: (1) development trends, (2) anticipated affordability and (3) resources and incentives. Development trends must consider ADUs permitted in the prior planning period and may also consider more recent trends. Anticipated affordability can use a variety of methods to estimate the affordability by income group. Common approaches include rent surveys of ADUs, using rent surveys and square footage assumptions and data available through the APR pursuant to Government Code section 65400. Resources and incentives include policies and programs to encourage ADUs, such as prototype plans, fee waivers, expedited procedures and affordability monitoring programs.

- **Are ADUs required to be addressed in the housing element?**

Yes. The housing element must include a description of zoning available to permit ADUs, including development standards and analysis of potential constraints on the development of ADUs. The element must include programs as appropriate to address identified constraints. In addition, housing elements must

include a plan that incentivizes and promotes the creation of ADUs that can offer affordable rents for very low, low-, or moderate-income households and requires HCD to develop a list of state grants and financial incentives in connection with the planning, construction and operation of affordable ADUs. (Gov. Code, § 65583 and Health & Saf. Code, § 50504.5.)

6. Homeowners Association

- **Can my local Homeowners Association (HOA) prohibit the construction of an ADU or JADU?**

No. Assembly Bill 670 (2019) and AB 3182 (2020) amended Section 4751, 4740, and 4741 of the Civil Code to preclude common interest developments from prohibiting or unreasonably restricting the construction or use, including the renting or leasing of, an ADU on a lot zoned for single-family residential use. Covenants, conditions and restrictions (CC&Rs) that either effectively prohibit or unreasonably restrict the construction or use of an ADU or JADU on such lots are void and unenforceable or may be liable for actual damages and payment of a civil penalty. Applicants who encounter issues with creating ADUs or JADUs within CC&Rs are encouraged to reach out to HCD for additional guidance.

7. Enforcement

- **Does HCD have enforcement authority over ADU ordinances?**

Yes. After adoption of the ordinance, HCD may review and submit written findings to the local agency as to whether the ordinance complies with state ADU law. If the local agency's ordinance does not comply, HCD must provide a reasonable time, no longer than 30 days, for the local agency to respond, and the local agency shall consider HCD's findings to amend the ordinance to become compliant. If a local agency does not make changes and implements an ordinance that is not compliant with state law, HCD may refer the matter to the Attorney General.

In addition, HCD may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify ADU law.

8. Other

- **Are ADU ordinances existing prior to new 2020 laws null and void?**

No. Ordinances existing prior to the new 2020 laws are only null and void to the extent that existing ADU ordinances conflict with state law. Subdivision (a)(4) of Government Code Section 65852.2 states an ordinance that fails to meet the requirements of subdivision (a) shall be null and void and shall apply the state standards (see Attachment 3) until a compliant ordinance is adopted. However, ordinances that substantially comply with ADU law may continue to enforce the existing ordinance to the extent it complies with state law. For example, local governments may continue the compliant provisions of an ordinance and apply the state standards where pertinent until the ordinance is amended or replaced to fully comply with ADU law. At the same time, ordinances that are fundamentally incapable of being enforced because key provisions are invalid -- meaning there is not a reasonable way to sever conflicting provisions and apply the remainder of an ordinance in a way that is consistent with state law -- would be fully null and void and must follow all state standards until a compliant ordinance is adopted.

- **Do local agencies have to adopt an ADU ordinance?**

No. Local governments may choose not to adopt an ADU ordinance. Should a local government choose to not adopt an ADU ordinance, any proposed ADU development would be only subject to standards set in state ADU law. If a local agency adopts an ADU ordinance, it may impose zoning, development, design, and other standards in compliance with state ADU law. (See Attachment 4 for a state standards checklist.)

- **Is a local government required to send an ADU ordinance to the California Department of Housing and Community Development (HCD)?**

Yes. A local government, upon adoption of an ADU ordinance, must submit a copy of the adopted ordinance to HCD within 60 days after adoption. After the adoption of an ordinance, the Department may review and submit written findings to the local agency as to whether the ordinance complies with this section. (Gov. Code, § 65852.2, subd. (h)(1).)

Local governments may also submit a draft ADU ordinance for preliminary review by HCD. This provides local agencies the opportunity to receive feedback on their ordinance and helps to ensure compliance with the new state ADU law.

- **Are charter cities and counties subject to the new ADU laws?**

Yes. ADU law applies to a local agency which is defined as a city, county, or city and county, whether general law or chartered. (Gov. Code, § 65852.2, subd. (j)(5)).

Further, pursuant to Chapter 659, Statutes of 2019 (AB 881), the Legislature found and declared ADU law as “...a matter of statewide concern rather than a municipal affair, as that term is used in Section 5 of Article XI of the California Constitution” and concluded that ADU law applies to all cities, including charter cities.

- **Do the new ADU laws apply to jurisdictions located in the Coastal Zone?**

Yes. ADU laws apply to jurisdictions in the Coastal Zone, but do not necessarily alter or lessen the effect or application of Coastal Act resource protection policies. (Gov. Code, § 65852.22, subd. (l)).

Coastal localities should seek to harmonize the goals of protecting coastal resources and addressing housing needs of Californians. For example, where appropriate, localities should amend Local Coastal Programs for California Coastal Commission review to comply with the California Coastal Act and new ADU laws. For more information, see the [California Coastal Commission 2020 Memo](#) and reach out to the locality’s local Coastal Commission district office.

- **What is considered a multifamily dwelling?**

For the purposes of state ADU law, a structure with two or more attached dwellings on a single lot is considered a multifamily dwelling structure. Multiple detached single-unit dwellings on the same lot are not considered multifamily dwellings for the purposes of state ADU law.

Resources



Attachment 1: Statutory Changes (Strikeout/Italics and Underline)

GOV. CODE: TITLE 7, DIVISION 1, CHAPTER 4, ARTICLE 2

**Combined changes from (AB 3182 Accessory Dwelling Units)
and (AB 881, AB 68 and SB 13 Accessory Dwelling Units)**

(Changes noted in ~~strikeout~~, underline/*italics*)

Effective January 1, 2021, Section 65852.2 of the Government Code is amended to read:

65852.2.

- (a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The ordinance shall do all of the following:
- (A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. A local agency that does not provide water or sewer services shall consult with the local water or sewer service provider regarding the adequacy of water and sewer services before designating an area where accessory dwelling units may be permitted.
- (B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Resources. These standards shall not include requirements on minimum lot size.
- (ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.
- (C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.
- (D) Require the accessory dwelling units to comply with all of the following:
- (i) The accessory dwelling unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.
- (ii) The lot is zoned to allow single-family or multifamily dwelling residential use and includes a proposed or existing dwelling.
- (iii) The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.
- (iv) If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing primary dwelling.
- (v) The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.
- (vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.
- (vii) No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.
- (viii) Local building code requirements that apply to detached dwellings, as appropriate.
- (ix) Approval by the local health officer where a private sewage disposal system is being used, if required.
- (x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway. (II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.
- (III) This clause shall not apply to an accessory dwelling unit that is described in subdivision (d).
- (xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the local agency shall not require that those offstreet parking spaces be replaced.
- (xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. *If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved.* A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the delay or denial of a building permit or a use permit under this subdivision.

(6) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be used or imposed, including any owner-occupant requirement, except that a local agency may require that the property be used for rentals of terms longer than 30 days.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a). The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved.

(c) (1) Subject to paragraph (2), a local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units.

(2) Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following:

(A) A minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit.

(B) A maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than either of the following:

(i) 850 square feet.

(ii) 1,000 square feet for an accessory dwelling unit that provides more than one bedroom.

(C) Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile walking distance of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) (1) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following:

(A) One accessory dwelling unit ~~or~~ *and* one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

(i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

(ii) The space has exterior access from the proposed or existing single-family dwelling.

(iii) The side and rear setbacks are sufficient for fire and safety.

(iv) The junior accessory dwelling unit complies with the requirements of Section 65852.22.

(B) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subparagraph (A). A local agency may impose the following conditions on the accessory dwelling unit:

(i) A total floor area limitation of not more than 800 square feet.

(ii) A height limitation of 16 feet.

(C) (i) Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

(ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and shall allow up to 25 percent of the existing multifamily dwelling units.

(D) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.

(2) A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.

(3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.

(4) A local agency shall require that a rental of the accessory dwelling unit created pursuant to this subdivision be for a term longer than 30 days.

(5) A local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite wastewater treatment system, a percolation test completed within the last five years, or, if the percolation test has been recertified, within the last 10 years.

(6) Notwithstanding subdivision (c) and paragraph (1) a local agency that has adopted an ordinance by July 1, 2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose standards including, but not limited to, design, development, and historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size.

- (f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).
- (2) An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the accessory dwelling unit was constructed with a new single-family dwelling.
- (3) (A) A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.
- (B) For purposes of this paragraph, "impact fee" has the same meaning as the term "fee" is defined in subdivision (b) of Section 66000, except that it also includes fees specified in Section 66477. "Impact fee" does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.
- (4) For an accessory dwelling unit described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge, unless the accessory dwelling unit was constructed with a new single-family home.
- (5) For an accessory dwelling unit that is not described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its square feet or the number of its drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.
- (g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.
- (h) (1) A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with this section.
- (2) (A) If the department finds that the local agency's ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other action authorized by this section.
- (B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shall do one of the following:
- (i) Amend the ordinance to comply with this section.
- (ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.
- (3) (A) If the local agency does not amend its ordinance in response to the department's findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department's findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.
- (B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020.
- (i) The department may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth in this section. The guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.
- (j) As used in this section, the following terms mean:
- (1) "Accessory dwelling unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following:
- (A) An efficiency unit.
- (B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

- (2) "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.
 - (3) "Efficiency unit" has the same meaning as defined in Section 17958.1 of the Health and Safety Code.
 - (4) "Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.
 - (5) "Local agency" means a city, county, or city and county, whether general law or chartered.
 - (6) "Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.
 - (7) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.
 - (8) "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.
 - (9) "Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.
 - (10) "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.
 - (k) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.
 - (l) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.
 - (m) A local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing, as specified in subdivision (a) of Section 65583.1, subject to authorization by the department and compliance with this division.
 - (n) In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code for an accessory dwelling unit described in paragraph (1) or (2) below, a local agency, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:
 - (1) The accessory dwelling unit was built before January 1, 2020.
 - (2) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.
 - (o) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.
- (Becomes operative on January 1, 2025)**

Section 65852.2 of the Government Code is amended to read (changes from January 1, 2021 statute noted in underline/italic):

65852.2.

- (a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The ordinance shall do all of the following:
 - (A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. A local agency that does not provide water or sewer services shall consult with the local water or sewer service provider regarding the adequacy of water and sewer services before designating an area where accessory dwelling units may be permitted.
 - (B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Resources. These standards shall not include requirements on minimum lot size.
 - (ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.
 - (C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

- (i) The accessory dwelling unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.
 - (ii) The lot is zoned to allow single-family or multifamily dwelling residential use and includes a proposed or existing dwelling.
 - (iii) The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.
 - (iv) If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing primary dwelling.
 - (v) The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.
 - (vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.
 - (vii) No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.
 - (viii) Local building code requirements that apply to detached dwellings, as appropriate.
 - (ix) Approval by the local health officer where a private sewage disposal system is being used, if required.
 - (x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.
 - (II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.
 - (III) This clause shall not apply to an accessory dwelling unit that is described in subdivision (d).
 - (xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the local agency shall not require that those offstreet parking spaces be replaced.
 - (xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.
- (2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.
- (3) A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. *If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved.* A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.
- (4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.
- (5) No other local ordinance, policy, or regulation shall be the basis for the delay or denial of a building permit or a use permit under this subdivision.
- (6) (A) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed

accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be used or ~~imposed, including any owner-occupant requirement, except that~~ imposed except that, subject to subparagraph (B), a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant or that the property be used for rentals of terms longer than 30 days.

(B) Notwithstanding subparagraph (A), a local agency shall not impose an owner-occupant requirement on an accessory dwelling unit permitted between January 1, 2020, to January 1, 2025, during which time the local agency was prohibited from imposing an owner-occupant requirement.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a). The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved.

(c) (1) Subject to paragraph (2), a local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units.

(2) Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following:

(A) A minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit.

(B) A maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than either of the following:

(i) 850 square feet.

(ii) 1,000 square feet for an accessory dwelling unit that provides more than one bedroom.

(C) Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile walking distance of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) (1) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following:

(A) One accessory dwelling unit ~~or~~ and one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

(i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not

more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

(ii) The space has exterior access from the proposed or existing single-family dwelling.

(iii) The side and rear setbacks are sufficient for fire and safety.

(iv) The junior accessory dwelling unit complies with the requirements of Section 65852.22.

(B) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subparagraph (A). A local agency may impose the following conditions on the accessory dwelling unit:

(i) A total floor area limitation of not more than 800 square feet.

(ii) A height limitation of 16 feet.

(C) (i) Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

(ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and shall allow up to 25 percent of the existing multifamily dwelling units.

(D) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.

(2) A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.

(3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.

[\(4\) A local agency may require owner occupancy for either the primary dwelling or the accessory dwelling unit on a single-family lot, subject to the requirements of paragraph \(6\) of subdivision \(a\).](#)

~~(4)~~ (5) A local agency shall require that a rental of the accessory dwelling unit created pursuant to this subdivision be for a term longer than 30 days.

~~(5)~~ (6) A local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite wastewater treatment system, a percolation test completed within the last five years, or, if the percolation test has been recertified, within the last 10 years.

~~(6)~~ (7) Notwithstanding subdivision (c) and paragraph (1) a local agency that has adopted an ordinance by July 1, 2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose standards including, but not limited to, design, development, and historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size.

(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(3) (A) A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.

(B) For purposes of this paragraph, "impact fee" has the same meaning as the term "fee" is defined in subdivision

(b) of Section 66000, except that it also includes fees specified in Section 66477. "Impact fee" does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.

(4) For an accessory dwelling unit described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge, unless the accessory dwelling unit was constructed with a new single-family ~~home-~~ dwelling.

(5) For an accessory dwelling unit that is not described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its square feet or the number of its drainage fixture unit (DFU) values, as defined in the

Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) (1) A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with this section.

(2) (A) If the department finds that the local agency's ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other action authorized by this section.

(B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shall do one of the following:

(i) Amend the ordinance to comply with this section.

(ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.

(3) (A) If the local agency does not amend its ordinance in response to the department's findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department's findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.

(B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020.

(i) The department may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth in this section. The guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

(j) As used in this section, the following terms mean:

(1) "Accessory dwelling unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(2) "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.

(3) "Efficiency unit" has the same meaning as defined in Section 17958.1 of the Health and Safety Code.

(4) "Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

(5) "Local agency" means a city, county, or city and county, whether general law or chartered.

(6) "Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.

(7) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(8) "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

(9) "Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

(10) "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

(k) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.

(l) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit

applications for accessory dwelling units.

(m) A local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing, as specified in subdivision (a) of Section 65583.1, subject to authorization by the department and compliance with this division.

(n) In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code for an accessory dwelling unit described in paragraph (1) or (2) below, a local agency, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:

(1) The accessory dwelling unit was built before January 1, 2020.

(2) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.

(o) This section shall ~~remain in effect only until January 1, 2025, and as of that date is repealed.~~ *become operative on January 1, 2025.*

Effective January 1, 2021, Section 4740 of the Civil Code is amended to read (changes noted in ~~strikeout~~, underline/italics) (AB 3182 (Ting)):

4740.

(a) An owner of a separate interest in a common interest development shall not be subject to a provision in a governing document or an amendment to a governing document that prohibits the rental or leasing of any of the separate interests in that common interest development to a renter, lessee, or tenant unless that governing document, or amendment thereto, was effective prior to the date the owner acquired title to ~~his or~~ *her* ~~their~~ separate interest.

~~(b) Notwithstanding the provisions of this section, an owner of a separate interest in a common interest development may expressly consent to be subject to a governing document or an amendment to a governing document that prohibits the rental or leasing of any of the separate interests in the common interest development to a renter, lessee, or tenant.~~

~~(c)~~ *(b)* For purposes of this section, the right to rent or lease the separate interest of an owner shall not be deemed to have terminated if the transfer by the owner of all or part of the separate interest meets at least one of the following conditions:

(1) Pursuant to Section 62 or 480.3 of the Revenue and Taxation Code, the transfer is exempt, for purposes of reassessment by the county tax assessor.

(2) Pursuant to subdivision (b) of, solely with respect to probate transfers, or subdivision (e), (f), or (g) of, Section 1102.2, the transfer is exempt from the requirements to prepare and deliver a Real Estate Transfer Disclosure Statement, as set forth in Section 1102.6.

~~(d)~~ *(c)* Prior to renting or leasing ~~his or her~~ *their* separate interest as provided by this section, an owner shall provide the association verification of the date the owner acquired title to the separate interest and the name and contact information of the prospective tenant or lessee or the prospective tenant's or lessee's representative.

~~(e)~~ *(d)* Nothing in this section shall be deemed to revise, alter, or otherwise affect the voting process by which a common interest development adopts or amends its governing documents.

~~(f) This section shall apply only to a provision in a governing document or a provision in an amendment to a governing document that becomes effective on or after January 1, 2012.~~

Effective January 1, 2021 of the *Section 4741 is added to the Civil Code, to read (AB 3182 (Ting)):*

4741.

(a) An owner of a separate interest in a common interest development shall not be subject to a provision in a governing document or an amendment to a governing document that prohibits, has the effect of prohibiting, or unreasonably restricts the rental or leasing of any of the separate interests, accessory dwelling units, or junior accessory dwelling units in that common interest development to a renter, lessee, or tenant.

(b) A common interest development shall not adopt or enforce a provision in a governing document or amendment to a governing document that restricts the rental or lease of separate interests within a common interest to less than 25 percent of the separate interests. Nothing in this subdivision prohibits a common interest development from adopting or enforcing a provision authorizing a higher percentage of separate interests to be rented or leased.

(c) This section does not prohibit a common interest development from adopting and enforcing a provision in a

governing document that prohibits transient or short-term rental of a separate property interest for a period of 30 days or less.

(d) For purposes of this section, an accessory dwelling unit or junior accessory dwelling unit shall not be construed as a separate interest.

(e) For purposes of this section, a separate interest shall not be counted as occupied by a renter if the separate interest, or the accessory dwelling unit or junior accessory dwelling unit of the separate interest, is occupied by the owner.

(f) A common interest development shall comply with the prohibition on rental restrictions specified in this section on and after January 1, 2021, regardless of whether the common interest development has revised their governing documents to comply with this section. However, a common interest development shall amend their governing documents to conform to the requirements of this section no later than December 31, 2021.

(g) A common interest development that willfully violates this section shall be liable to the applicant or other party for actual damages, and shall pay a civil penalty to the applicant or other party in an amount not to exceed one thousand dollars (\$1,000).

(h) In accordance with Section 4740, this section does not change the right of an owner of a separate interest who acquired title to their separate interest before the effective date of this section to rent or lease their property.

Effective January 1, 2020, Section 65852.22 of the Government Code is was amended to read (AB 68 (Ting)):
65852.22.

(a) Notwithstanding Section 65852.2, a local agency may, by ordinance, provide for the creation of junior accessory dwelling units in single-family residential zones. The ordinance may require a permit to be obtained for the creation of a junior accessory dwelling unit, and shall do all of the following:

(1) Limit the number of junior accessory dwelling units to one per residential lot zoned for single-family residences with a single-family residence built, or proposed to be built, on the lot.

(2) Require owner-occupancy in the single-family residence in which the junior accessory dwelling unit will be permitted. The owner may reside in either the remaining portion of the structure or the newly created junior accessory dwelling unit. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.

(3) Require the recordation of a deed restriction, which shall run with the land, shall be filed with the permitting agency, and shall include both of the following:

(A) A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers.

(B) A restriction on the size and attributes of the junior accessory dwelling unit that conforms with this section.

(4) Require a permitted junior accessory dwelling unit to be constructed within the walls of proposed or existing single-family residence.

(5) Require a permitted junior accessory dwelling to include a separate entrance from the main entrance to the proposed or existing single-family residence.

(6) Require the permitted junior accessory dwelling unit to include an efficiency kitchen, which shall include all of the following:

(A) A cooking facility with appliances.

(B) A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

(b) (1) An ordinance shall not require additional parking as a condition to grant a permit.

(2) This subdivision shall not be interpreted to prohibit the requirement of an inspection, including the imposition of a fee for that inspection, to determine if the junior accessory dwelling unit complies with applicable building standards.

(c) An application for a permit pursuant to this section shall, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, be considered ministerially, without discretionary review or a hearing. The permitting agency shall act on the application to create a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family dwelling on the lot. If the permit application to create a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse the local agency for costs incurred in connection with the issuance of a permit pursuant to this section.

(d) For purposes of any fire or life protection ordinance or regulation, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit. This section shall not be construed to prohibit a city, county, city and county, or other local public entity from adopting an ordinance or regulation relating to fire and life protection requirements within a single-family residence that contains a junior accessory dwelling unit so long as the ordinance or regulation applies uniformly to all single-family residences within the zone regardless of whether the single-family residence includes a junior accessory dwelling unit or not.

(e) For purposes of providing service for water, sewer, or power, including a connection fee, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit.

(f) This section shall not be construed to prohibit a local agency from adopting an ordinance or regulation, related to parking or a service or a connection fee for water, sewer, or power, that applies to a single-family residence that contains a junior accessory dwelling unit, so long as that ordinance or regulation applies uniformly to all single-family residences regardless of whether the single-family residence includes a junior accessory dwelling unit.

(g) If a local agency has not adopted a local ordinance pursuant to this section, the local agency shall ministerially approve a permit to construct a junior accessory dwelling unit that satisfies the requirements set forth in subparagraph (A) of paragraph (1) of subdivision (e) of Section 65852.2 and the requirements of this section.

(h) For purposes of this section, the following terms have the following meanings:

(1) "Junior accessory dwelling unit" means a unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

Effective January 1, 2020 Section 17980.12 is was added to the Health and Safety Code, immediately following Section 17980.11, to read (SB 13 (Wieckowski)):

17980.12.

(a) (1) An enforcement agency, until January 1, 2030, that issues to an owner of an accessory dwelling unit described in subparagraph (A) or (B) below, a notice to correct a violation of any provision of any building standard pursuant to this part shall include in that notice a statement that the owner of the unit has a right to request a delay in enforcement pursuant to this subdivision:

(A) The accessory dwelling unit was built before January 1, 2020.

(B) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.

(2) The owner of an accessory dwelling unit that receives a notice to correct violations or abate nuisances as described in paragraph (1) may, in the form and manner prescribed by the enforcement agency, submit an application to the enforcement agency requesting that enforcement of the violation be delayed for five years on the basis that correcting the violation is not necessary to protect health and safety.

(3) The enforcement agency shall grant an application described in paragraph (2) if the enforcement determines that correcting the violation is not necessary to protect health and safety. In making this determination, the enforcement agency shall consult with the entity responsible for enforcement of building standards and other regulations of the State Fire Marshal pursuant to Section 13146.

(4) The enforcement agency shall not approve any applications pursuant to this section on or after January 1, 2030. However, any delay that was approved by the enforcement agency before January 1, 2030, shall be valid for the full term of the delay that was approved at the time of the initial approval of the application pursuant to paragraph (3).

(b) For purposes of this section, "accessory dwelling unit" has the same meaning as defined in Section 65852.2.

(c) This section shall remain in effect only until January 1, 2035, and as of that date is repealed.

**GOV. CODE: TITLE 7, DIVISION 1, CHAPTER 4, ARTICLE 2
AB 587 Accessory Dwelling Units**

Effective January 1, 2020 Section 65852.26 is was added to the Government Code, immediately following Section 65852.25, to read (AB 587 (Friedman)):

65852.26.

(a) Notwithstanding clause (i) of subparagraph (D) of paragraph (1) of subdivision (a) of Section 65852.2, a local agency may, by ordinance, allow an accessory dwelling unit to be sold or conveyed separately from the primary residence to a qualified buyer if all of the following apply:

- (1) The property was built or developed by a qualified nonprofit corporation.
- (2) There is an enforceable restriction on the use of the land pursuant to a recorded contract between the qualified buyer and the qualified nonprofit corporation that satisfies all of the requirements specified in paragraph (10) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code.
- (3) The property is held pursuant to a recorded tenancy in common agreement that includes all of the following:
 - (A) The agreement allocates to each qualified buyer an undivided, unequal interest in the property based on the size of the dwelling each qualified buyer occupies.
 - (B) A repurchase option that requires the qualified buyer to first offer the qualified nonprofit corporation to buy the property if the buyer desires to sell or convey the property.
 - (C) A requirement that the qualified buyer occupy the property as the buyer's principal residence.
 - (D) Affordability restrictions on the sale and conveyance of the property that ensure the property will be preserved for low-income housing for 45 years for owner-occupied housing units and will be sold or resold to a qualified buyer.
- (4) A grant deed naming the grantor, grantee, and describing the property interests being transferred shall be recorded in the county in which the property is located. A Preliminary Change of Ownership Report shall be filed concurrently with this grant deed pursuant to Section 480.3 of the Revenue and Taxation Code.
- (5) Notwithstanding subparagraph (A) of paragraph (2) of subdivision (f) of Section 65852.2, if requested by a utility providing service to the primary residence, the accessory dwelling unit has a separate water, sewer, or electrical connection to that utility.

(b) For purposes of this section, the following definitions apply:

- (1) "Qualified buyer" means persons and families of low or moderate income, as that term is defined in Section 50093 of the Health and Safety Code.
- (2) "Qualified nonprofit corporation" means a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that has received a welfare exemption under Section 214.15 of the Revenue and Taxation Code for properties intended to be sold to low-income families who participate in a special no-interest loan program.

**CIVIL CODE: DIVISION 4, PART 5, CHAPTER 5, ARTICLE 1
AB 670 Accessory Dwelling Units**

Effective January 1, 2020, Section 4751 is was added to the Civil Code, to read (AB 670 (Friedman)):

4751.

- (a) Any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest in a planned development, and any provision of a governing document, that either effectively prohibits or unreasonably restricts the construction or use of an accessory dwelling unit or junior accessory dwelling unit on a lot zoned for single-family residential use that meets the requirements of Section 65852.2 or 65852.22 of the Government Code, is void and unenforceable.
- (b) This section does not apply to provisions that impose reasonable restrictions on accessory dwelling units or junior accessory dwelling units. For purposes of this subdivision, "reasonable restrictions" means restrictions that do not unreasonably increase the cost to construct, effectively prohibit the construction of, or extinguish the ability

to otherwise construct, an accessory dwelling unit or junior accessory dwelling unit consistent with the provisions of Section 65852.2 or 65852.22 of the Government Code.

GOV. CODE: TITLE 7, DIVISION 1, CHAPTER 3, ARTICLE 10.6

AB 671 Accessory Dwelling Units

Effective January 1, 2020, Section 65583(c)(7) of the Government Code ~~is~~ was added to read (sections of housing element law omitted for conciseness) (AB 671 (Friedman)):

65583(c)(7).

Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent, as defined in Section 50053 of the Health and Safety Code, for very low, low-, or moderate-income households. For purposes of this paragraph, "accessory dwelling units" has the same meaning as "accessory dwelling unit" as defined in paragraph (4) of subdivision (i) of Section 65852.2.

Effective January 1, 2020, Section 50504.5 ~~is~~ was added to the Health and Safety Code, to read (AB 671 (Friedman)):

50504.5.

(a) The department shall develop by December 31, 2020, a list of existing state grants and financial incentives for operating, administrative, and other expenses in connection with the planning, construction, and operation of an accessory dwelling unit with affordable rent, as defined in Section 50053, for very low, low-, and moderate-income households.

(b) The list shall be posted on the department's internet website by December 31, 2020.

(c) For purposes of this section, "accessory dwelling unit" has the same meaning as defined in paragraph (4) of subdivision (i) of Section 65852.2 of the Government Code.

Attachment 2: State Standards Checklist

YES/NO	STATE STANDARD*	GOVERNMENT CODE SECTION
	Unit is not intended for sale separate from the primary residence and may be rented.	65852.2(a)(1)(D)(i)
	Lot is zoned for single-family or multifamily use and contains a proposed, or existing, dwelling.	65852.2(a)(1)(D)(ii)
	The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure, or detached from the proposed or existing dwelling and located on the same lot as the proposed or existing primary dwelling.	65852.2(a)(1)(D)(iii)
	Increased floor area of an attached accessory dwelling unit does not exceed 50 percent of the existing primary dwelling but shall be allowed to be at least 800/850/1000 square feet.	65852.2(a)(1)(D)(iv), (c)(2)(B) & C
	Total area of floor area for a detached accessory dwelling unit does not exceed 1,200 square feet.	65852.2(a)(1)(D)(v)
	Passageways are not required in conjunction with the construction of an accessory dwelling unit.	65852.2(a)(1)(D)(vi)
	Setbacks are not required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.	65852.2(a)(1)(D)(vii)
	Local building code requirements that apply to detached dwellings are met, as appropriate.	65852.2(a)(1)(D)(viii)
	Local health officer approval where a private sewage disposal system is being used, if required.	65852.2(a)(1)(D)(ix)
	Parking requirements do not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on an existing driveway.	65852.2(a)(1)(D)(x)(I)

Attachment 3: Bibliography

[ACCESSORY DWELLING UNITS: CASE STUDY](#) (26 pp.)

By the United States Department of Housing and Urban Development, Office of Policy Development and Research. (2008)

Introduction: Accessory dwelling units (ADUs) — also referred to as accessory apartments, ADUs, or granny flats — are additional living quarters on single-family lots that are independent of the primary dwelling unit. The separate living spaces are equipped with kitchen and bathroom facilities and can be either attached or detached from the main residence. This case study explores how the adoption of ordinances, with reduced regulatory restrictions to encourage ADUs, can be advantageous for communities. Following an explanation of the various types of ADUs and their benefits, this case study provides examples of municipalities with successful ADU legislation and programs. Section titles include: History of ADUs; Types of Accessory Dwelling Units; Benefits of Accessory Dwelling Units; and Examples of ADU Ordinances and Programs.

[THE MACRO VIEW ON MICRO UNITS](#) (46 pp.)

By Bill Whitlow, et al. – Urban Land Institute (2014)
Library Call #: H43 4.21 M33 2014

The Urban Land Institute Multifamily Housing Councils were awarded a ULI Foundation research grant in fall 2013 to evaluate from multiple perspectives the market performance and market acceptance of micro and small units.

[SECONDARY UNITS AND URBAN INFILL: A Literature Review](#) (12 pp.)

By Jake Wegmann and Alison Nemirow (2011)
UC Berkeley: IURD
Library Call # D44 4.21 S43 2011

This literature review examines the research on both infill development in general, and secondary units in particular, with an eye towards understanding the similarities and differences between infill as it is more traditionally understood – i.e., the development or redevelopment of entire parcels of land in an already urbanized area – and the incremental type of infill that secondary unit development constitutes.

[RETHINKING PRIVATE ACCESSORY DWELLINGS](#) (5 pp.)

By William P. Macht. Urbanland online. (March 6, 2015)
Library Location: Urbanland 74 (1/2) January/February 2015, pp. 87-91.

One of the large impacts of single-use, single-family detached zoning has been to severely shrink the supply of accessory dwellings, which often were created in or near primary houses. Detached single-family dwelling zones—the largest housing zoning category—typically preclude more than one dwelling per lot except under stringent regulation, and then only in some jurisdictions. Bureaucratically termed “accessory dwelling units” that are allowed by some jurisdictions may encompass market-derived names such as granny flats, granny cottages, mother-in-law suites, secondary suites, backyard cottages, casitas, carriage flats, sidekick houses, basement apartments, attic apartments, laneway houses, multigenerational homes, or home-within-a-home.

[Regulating ADUs in California: Local Approaches & Outcomes](#) (44 pp.)

By Deidra Pfeiffer
Turner Center for Housing and Innovation, UC Berkeley

Accessory dwelling units (ADU) are often mentioned as a key strategy in solving the nation's housing problems, including housing affordability and challenges associated with aging in place. However, we know little about whether formal ADU practices—such as adopting an ordinance, establishing regulations, and permitting—contribute to these goals. This research helps to fill this gap by using data from the Turner California Residential Land Use Survey and the U.S. Census Bureau to understand the types of communities engaging in different kinds of formal ADU practices in California, and whether localities with adopted ordinances and less restrictive regulations have more frequent applications to build ADUs and increasing housing affordability and aging in place. Findings suggest that three distinct approaches to ADUs are occurring in California: 1) a more restrictive approach in disadvantaged communities of color, 2) a moderately restrictive approach in highly advantaged, predominately White and Asian communities, and 3) a less restrictive approach in diverse and moderately advantaged communities. Communities with adopted ordinances and less restrictive regulations receive more frequent applications to build ADUs but have not yet experienced greater improvements in housing affordability and aging in place. Overall, these findings imply that 1) context-specific technical support and advocacy may be needed to help align formal ADU practices with statewide goals, and 2) ADUs should be treated as one tool among many to manage local housing problems.

[ADU Update: Early Lessons and Impacts of California's State and Local Policy Changes](#) (8 p.)

By David Garcia (2017)
Turner Center for Housing and Innovation, UC Berkeley

As California's housing crisis deepens, innovative strategies for creating new housing units for all income levels are needed. One such strategy is building Accessory Dwelling Units (ADUs) by private homeowners. While large scale construction of new market rate and affordable homes is needed to alleviate demand-driven rent increases and displacement pressures, ADUs present a unique opportunity for individual homeowners to create more housing as well. In particular, ADUs can increase the supply of housing in areas where there are fewer opportunities for larger-scale developments, such as neighborhoods that are predominantly zoned for and occupied by single-family homes. In two of California's major metropolitan areas -- Los Angeles and San Francisco -- well over three quarters of the total land area is comprised of neighborhoods where single-family homes make up at least 60 percent of the community's housing stock. Across the state, single-family detached units make up 56.4 percent of the overall housing stock. Given their prevalence in the state's residential land use patterns, increasing the number of single-family homes that have an ADU could contribute meaningfully to California's housing shortage.

[Jumpstarting the Market for Accessory Dwelling Units: Lessons Learned from Portland, Seattle and Vancouver](#) (29 pp.)

By Karen Chapple et al (2017)
Turner Center for Housing and Innovation, UC Berkeley

Despite government attempts to reduce barriers, a widespread surge of ADU construction has not materialized. The ADU market remains stalled. To find out why, this study looks at three cities in the Pacific Northwest of the United States and Canada that have seen a spike in construction in recent years: Portland, Seattle, and Vancouver. Each city has adopted a set of zoning reforms, sometimes in combination with financial incentives and outreach programs, to spur ADU construction. Due to these changes, as well as the acceleration of the housing crisis in each city, ADUs have begun blossoming.

[Accessory Dwelling Units as Low-Income Housing: California's Faustian Bargain](#) (37 pp.)

By Darrel Ramsey-Musolf (2018)

University of Massachusetts Amherst, ScholarWorks@UMass Amherst

In 2003, California allowed cities to count accessory dwelling units (ADU) towards low-income housing needs. Unless a city's zoning code regulates the ADU's maximum rent, occupancy income, and/or effective period, then the city may be unable to enforce low-income occupancy. After examining a stratified random sample of 57 low-, moderate-, and high-income cities, the high-income cities must proportionately accommodate more low-income needs than low-income cities. By contrast, low-income cities must quantitatively accommodate three times the low-income needs of high-income cities. The sample counted 750 potential ADUs as low-income housing. Even though 759 were constructed, no units were identified as available low-income housing. In addition, none of the cities' zoning codes enforced low-income occupancy. Inferential tests determined that cities with colleges and high incomes were more probable to count ADUs towards overall and low-income housing needs. Furthermore, a city's count of potential ADUs and cities with high proportions of renters maintained positive associations with ADU production, whereas a city's density and prior compliance with state housing laws maintained negative associations. In summary, ADUs did increase local housing inventory and potential ADUs were positively associated with ADU production, but ADUs as low-income housing remained a paper calculation.

**ANNOTATED AGENDA
BERKELEY CITY COUNCIL MEETING
Tuesday, January 26, 2021
6:00 PM**

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.

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

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/87354849181>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.

*To join by phone: Dial 1-669-900-9128 or 1-877-853-5257 (Toll Free) and enter Meeting ID: 873 5484 9181. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.*

To submit an e-mail comment during the meeting to be read aloud during public comment, email clerk@cityofberkeley.info with the Subject Line in this format: "PUBLIC COMMENT ITEM ##." Please observe a 150 word limit. Time limits on public comments will apply. Written comments will be entered into the public record.

Please be mindful that the teleconference will be recorded as any Council meeting is recorded, and all other rules of procedure and decorum will apply for Council meetings conducted by teleconference or videoconference.

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, (510) 981-6900. The City Council may take action related to any subject listed on the Agenda. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.

Council Consent Items

10. **Budget Referral to Reinstate Partial Funding for the Gun Buyback Program Previously Authorized by City Council** *(Continued from November 10, 2020)*
From: Councilmember Kesarwani (Author), Mayor Arreguin (Co-Sponsor), Councilmember Davila (Co-Sponsor)
Recommendation: Refer to the FY 2020-21 November Amendment to the Annual Appropriations Ordinance (AAO #1) \$40,000 to reinstate partial funding for the Gun Buyback Program—originally proposed by Councilmember Cheryl Davila and authorized by the City Council on Nov. 27, 2018.
Financial Implications: \$40,000
 Contact: Rashi Kesarwani, Councilmember, District 1 (510) 981-7110
Action: Approved recommendation revised to be a referral to the FY 2022 budget process.
11. **Short Term Referral to City Manager, Disaster and Fire Safety Commission and Planning Commission to Amend Local Accessory Dwelling Unit (ADU) Zoning Ordinance and Berkeley's Fire Code**
From: Councilmember Wengraf (Author), Councilmember Hahn (Co-Sponsor)
Recommendation: Refer to the City Manager, the Disaster and Fire Safety Commission and the Planning Commission to evaluate and recommend to Council within 90 days, a set of ordinance amendments and implementation programs to address emergency access and egress, parking and objective development standards to address the constraints presented by high fire hazard conditions and narrow and curving roadways in Fire Zones 2 and 3. (Attachment 1 to the report). Recommendations to Additional Objective Development Standards in Zones 2 and 3:
 -Zone 2 and 3 - limit the base maximum size of newly constructed, detached ADUs to 850 sq. feet. -Zone 2 and 3 – require compliance with front yard, side yard and open space and coverage requirements of the applicable zoning district.
 Recommendations to amend the Fire Code: -Prohibit parking on streets where egress and ingress will be adversely impacted by additional vehicles and increased population. -Require sprinklers in new construction, consistent with local Fire Code. - Explore their authority under California Health and Safety Code Sec. 13869.7 to mitigate the adverse impacts of ADU creation in requiring safe and adequate ingress and egress routes and sufficient off-street parking.
Financial Implications: Staff time
 Contact: Susan Wengraf, Councilmember, District 6 (510) 981-7160
Action: Approved recommendation revised to add the underlined phrase, “...and objective development standards for ADUs in all districts with expedited consideration to address the constraints presented by high fire hazard conditions and narrow and curving roadways in Fire Zones 2 and 3.”



Planning Commission

**FINAL MINUTES OF THE REGULAR PLANNING COMMISSION MEETING
APRIL 7, 2021**

The meeting was called to order at 7:02 p.m.

Location: Virtual meeting via Zoom

1. ROLL CALL:

Commissioners Present: Janis Ching, Barnali Ghosh, Savlan Hauser, Robb Kapla, Shane Krpata, Christine Schildt, Jeff Vincent, and Brad Wiblin.

Commissioners Absent: Benjamin Beach and Mary Kay Lacey.

Staff Present: Secretary Alene Pearson, Katrina Lapira, Steve Buckley, Chris Jensen, Paola Boylan, and Kieron Slaughter.

2. ORDER OF AGENDA: No changes.

3. PUBLIC COMMENT PERIOD: 1

4. PLANNING STAFF REPORT:

- Please refer to information items.

Information Items:

- City Council – Objective Standards Recommendations for Density, Design and Shadows
- City Council – Initiation of Public Process and Zoning Concepts for 2023-2031 Housing Element

Communications:

- March 30 – CA Department of Food and Agriculture – Cannabis Appellations Program
- March 31 – Business Owner – Berkeley Marina Kosher Market

Late Communications: *See agenda for links.*

- Supplemental Packet One
- Supplemental Packet Two
- Supplemental Packet Three

5. CHAIR REPORT:

- None.

6. COMMITTEE REPORT: Reports by Commission committees or liaisons. In addition to the items below, additional matters may be reported at the meeting.

- BART Community Advisory Group (CAG) – Held a meeting on March 22 to further the discussion about the vision and priorities document. A draft zoning document is now available for public review on the CAG website. The next meeting will be about access planning to the respective BART sites.

7. APPROVAL OF MINUTES:

Motion/Second/Carried (Wiblin/Krpata) to approve the Planning Commission Meeting Minutes from March 17, 2021, with incorporated amendments to lines 82 and 90.

Ayes: Ghosh, Hauser, Kapla, Krpata, Schildt, and Wiblin. Noes: None. Abstain: Vincent and Ching. Absent: Beach. (6-0-2-1)

8. FUTURE AGENDA ITEMS AND OTHER PLANNING:

- May 5
 - Re-zone of Parcels to Commercial Adeline Corridor (C-AC)
 - Presentation on City-Wide Affordable Housing Requirements by Rick Jacobus

AGENDA ITEMS

9. Action: Response to Short Term Referral for Amendments to the ADU Ordinance and Related Definitions to Address Public Safety Concerns

Staff shared the proposed amendments to the local ADU Ordinance in response to the Council's Short Term referral. The proposed amendments focused on codifying State ADU regulations and modifications to ADU size and front yard setbacks to address public safety concerns. Commission discussion focused primarily on clarification of State ADU law and options for local changes to ADU size, setbacks, height and neighbor noticing. An additional two feet of height was incorporated into the final motion for Council consideration to allow design flexibility. The rationale for a Maximum Height of 18 feet -- without an increase in Maximum Size -- is that two-story ADUs reduce the ADU footprint, increasing Open Space, decreasing Lot Coverage and allowing flexible configurations on smaller lots.

Motion/Second/Carried (Barnali/Vincent) to close the public hearing on the Response to Short Term Referral for Amendments to the ADU Ordinance and Related Definitions to Address Public Safety at 8:55pm.

Ayes: Ching, Ghosh, Hauser, Kapla, Krpata, Schildt, Vincent, and Wiblin. Noes: None. Abstain: None. Absent: Beach. (8-0-0-1)

Motion/Second/Carried (Kapla/Schildt) to adopt staff's recommendation with the following edits and a request to add neighbor notification of Building Permit issuance to the administrative process of application approval:

- Amend 23C.24.010.B.1 to read: *One ADU and/or one JADU is allowed on a lot with one Single Family Dwelling.*
- Delete 23C.24.010.B.5: *One JADU is allowed on a lot with one Single Family Dwelling.*
- Add 23C.24.040.A.6 to read: *A JADU is subject to the Development Standards in paragraph B and G.*
- Amend 23C.24.040.C to read:
 1. *Maximum Height of a ~~free-standing detached~~, new construction ADU is 16-18 feet.*
 2. *Maximum Height of new square footage added to a Single Family Dwelling, Accessory Building or Accessory Structure to create an ADU is 16 18 feet.*

Ayes: Ching, Ghosh, Hauser, Kapla, Krpata, Schildt, Vincent, and Wiblin. Noes: None. Abstain: None. Absent: Beach. (8-0-0-1)

Public Comments: 10

10. Action: Response to Support Small Businesses Referral: Amendments to the Sign Ordinance to Establish a Master Sign Program

Staff presented proposed modifications to the Sign Ordinance, which included establishing a Master Sign Program, clarifying ordinance language, and exempting in-kind replacement of signs. The Commission discussed minor amendments the Zoning Ordinance to maintain consistency with the Sign Ordinance. Corresponding references to the Zoning Ordinance were highlighted by staffs and commission discussion centered on clarifying ordinance language to improve readability.

Motion/Second/Carried (Wiblin/Krpata) to adopt staff's recommendations with suggested edits to 23E.08.020.C [Applicability] as follows:

C. Permits Zoning Certificates, Administrative Use Permits, Use Permits, and Variances for projects that are subject to design review ~~may not be issued without design review approval, except that they may be issued~~ may be approved conditional upon final design review such approval occurring before the issuance a building permit or for a permit for a sign permit (as set forth in BMC Chapter 20.12.010 ~~(of the Sign Ordinance)~~).

Ayes: Ching, Ghosh, Hauser, Kapla, Krpata, Schildt, Vincent, and Wiblin. Noes: None. Abstain: None. Absent: Beach (8-0-0-1)

Public Comments: 1

Motion/Second/Carried (Kapla/Ghosh) to adjourn the Planning Commission meeting at 10:10pm.

Ayes: Ching, Ghosh, Hauser, Kapla, Krpata, Schildt, Vincent, and Wiblin. Noes: None.
Abstain: None. Absent: Beach (8-0-0-1)

Members in the public in attendance: 23

Public Speakers: 11 speakers

Length of the meeting: 3hr 8 minutes

**NOTICE OF PUBLIC HEARING - BERKELEY CITY COUNCIL
AMENDMENTS TO ACCESSORY DWELLING UNIT (ADU) ORDINANCE TO ADDRESS
PUBLIC SAFETY CONCERNS**

The Department of Planning and Development is proposing that the City Council adopt a local Accessory Dwelling Unit (ADU) Ordinance that complies with State ADU law. The proposed Zoning Ordinance amendments are consistent with Government Code Sections 65852.2 and 65852.22 and include local regulations for the size, location, and other development standards for ADUs. The proposed Zoning Ordinance amendments also address public safety measures to the extent they are allowable by State law.

Public Hearing Information

The hearing will be held on July 13, 2021 at 6:00 p.m. The hearing will be held via videoconference pursuant to Governor’s Executive Order N-29-20.

A copy of the agenda material for this hearing will be available on the City’s website at www.CityofBerkeley.info as of **July 1, 2021**. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology.**

Written comments should be mailed directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or emailed to council@cityofberkeley.info in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

For further information, please contact Alene Pearson, Principal Planner, Planning and Development Department at (510) 981-7489.

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. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or clerk@cityofberkeley.info for further information.

Published: July 2, 2021 – The Berkeley Voice

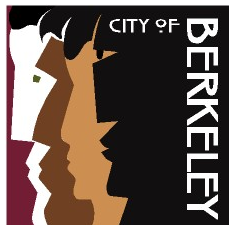
City Clerk shall publish a notice at least 10 days prior to the date of the public hearing with the date, hour, and place of the public hearing for annual levy and collection of assessments in accordance with Streets and Highway Code Sections 22625, 22626, 22552, and 22553 and Section 6061 of the Government Code.

~~~~~  
I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City’s website, on July 1, 2021.

  
\_\_\_\_\_  
Mark Numainville, City Clerk







Office of the City Manager

## **SUPPLEMENTAL AGENDA MATERIAL for Supplemental Packet 1**

**Meeting Date:** June 1, 2021

**Item Number:** 19

**Item Description:** Adopt a Resolution Updating City of Berkeley Street Maintenance and Rehabilitation Policy

**Submitted by:** Joe Enke, Secretary, Public Works Commission

Supplemental material contains the Public Works Commission's council report entitled, Recommendation for Updates to the City of Berkeley Street Rehabilitation and Repair Policy.



Public Works Commission

May 25, 2021

To: Berkeley City Council

From: Public Works Commission (PWC)

Submitted By: Margo Schueler, Chair

Subject: Recommendation for Updates to the City of Berkeley Street Rehabilitation and Repair Policy

RECOMMENDATION

Review and adopt updates to the Street Rehabilitation and Repair Policy (Policy).

SUMMARY

The City's Street Rehabilitation and Repair Policy Section 5.2 provides that the Policy shall be reviewed annually and updated formally by the City Council, with advice of the Public Works Commission.

The Short-Term Paving Policy Subcommittee of the PWC developed these updates to the Policy which focus on enhancements to equity, and roadway condition performance targets achievable over time that may be tracked during staff's development of the Annual 5 Year Paving Plan.

The Subcommittee worked with City staff and applied their own extensive individual expertise to this work. The PWC reviewed and unanimously accepted these recommended updates to the Policy and forwarded them for discussion to the Facilities, Infrastructure, Transportation, Environment & Sustainability (FITES) Council Subcommittee on two occasions. PWC Director Liam Garland provided separate input and recommendations to the FITES and his staff attended both meetings, with the Council Members engaging in detailed discussion and providing input that was incorporated by PWC staff and returned to the PWC for review.

The updated policy includes changes designed to simplify planning, enhance equity of road condition across the City, identify new funding sources, enhance alignment with the City's broader infrastructure plans and environmental goals, establish roadway condition performance targets, establish a "Dig Once" policy, and leverage demonstration projects and use of new technologies.

The updates initiated by the PWC Short Term Paving Policy Subcommittee demonstrate responsiveness to issues which continue to rise in our nation and community and will

increase Berkeley's competitiveness for upcoming federal infrastructure aid. The work is responsive to analysis and recommendations made by the Auditor's Reports on Paving, are reflective of the City's Climate Change and Complete Streets Policies and reflect the values adopted by Council included in the Mayor's Vision 2050 Initiative.

#### FISCAL IMPACTS OF RECOMMENDATION

The update of this policy will not result in any new costs to the City's Paving Program. The updated Policy provides new guidance on how to prioritize the allocation of resources that are available to City Staff to invest in roadway surfacing. The Policy focuses roadway improvements on roads that are shared by the largest number of the City's residents as well as neighborhoods that have historically received lower levels of investment. To achieve a "good" level of service across the City, additional funding will be needed.

#### CURRENT SITUATION AND ITS EFFECTS

The current Street Repair and Maintenance Policy directs the City of Berkeley to maintain our streets in safe, good condition that protects our environment and to properly maintain the existing investment in City assets.

By clarifying and stating outright in Section 2, Assumptions, underlying assumptions will allow staff to develop priorities and metrics that will enable our Council leaders and the community to assess the success of our Paving Plans. will help inform the goals, objectives, and outcomes of the 5-year plan.

In recognition of the challenges of providing annual Policy update recommendations to the Council, the recommendation is to aim for updates every two years.

The PWC would like to acknowledge the depth and breadth of this policy update bringing input from the community through the service of expert community members appointed by Council to the PWC, the collaboration with City Public Works staff and leadership and the review and discussion during two FITES Subcommittee cycles is bringing forth a well thought out, elegant policy update achieving the balanced approach of our community through the commission process, staff input, consideration, review and augmentation followed by Council Subcommittee discussion and amendment is a remarkable achievement by our community, particularly as it has occurred during one of the longest, deepest crisis the City has managed through.

#### RECOMMENDATION

The attached Update to the Policy reflects the collective efforts of the PWC, Public Works Department, and the members of the FITES to lead the City towards broader improvements in citywide roadway condition. The approach aims to achieve this goal by shifting toward maintaining the roads that serve the greatest number of residents, enhancing coordination of roadway improvements with other plans and infrastructure work, and focusing on enhancing safety and equity of outcomes for the City's residents.

The PWC recommends that Council accept the recommendation to update the 2009 Street Rehabilitation and Repair Policy.



Kate Harrison  
Councilmember District 4

ACTION CALENDAR

July 13, 2021

*(Continued from June 1, 2021)*

To: Honorable Mayor and Members of the City Council

From: Councilmember Harrison, Councilmember Bartlett, and Councilmember Taplin

Subject: Adopt a Resolution Updating City of Berkeley Street Maintenance and Rehabilitation Policy

RECOMMENDATION

1. Adopt a Resolution updating the City's Street Maintenance and Rehabilitation Policy dated June 1, 2021.
2. Refer the exploration of potential bonding and funding opportunities for improving the PCI of streets and creating a Paving Master Plan back to the FITES Committee for further review.

CURRENT SITUATION, EFFECTS, AND RATIONALE FOR RECOMMENDATION

Resolution No. 55,384-N.S. (1990) as subsequently updated by Resolution No. 64,733-N.S. (2009) authorized the Public Works Commission to work with staff to submit an annual update to the Street Repair Policy. However, the Street Paving Plan has been updated every year but the Street Repair Policy has not been updated for many years. The Public Works Department maintains 214 miles of streets in the City of Berkeley, with a replacement value of over \$793 million and Berkeley's current Pavement Condition Index is at 57, which means that the condition of our streets is very much "At-Risk." The new policy included in this item seeks to achieve improvements to PCI while ensuring equity.

It is in the public interest to adopt a new paving policy, which includes best practices and new strategies, as developed by the Public Works Commission, Public Works Department and the Facilities, Infrastructure, Transportation, Environment & Sustainability Policy Committee.

It is also important for the Committee to continue its work on opportunities for improving the PCI of streets and creating a Paving Master Plan back to the FITES Committee for further review.

POLICY COMMITTEE RECOMMENDATION

Action: 1 speaker. M/S/C (Robinson/Harrison) move the Public Works supplemental item “City of Berkeley Street Maintenance and Rehabilitation Policy to Council” with a positive recommendation including amendments made during the meeting today, and ask Council to refer the exploration of potential bonding and funding opportunities for improving the PCI of streets and creating a Paving Master Plan back to the FITES Committee for further review.

Vote: All Ayes

BACKGROUND

A sub quorum of the Public Works Commission and the Public Works Department have been working intensively over the past year to revise the City of Berkeley Street Maintenance and Rehabilitation Policy to conform to best practices in other cities and to enhance equity and outcomes. The initial policy was adopted by the Council in 1990 and was subsequently updated in 2006 (see attached). For example, the current policy includes an outdated conception of equity based on Council districts, lacks PCI targets for major street types and Performance Metrics, and a “Dig Once” policy.

Amidst the backdrop of significantly deteriorating street conditions and the climate emergency, Councilmember Harrison concurrently submitted a referral to the FITES Committee to explore potential bonding and funding opportunities for improving the Paving Condition Index (PCI) of streets during the 2020 5-year paving plan adoption process. FITES spent a number of meetings discussing with Public Works staff and members of strategies to improve PCI and funding options. The Council subsequently agreed to extend the mandate of the Committee and also to expand their role to consider:

- the Public Works Commission Paving Policy, which sets criteria for determining *how* to pave streets;
- a paving master plan, which will set out *long-range financing plan* for doing so; and
- continue working with the Public Works Department and the Commission to explore potential bonding and funding opportunities to make the paving master plan a reality.

These efforts are in addition to a rolling five-year *short term paving plan* adopted by the Council to allow staff to bid out specific street segments for the next year’s work. Therefore, the Council designated the FITES committee with the task of reviewing the final version of the new Paving Policy.

The prior Paving Policy:

- is the basis of the rolling a 5-year Street Rehabilitation Plan;
- aims to maintain a safe surface conveyance system in the public right-of-way for vehicles, bicycles, transit and pedestrians;
- breaks streets into three categories: Arterials; Collectors and Residentials
- provides that federal, state, regional and local transportation funds are to be invested as follows:
  - 10% for Arterials
  - 50% for Collectors
  - 25% for Residentials
  - 15% for Discretionary and Demonstration Projects;
- provides for direction regarding water conveyance systems, other public utilities and trenching practices.

The Public Works Commission and FITES Committee framed their work around the following key principles, including but not limited to:

- The City's climate goals, especially its transportation goals (60% of City emissions are from transport); the importance of shifting away from traditional asphalt approaches to paving in order to reduce emissions and ensure longevity;
- Issues of equity, distribution of paving and addressing that certain commercial uses have a disproportionate impact on road conditions;
- The imperative of maintaining baseline lifecycle street conditions amidst a severe lack of funding for paving maintenance.
- A more comprehensive approach to paving with regard to utility upgrades as we begin to phase out natural gas and build advanced internet communication networks;
- Rapid deployment of pedestrian, bicycle and mobility improvements, i.e., the evolving street;
- Water management best practices (permeable pavers) or landscaping that is visually pleasing, human health supportive, and plant, insect, and animal sustaining.

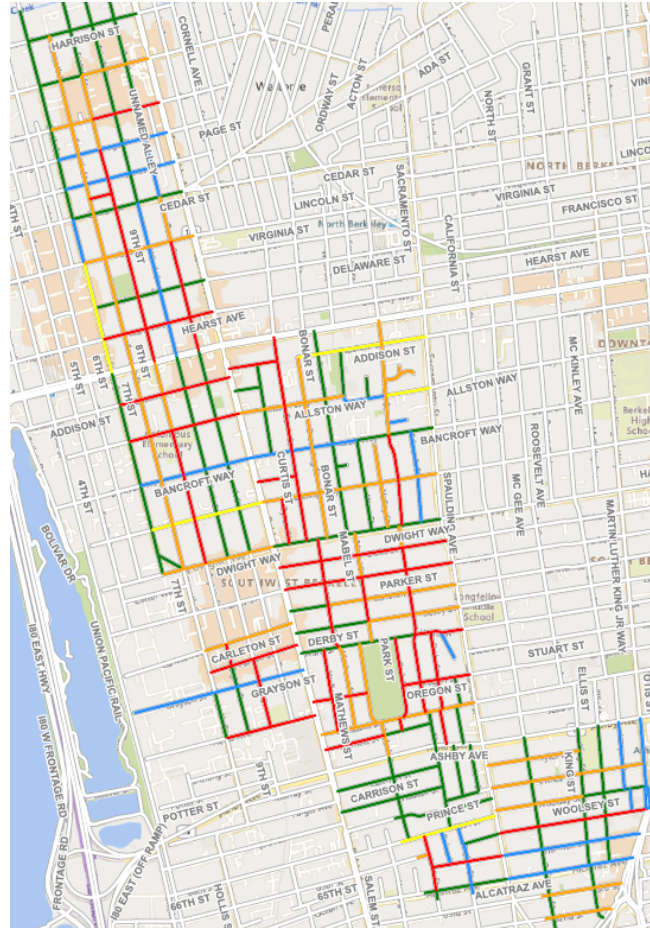
The updated paving policy included in this item incorporates the following assumptions:

- That there is currently not enough paving funding to stabilize PCI across all neighborhoods, especially with regard to residential streets. Rather, the policy attempts to achieve short-term stabilization of citywide arterials, collectors, bus routes, existing and proposed low-stress bikeway network. Concurrently, the Commission, staff and FITES are working on a paving master plan and funding opportunities that will adequately fund residential streets. Therefore, it is expected that the paving policy will be updated again in conjunction with the availability of new funding.
- Adopts an expanded emphasis on climate and sustainability and expanded conformance to the City's Climate Action Plan, Green Infrastructure Plan, Resilience Strategy, Vision Zero Policy and Action Plan, Phase 3 Undergrounding Study, Complete Streets Policy, Vision 2050 framework, Pedestrian Plan, Transit First Policy, Strategic Transportation Plan, public realm and/or other localized transportation plans, and Bicycle Plan;
- Recognizes that poorly maintained streets have a disproportionate impact on certain members of the community, including low-income residents; those with mobility or visual impairments who face greater access and safety challenges; bicyclists and pedestrians, who face greater danger than those driving; and dense, more populous neighborhoods with thoroughfares;
- Emphasizes using life cycle cost analysis to evaluate different road surfacing options;
- Promotes the rehabilitation of contiguous sections of roadway, rather than one block at a time, shall be preferred, when feasible;
- States that bond funds shall strive to be used for long-lasting capital improvements (projects with a useful life that meets or exceeds the duration of the bond repayment schedule) or to accelerate road work that will result in long-term cost savings for ratepayers;
- Asserts that street trees are valuable part of the landscape, as they sequester carbon, soak up stormwater, improve land values, and add greenery;
- Asserts that tree removals shall only be permitted as a last resort consistent with BMC 12.44.020, with the approval of both the Director of Parks and Waterfront and Director of Public Works. If tree removal is necessary, replacement trees shall be planted where and when feasible in accordance with BMC 12.44.010.

In addition, the new policy incorporates the following new policies:

- **Planning**
  - The *5-year Street Rehabilitation Plan* shall be supported by a 30-year road surfacing projection, where roadway improvement projects are forecast over a long-term planning period. The first five years of the projection will become the first draft of the *5-year Plan*.
  
- **Equity**
  - The benefits of good infrastructure shall be distributed equitably throughout the entire community regardless of the income, or demographic characteristics of the residents in each area. Equity means equity of outcomes as opposed to equity of inputs, and that disadvantaged residents with more pressing needs experience benefits sooner than others, as defined by the City within the adopted *5-Year Plan*.
  
  - A new *Equity Zone* shall be established according to Attachment 1. This Zone shall be prioritized to meet an average PCI of 70 sooner than the remainder of the City. This Zone contains historically underserved neighborhoods that have experienced decades of underinvestment, and the residents in this zone experience more pressing needs.





- Over the longer term, road surfacing activities shall be planned within Pavement Analysis Zones. A Pavement Analysis Zone shall consist of a logical set of street segments, excluding the arterials, collectors, bus routes, bicycle boulevards and non-representative demonstration projects.
  - The department may revise the pavement analysis zone boundaries from time to time, consistent with the other goals of this policy. Any changes to pavement analysis units shall be proposed within the biannually updated 5-year *Street Rehabilitation Plan* submitted to City Council.
  - It shall be the goal of the City to seek parity of street condition between pavement analysis zones, except in regards to the *Equity Zone*.
- **Performance Metrics**

- The City will strive to maintain all roads within the primary transportation network at a standard no less than the following PCI targets for any stretch of roadway<sup>1</sup>:
    - i. Arterial - 70,
    - ii. Collector - 70,
    - iii. Bus Routes - 70,
    - iv. Existing and proposed low-stress bikeway network - 70.
      - 1. Bikeways shall be surfaced with a treatment that emphasizes smoothness of the road surface.
    - v. Equity Zone- 70.
  - The biannually updated *5-year plan* shall report on these performance metrics, PCI measurements for each street segment in the City, and percent of overall funding dedicated to each of the following: arterials, collectors, bus routes, existing and proposed low-stress bikeway network, equity zone, and residential streets.
- **Dig Once**
    - Street rehabilitation shall conform with a dig once approach. This includes coordinating with sewer, water, electrical, telecom, undergrounding and other activities to minimize the cost and maintain the quality of the street surface.
    - In order to protect the City's investment on street improvements, the City shall place a moratorium on recently paved streets that prohibits digging through them for up to five years, excluding emergency work.
  - **Demonstration Projects and Use of New Technologies**
    - To the extent practical, the City shall evaluate the use of permeable pavement, concrete pavement, and other street surface technologies using life cycle cost analysis.
    - The use of new technologies that provide enhanced durability, lower cost, and more environmentally beneficial impacts shall be evaluated and reviewed in the biannually adopted *5 Year Street Rehabilitation Plan*.

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<sup>1</sup> PCI of 70 is the lower threshold of what is considered "Good." Streets that fall below a "good" condition require much more expensive repair process.

- **Plan and Policy Development and Update**

- Every two years, in line with the City’s budgeting process, the *5-year Street Rehabilitation Plan* adopted by City Council shall include a funding sufficiency analysis based on the existing deferred maintenance at that point to determine what level of funding is required to maintain our streets in safe, good condition that protects our environment and properly maintains the existing investment in City assets.
- Identify new funding sources such as:
  - Heavy vehicles, which have a disproportionate impact on the degradation of paved assets, and
  - Transportation Network Company (TNC) vehicles.
- At a minimum, this *Street Maintenance and Rehabilitation Policy* shall be reviewed and adopted by the City Council every five years, with advice of the Public Works Commission.

It is the public interest to adopt these updates through the attached Resolution to improve the lives of Berkeleyans, protect the environment and promote equitable outcomes.

FINANCIAL IMPLICATIONS

Staff time will be necessary to implement the new paving policy.

ENVIRONMENTAL SUSTAINABILITY

Supporting low-carbon paving policies will complement and accelerate Berkeley’s ongoing efforts to reduce carbon emissions at an emergency and equitable pace in line with the Climate Action Plan and Climate Emergency Declaration.

CONTACT PERSON

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

ATTACHMENTS

1. Resolution
2. 2006 Street Maintenance and Rehabilitation Policy

RESOLUTION NO. -N.S.

ADOPTING THE 2021 STREET MAINTENANCE AND REHABILITATION POLICY  
UPDATE

WHEREAS, Resolution No. 55,384-N.S. (1990) as subsequently updated by Resolution No. 64,733-N.S. (2009) authorized the Public Works Commission to work with staff to submit an annual update to the Street Repair Policy and the annual Street Paving Plan; and

WHEREAS, the Street Paving Plan has been updated every year but the Street Repair Policy has not been updated for many years; and

WHEREAS, the Public Works Department maintains 214 miles of streets in the City of Berkeley, with a replacement value of over \$793 million; and

WHEREAS, Berkeley's current Pavement Condition of Index is 57, which means that the condition of our streets is very much "At-Risk"; and

WHEREAS, the Public Workers Commission and Public Works Department established a working group to consider updates to the paving policy to improve planning outcomes, ensure equity, identify new funding sources, better align with environmental goals, implement performance metrics, establish a "Dig Once" policy, and leverage demonstration projects and use of new technologies; and

WHEREAS, on April 21, 2021 Facilities, Infrastructure, Transportation, Environment & Sustainability Policy Committee moved the updated policy including amendments to the Council; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the following Street Repair Policy update dated June 2021 is hereby adopted:

## **City of Berkeley Street Maintenance and Rehabilitation Policy**

### **Section 1. General Policy**

It is the policy of the City of Berkeley to maintain our streets in safe, good condition that protects our environment and to properly maintain the existing investment in City assets. Staff will implement a Citywide road resurfacing plan that will ensure street maintenance and repair in a timely manner, reduce long term-replacement costs, and provide for the safe and efficient use of our streets. The users of the street surface in the public right-of-way include powered vehicles, bicycles, transit, and pedestrians. The right-of-way also provides for storm water conveyance and is the location of many public utilities.

The policy requires that a *5-year Street Rehabilitation Plan* for the entire City be prepared and adopted biannually in line with the City's budget process. Any changes to the *5-year Plan* made in the interim shall be reported to City Council. Streets and their surfacing treatment shall be prioritized using a multi-criteria adaptive planning framework to achieve sustainable, resilient, and integrated solutions for the City's right-of-way and the downstream environments. The criteria shall consider equity, quality of life, safety, opportunities for leadership, resource allocation, environmental impacts, and climate and resilience.

This section of the policy defines basic assumptions that inform the goals, objectives, and outcomes of the *5-year plan*.

1. This policy defines the priorities for managing the road surface infrastructure from curb to curb. This policy does not provide guidance on how to prioritize sidewalks or other infrastructure associated with complete streets planning.
2. Streets include arterial, collector, residential, and commercial/industrial streets as defined in Berkeley's General Plan.
3. Consistency with the City's General Plan policy of encouraging use of forms of transportation other than automobiles.
4. Conformance with the Regional Water Quality Control Board's stormwater permit requirements.
5. Support of the City's plans and updates thereto, including the City's Climate Action Plan, Green Infrastructure Plan, Resilience Strategy, Vision Zero Policy and Action Plan, Phase 3 Undergrounding Study, Complete Streets Policy, Vision 2050 framework, Pedestrian Plan, Transit First Policy, Strategic Transportation Plan, public realm and/or other localized transportation plans, and Bicycle Plan.
6. Poorly maintained streets have a disproportionate impact on certain members of the community:
  - a) Low-income residents are more seriously impacted by higher vehicle repair costs than higher income residents;
  - b) Those with mobility or visual impairments face greater challenges of unequal access and safety compared to those without such challenges;
  - c) Bicyclists and pedestrians face greater danger than those driving; and
  - d) Poorly maintained streets in dense, more populous neighborhoods are detrimental to more users than poorly maintained streets in less dense neighborhoods.
7. Utility trench and pothole repair work shall be done in accordance with permit conditions, standard details, and/or standard operating procedures adopted by the Public Works Department.
8. To the extent practical, the City shall use life cycle cost analysis to evaluate different road surfacing options.
9. Runoff from roadways carry pollutants that negatively impact public health, creeks and streams, and the Bay.
10. Street trees are valuable part of the landscape, as they sequester carbon, soak up stormwater, improve land values, and add greenery.
11. The Metropolitan Transportation Commission requires the use of a Pavement Management Tool (such as StreetSaver). Pavement Management Tools are used to optimize road surface conditions through the use of a Pavement Condition Index (PCI) performance metric.

### **Section 3. Funding**

The *Five-year Street Rehabilitation Plan* shall identify all available funding and the sources used to deliver the proposed road improvement projects. This shall include Federal, State, County and City funding sources. In the event that the planned projects are not able to achieve the City's desired roadway condition level of service, the *Five-year Plan* should identify the level of funding and activities needed to expand roadway improvements to achieve the stated goals of this policy. Bond funds shall strive to be used for long-lasting capital improvements (projects with a useful life that meets or exceeds the duration of the bond repayment schedule) or to accelerate road work that will result in long-term cost savings for ratepayers.

### **Section 4. Specific Policy**

1. Planning

- a) The *5-year Street Rehabilitation Plan* shall be supported by a 30-year road surfacing projection, where roadway improvement projects are forecast over a long-term planning period. The first five years of the projection will become the first draft of the *5-year Plan*.
- b) To the extent financially practical, implementation of the paving plan shall advance plans identified in section 2.5.
- c) Rehabilitation of contiguous sections of roadway, rather than one block at a time, shall be preferred, when feasible.
- d) Tree removals shall only be permitted as a last resort consistent with BMC 12.44.020, with the approval of both the Director of Parks and Waterfront and Director of Public Works. If tree removal is necessary, replacement trees shall be planted where and when feasible in accordance with BMC 12.44.010.

2. Equity

- a) The benefits of good infrastructure shall be distributed equitably throughout the entire community regardless of the income, or demographic characteristics of the residents in each area. Equity means equity of outcomes as opposed to equity of inputs, and that disadvantaged residents with more pressing needs experience benefits sooner than others, as defined by the City within the adopted *5-Year Plan*
- b) A new *Equity Zone* shall be established according to Attachment 1. This Zone shall be prioritized to meet an average PCI of 70 sooner than the remainder of the City. This Zone contains historically underserved neighborhoods that have experienced decades of underinvestment, and the residents in this zone experience more pressing needs and receive benefits sooner.
- c) Over the longer term, road surfacing activities shall be planned within Pavement Analysis Zones. A Pavement Analysis Zone shall consist of a logical set of street segments, excluding the arterials, collectors, bus routes, bicycle boulevards and non-representative demonstration projects.
  - a. The department may revise the pavement analysis zone boundaries from time to time, consistent with the other goals of this policy. Any changes to pavement analysis units shall be proposed within the biannually updated *5-year Street Rehabilitation Plan* submitted to City Council.
  - b. It shall be the goal of the City to seek parity of street condition between pavement analysis zones, except in regards to the *Equity Zone*.

3. Performance Metrics

- a) The City will strive to maintain all roads within the primary transportation network at a standard no less than the following PCI targets for any stretch of roadway<sup>1</sup>:
  - a. Arterial - 70,
  - b. Collector - 70,
  - c. Bus Routes - 70,
  - d. Existing and proposed low-stress bikeway network - 70.
    - i. Bikeways shall be surfaced with a treatment that emphasizes smoothness of the road surface.
  - e. Equity Zone- 70.
- b) Funding should be prioritized towards maintenance activities to achieve the goals of item 4.2a.
- c) The biannually updated *5-year plan* shall report on these performance metrics, PCI measurements for each street segment in the City, and percent of overall funding dedicated to each of the following: arterials, collectors, bus routes, existing and proposed low-stress bikeway network, equity zone, and residential streets.

4. Dig Once

- a. Street rehabilitation shall conform with a dig once approach. This includes coordinating with sewer, water, electrical, telecom, undergrounding and other activities to minimize the cost and maintain the quality of the street surface.

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<sup>1</sup> PCI of 70 is the lower threshold of what is considered “Good.” Streets that fall below a “good” condition require much more expensive repair process. 230

- Page 15 of 29
- b. In order to protect the City's investment in street improvements, the City shall place a moratorium on recently paved streets that prohibits digging through them for up to five years, excluding emergency work<sup>2</sup>.

5. Demonstration Projects and Use of New Technologies

- a. To the extent practical, the City shall evaluate the use of permeable pavement, concrete pavement, and other street surface technologies using life cycle cost analysis.
- b. The use of new technologies that provide enhanced durability, lower cost, and more environmentally beneficial impacts shall be evaluated and reviewed in the biannually adopted *5 Year Street Rehabilitation Plan*.

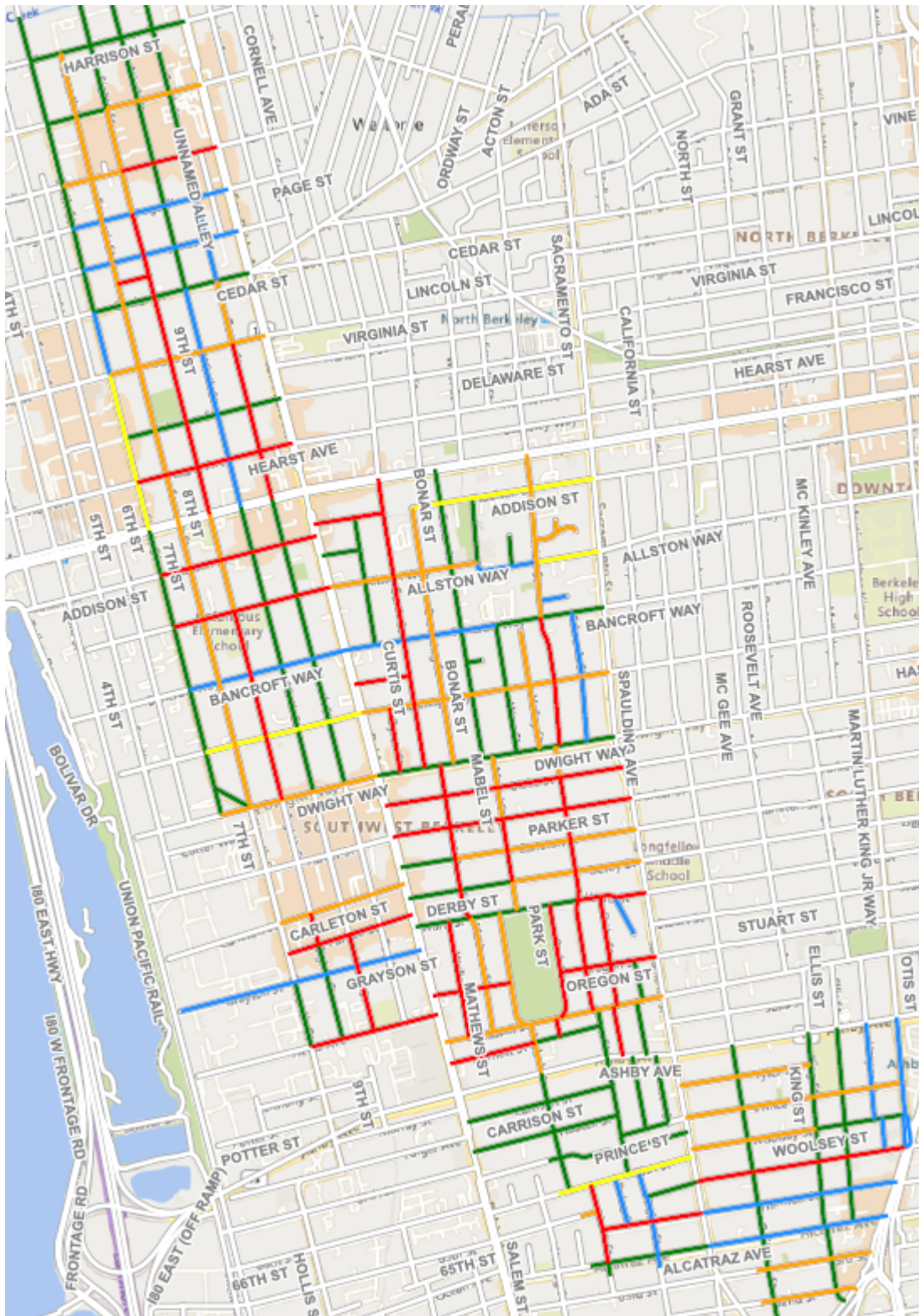
## Section 5. Plan and Policy Development and Update

The plan and policy development shall be as follows:


1. Every two years, in line with the City's budgeting process, the *5-year Street Rehabilitation Plan* adopted by City Council shall include a funding sufficiency analysis based on the existing deferred maintenance at that point to determine what level of funding is required to maintain our streets in safe, good condition that protects our environment and properly maintains the existing investment in City assets.
2. Identify new funding sources such as:
  - a. Heavy vehicles, which have a disproportionate impact on the degradation of paved assets, and
  - b. Transportation Network Company (TNC) vehicles.
3. At a minimum, this *Street Maintenance and Rehabilitation Policy* shall be reviewed and adopted by the City Council every five years, with advice of the Public Works Commission.

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<sup>2</sup> As cited in Berkeley Municipal Code 16.12.030 and documented on the City [website](#)







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## PUBLIC WORKS

Department of Public Works

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### CITY OF BERKELEY STREET REHABILITATION AND REPAIR POLICY

Updated March 2009

#### A. STREET REHABILITATION POLICY

##### Section 1. General Policy

It is the policy of the City of Berkeley that there shall be a 5-year Street Rehabilitation Plan for the entire City to be adopted by the City Council.

The primary purpose of the street rehabilitation program is to maintain a safe surface conveyance system in the public right-of-way for vehicles, bicycles, transit and pedestrians. The right-of-way also provides ancillary functions of a water conveyance system and location of public utilities.

The City shall strive to identify and implement integrated solutions that address the multiple demands on the street infrastructure that are designed for safety, environmentally sustainable and economically efficient over the long run.

The Plan shall make use of all available funding and set priorities for rehabilitation of streets in accordance with their use, as follows:

- Arterials
- Collectors
- Residentials

(Within the collectors and residential street categories, bus and bicycle routes shall be given first consideration.)

To the extent practicable, these priorities shall be consistent with:


- 1) the City's General Plan policy of encouraging use of forms of transportation other than automobiles,
- 2) the Regional Water Quality Control Board (RWQCB) goals regarding water quality, flooding potential and runoff control, and
- 3) the City's Measure G goal of an 80% reduction of greenhouse gas emissions by 2050.

##### Section 2. Assumptions

- 1) Emergency and interim work for trench and pothole repair will be done and funded outside this program.
- 2) Available funds for street rehabilitation include Gas Tax, Measure B Sales Tax, and other federal, state, and local funds appropriated by the City Council for this purpose during the annual budget process.
- 3) Additional sources of funding other than those above will be needed to ensure acceptable levels of effort in street rehabilitation.

##### Section 3. Funding

Federal and State transportation and other similar funds shall be used for repair of arterials. When all



eligible work on arterials has been completed in a certain year, these fund sources may be applied to collectors.

All Berkeley's Measure B Sales Tax funds allocated for local streets and roads, all new gas tax subventions, as much of the current gas tax subventions as available and other similar funds shall be used for street rehabilitation as follows:

- 10% for Arterials
- 50% for Collectors
- 25% for Residentials
- 15% for Discretionary and Demonstration Projects

The fees assessed to mitigate for excessive deterioration on and wear and tear of streets resulting from construction activities, public or private, shall be used for street rehabilitation.

To provide for maximizing the use of the limited funds available, the Program may provide for paving publicly owned unimproved streets in areas other than those zoned S1 (industrial and manufacturing) if at least 75% of the cost is borne by the adjacent property owners.

#### **Section 4. Specific Policy**

The Street Rehabilitation Program shall be based on the following criteria, listed in order of priority:

- 1) Street rehabilitation shall be coordinated with utility, sewer, water contamination runoff issues, and other underground activities to minimize the cost and maximize the effectiveness of rehabilitation and improve the environment.
- 2) Long term cost effectiveness, long term street pavement durability and aesthetics are important for priority setting and repair methodology selection.
- 3) In order to benefit the greatest number of residents, heavy street use (as indicated by traffic counts and bus routes designated in AC Transit's Comprehensive Service Plan) shall be given great consideration.
- 4) Demonstration and test projects for new technologies should be located in high visibility and heavily used areas. See attached document on background and recommendations for the trial permeable paver sites.
- 5) Rehabilitation of an entire street, rather than one block at a time, shall be scheduled as much as possible.
- 6) First hand assessment of streets, as well as computer based analysis, shall be a basis for street rehabilitation program development.

#### **Section 5. Program and Policy Development and Update**

The 5-year Street Rehabilitation Program shall be adopted by the City Council and the 5-year planning process shall be adopted as a City policy as follows:

- 1) Each year, the 5-year program shall be reviewed and updated formally by the City Council, with the advice of the Public Works Commission.
- 2) On an annual basis coinciding with budget preparation, the Street Rehabilitation Policy shall be reviewed and updated formally by the City Council, with advice of the Public Works Commission.
- 3) Both the 5-Year Program and the Street Rehabilitation Policy shall be reviewed and updated annually to ensure that the revolving 5-Year Street Plan is consistent with the policy stated herein and for consistency with General Plan and Area Plan policies.

### **B. UTILITY TRENCH AND POTHOLE REPAIR POLICY**

#### **Section 1. General Policy**

It is the policy of the City of Berkeley that there shall be an annual Utility Trench and Pothole Repair Program for the most heavily used streets and in the priority order, as follows:

1. Arterials
2. Collectors
3. Residentials with bus routes

Additionally, the other residential streets shall be repaired on an area by area basis at least every five (5) years. The program shall be reviewed and updated annually to ensure adherence to the City policy.

**Section 2. Assumptions**

- a. Emergency work for trench and pothole repair will be done as a part of this program.
- b. Utility company created trenches will be repaired by the respective utility company, and no City resources will be used for these purposes.

**Section 3. Funding**

- a. Gas Tax subventions and General Funds of the City shall be used for pothole repair.
- b. Sanitary sewer funds shall be used for City created sewer trench repair.

**Section 4. Specific Policy**

In addition to applicable policy under Street Rehabilitation Policy, the Utility Trench and Pothole Repair Program shall be based on the following criteria:

- a. A trench or a pothole is defined as any pavement surface irregularities with a change of elevation (plus or minus) of more than one (1) inch in twelve (12).
- b. All on-going trench and pothole repair shall use the permanent repair technique, i.e., prepare the trench or pot hole into a rectangular shape, fill with hot asphalt mix, and roll to match the grade adjacent to it.

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Office of the City Manager

ACTION CALENDAR  
July 13, 2021

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Jordan Klein, Director, Planning and Development Department  
 Subject: General Plan and Housing Element Annual Progress Report (APR)

RECOMMENDATION

Review and accept the 2020 General Plan Annual Progress Report (APR) (Attachment 1) and 2020 Housing Element APR (Attachment 2), which were submitted to the State of California's Department of Housing and Community Development (HCD) and the Governor's Office of Planning and Research (OPR) on April 1, 2021.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

Pursuant to Government Code [§65400](#), the Housing Element APR and General Plan APR must be submitted to HCD and OPR annually by April 1<sup>st</sup> and must cover the previous calendar year. In order to comply with state law, the APRs must be presented in a public meeting where the public may provide oral testimony and written comments. OPR does not require that the APRs be approved by the local legislative body or receive public comment prior to the annual April 1<sup>st</sup> submittal deadline, and revised APRs may be resubmitted at any time.

BACKGROUND

The purpose of the APRs is to inform the City of Berkeley and the public on the status and progress of the City's 2002 General Plan and the 2015-2023 Housing Element (5<sup>th</sup> Cycle), and to provide the opportunity to identify necessary adjustments to improve local implementation. The City has started the 6<sup>th</sup> Cycle Housing Element for 2023-2031 which will be completed by January 2023.

The General Plan APR informs OPR of statewide trends in land use development, policy, and implementation. OPR also uses the APR to track local jurisdictions' progress on their General Plans.

The Housing Element APR updates HCD on each jurisdiction's progress in meeting their share of Regional Housing Need Allocation (RHNA) goals as determined by the Association of Bay Area Governments (ABAG). Housing production is tracked at the

various stages of implementation: Application, Entitlement, Permit, and Certificate of Occupancy. HCD uses the permit data received through the Housing Element APR to determine whether – and at what affordability threshold – a jurisdiction is subject to SB 35 Streamlined Ministerial Approval Process. The Housing Element APR submittal is also required in order to qualify for several State housing funding programs, the Greenhouse Gas Reduction Fund, and other transportation funding programs.

The City has been submitting Housing Element APRs to OPR and HCD on an annual basis since 2004. Effective 2019, all cities and counties – including charter cities – must also submit an annual report on the status of their General Plan to HCD and OPR. Jurisdictions are required to present the APRs to their legislative bodies on an agenda as a consent or discussion item, and accept public comment on these reports.

#### ENVIRONMENTAL SUSTAINABILITY

The Annual Progress Reports are exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines §15306 [Information Collection] and §15378 [Project] because the annual reports consist of data collection and resource evaluation activities, do not fall within CEQA’s definition of a “project”, and do not have the potential to directly or indirectly cause significant effect on the environment.

#### RATIONALE FOR RECOMMENDATION

In order to comply with Government Code §65400(a)(2)(B)(ii), the APRs shall be presented in a public meeting where the public may provide oral testimony and written comments.

#### ALTERNATIVE ACTIONS CONSIDERED

None.

#### CONTACT PERSON

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[gwu@cityofberkeley.info](mailto:gwu@cityofberkeley.info), 510-981-7484

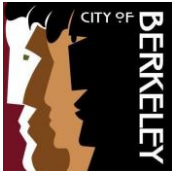
#### ATTACHMENTS:

1. 2020 General Plan APR
2. 2020 Housing Element APR

#### LINKS:

1. Government Code §65400  
[https://leginfo.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=GOV&sectionNum=65400](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV&sectionNum=65400)

2. April 28, 2021 Off-Agenda Memo to Mayor and City Council, Housing Element Update and Annual Progress Report:  
[https://www.cityofberkeley.info/uploadedFiles/Clerk/Level\\_3\\_-\\_General/Housing%20Element%20Update%20042821.pdf](https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_General/Housing%20Element%20Update%20042821.pdf)
3. Adopted 2015-2023 Housing Element (5<sup>th</sup> Cycle):  
<https://www.cityofberkeley.info/ContentDisplay.aspx?id=23512>



# 2020 General Plan Annual Progress Report

## City of Berkeley

Submitted April 1, 2021



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## INTRODUCTION

Government Code Section 65400(a)(2) requires planning agencies to provide an annual report to their legislative body, the Governor's Office of Planning and Research (OPR) and California Department of Housing and Community Development (HCD) on the status of their General Plan and progress in its implementation. The report must detail the progress in meeting the jurisdiction's share of the regional housing need and address efforts by the local agency towards removing governmental constraints to the maintenance, improvement, and development of housing.

The purpose for the Annual Progress Report is to: 1) assess how the General Plan is being implemented in accordance with adopted goals, policies and implementation measures; 2) identify any necessary adjustments or modifications to the General Plan as a means to improve local implementation; 3) provide a clear correlation between land use decisions that have been made during the 12-month reporting period and the goals, policies, and implementation measures contained in the General Plan; and 4) provide information regarding local agency progress in meeting its share of the regional housing need.

The City of Berkeley General Plan was adopted on **April 23, 2002**. The General Plan contains the seven State-required elements which are Land Use, Circulation, Housing, Conservation, Open Space, Noise and Safety. The State allows the combining of elements or the addition of new elements as long as the required seven elements are present in some fashion. The Berkeley General Plan contains the following 9 elements:

- Land Use
- Transportation
- Housing
- Disaster Preparedness & Safety
- Open Space & Recreation
- Environmental Management
- Economic Development & Employment
- Urban Design & Preservation
- Citizen Participation

Local governments are required to keep their General Plans current and internally consistent. There is no specific requirement that a local government update its General Plan on any particular timeline, with the exception of the Housing Element, which is required to be updated as prescribed by State law. The Berkeley Housing Element was last updated and certified by HCD on January 21, 2015, for the 2015-2023 planning period.

The City of Berkeley continues to actively implement the policies of the General Plan including the goals, policies and programs of the Housing Element. The following represents the progress the City has made towards implementing the General Plan and Housing Element during the **Calendar Year (CY) 2020** reporting period. The information to follow is organized to correspond with the elements of the Berkeley General Plan.

**LAND USE ELEMENT****AMENDMENTS**

State Law limits the number of times each mandatory element of the General Plan, such as the Land Use Element, can be amended to a maximum of four times per calendar year.

The Land Use Element of the Berkeley General Plan was amended twice during CY 2020.

- July 28, 2020 – Re-designate Assessor Parcel Numbers (APNS) 054-1716-002-00, 054-1716-003-00, and 054-1716-031-00 [Rose Garden Inn] from Low Medium Density Residential to Avenue Commercial.
- December 17, 2020 – Amend the Berkeley Municipal Code to Create the C-Adeline Corridor District Commercial Zone Regulations and Making Conforming Changes to other Code Sections; Adding Berkeley Municipal Code Chapter 23E.70

**PROGRESS TOWARDS MEETING THE GOALS AND GUIDING POLICIES OF THE LAND USE ELEMENT**

- **Adeline Corridor Specific Plan Specific Plan**  
The Adeline Corridor Specific Plan, General Plan and zoning amendments, and environmental review documents were adopted by the City Council on December 8, 2020. The Adeline Corridor Specific Plan articulates a community vision and planning framework that will serve as a guide for the City and other public agency decision-makers, community members and other stakeholders over the next 20 years. The Adeline Corridor Specific Plan Area (“Plan Area”) is located in the southern portion of the City of Berkeley and extends approximately 1.3 miles north from the Berkeley/Oakland border along Adeline Street and a portion of Shattuck Avenue. It serves as an important gateway to Berkeley’s Downtown (to the north) and to Oakland (to the south).
- **Zoning Ordinance Reorganization Project (ZORP)**  
In CY 2020 the City of Berkeley made significant progress on Phase I of ZORP. Phase I resulted in the development of a new Baseline Zoning Ordinance (BZO) that improved the existing Zoning Ordinance’s organization, format, and writing style. Planning Commission held a public hearing on the BZO and recommended adoption to City Council. City Council will consider adoption of the BZO in CY 2021. Phase I does not include any substantive policy changes, zoning changes, or changes in existing development standards. Phase I is solely a reorganization and reformatting to make land use regulations easier to understand and zoning information easier to find.
- **Density Bonus Projects**  
In CY 2020, the majority of projects greater than 5 units were approved using State Density Bonus provisions. The following Density Bonus projects were either approved, under construction, or completed this past year.
  - 2023 Shattuck  
Construct a 24,178 square-foot, seven-story, 73’5” tall, mixed-use building with 48 dwelling

units (including 4 units available to very-low-income households) and 1,250 square feet of ground floor commercial space

- 1367 University  
New four-story, 39 unit residential building
- 2099 Martin Luther King Jr.  
Construction of a new, seven-story, mixed-use building with a total of 72 dwelling units
- 3000 San Pablo  
Demolish the existing commercial building at 3000 San Pablo Avenue, and demolish part of the building at 1042 Ashby that encroaches onto 3000 San Pablo Avenue, to build a new 6-story mixed-use building, with 78 apartments (7 Below Market Rate), 1,248 sq. ft. of commercial space
- 1200 San Pablo  
Demolish three existing commercial building, and construct a new, 99,000 SF, 6-story, mixed-use building with 104 units, 3000 SF ground floor retail.
- 2720 San Pablo  
Demolition of the former automobile service station and construct a 6 story, 60' high mixed-use building, with 25 dwellings (including 2 dwellings available to very low income households) with a total of 97 bedrooms, and 963 square feet of ground floor retail space.
- 2000 Dwight  
Demolition of six non-residential buildings and the construction of a six-story residential building with 113 dwelling units for senior housing.
- 1500 San Pablo  
Demolish an existing 24,000 square feet two-story commercial building; and (2) to construct a 197,800 square feet, 5-story, 60'-6' tall, mixed use building with 170 residential units, 10,900 square feet of commercial floor area.
- 2352 Shattuck  
Demolish two existing commercial buildings; 2) split the lot into two; and 3) construct two, eight-story, mixed-use buildings with 204 units (including 14 Very Low Income units), 12,154 square feet of commercial space.
- 2590 Bancroft  
Demolish an existing two-story commercial building; and 2) construct an eight-story, mixed-use building with 87 dwelling units (including five Very Low-Income units), 4,345 square feet of commercial space.

- **Accessory Dwelling Units**

During the CY 2020 reporting period, the City issued building permits for 120 accessory dwelling units. Of these projects, 73 were finalized.

- **Major Non-Residential Projects**

- Bayer HealthCare LLC Development Agreement Amendment Project

The project location is the Bayer campus in West Berkeley, which has a primary street address of 800 Dwight Way. Bayer's existing 30-year Development Agreement (DA) with the City of Berkeley, covering the North Properties, was approved in 1992 and is set to expire in 2022. The proposed project would amend the existing DA to cover both the North and South Properties, while extending its duration an additional 30 years until February 2052. In November 2020, both the Zoning Administration Board (ZAB) and the Planning Commission (PC) held scoping sessions for the scope of the Draft Environmental Impact Report and received public comment.

- 3100 San Pablo Avenue – Foundry 31

Establish approximately 17,700 square feet of an oncology testing laboratory and medical office and 69,800 square feet of research and development (R&D) space in an existing 402,742 square foot building.

## TRANSPORTATION

### AMENDMENTS

The Transportation Element once during CY 2020.

- November 17, 2020 - Replace Level of Service (LOS) with Vehicle Miles Traveled (VMT) as the metric to analyze transportation-related environmental impacts under CEQA.

### PROGRESS TOWARDS MEETING THE GOALS AND GUIDING POLICIES OF THE TRANSPORTATION ELEMENT

- **Berkeley Vision Zero Action Plan**

Adopted by the Berkeley City Council on March 10, 2020, this Plan recommends 33 actions to achieve the City of Berkeley's Vision Zero policy goal of zero traffic deaths and severe injuries on Berkeley Streets by 2028. The 33 recommendations are further prioritized into 11 near-term actions which are the focus of the ongoing Vision Zero Program. The Vision Zero Action Plan was created through a collaborative effort of agency staff from the City, other public agencies, and an Advisory Committee composed of members of the Berkeley community representing public schools, seniors, business organizations, and walking and biking advocates.

- **Pedestrian Plan**

The Berkeley Pedestrian Plan was submitted to City Council in late 2020 and approved by Council on January 26, 2021. Other completed milestones in 2020 include a public open house for review of Plan recommendations held in February and release of the Draft Plan to the public in September. The Plan prioritizes safety and equity in establishing a clear path forward for pedestrian infrastructure improvements. The Plan also includes a set of goals for improving pedestrian

transportation in Berkeley, performance measures for evaluating and prioritizing streets for future pedestrian infrastructure improvements, maps showing recommended pedestrian infrastructure projects on ten priority streets, recommendations for new citywide programs and policies, and cost estimates for the projects on the aforementioned ten priority streets. The recommendations in the Plan were devised after a multi-year, robust community engagement process.

- **Sidewalk Program**

The City of Berkeley implemented sweeping changes to sidewalk repair initiatives, most notably, the inclusion of sidewalk repairs as a part of a “Complete Streets” approach to Street Rehabilitation/Repaving Capital Improvement Projects. This greatly increased the number of sidewalks the City has been able to repair in comparison to years past. In addition to the repaired sidewalks, the City implemented a concrete shaving program that was effectively able to shave uplifted and hazardous sidewalks down to a flat and compliant state. In 2020 alone, the sidewalk shaving program abated over 10,000 sidewalk hazards.

- **Street Rehabilitation Program**

The City continues to utilize this program to achieve goals beyond simply improving the asphalt quality for automobiles. In 2020, under a “Complete Streets” approach, the City rehabilitated 11.4 lane miles of roadway, installed green infrastructure elements such as bioswale planters for storm water catchment and placemaking, implemented ADA improvements such as updating curb ramps and repairing sidewalks, constructed bicycle and pedestrian improvements such as refuge islands at historically challenging crossings, installed buffered and parking-protected bike lanes, painted bulb-outs, constructed speed tables, and installed high-visibility crosswalks and bus boarding islands.

- **One-Way Vehicle Share Program**

In 2020, a company named Revel acquired parking permits from the City in order to launch a shared electric moped service in Berkeley. This service provides an additional mobility option for residents and visitors to access destinations in Berkeley. The neighboring cities of Oakland and Emeryville also permit Revel mopeds, helping link the service regionally. These electric vehicles offer a mobility alternative to the automobile, thus reducing greenhouse gas emissions and helping meet the City’s Climate Action goals.

- **Citywide Demand-Responsive Parking Meter Pricing and goBerkeley Parking Program**

Approximately half of the City’s parking meters are managed under the goBerkeley program, which uses demand-responsive pricing and longer time limits to create more parking options and availability. The most recent goBerkeley price adjustment occurred on February 1, 2020. Starting June 1, 2020 under the COVID-19 pandemic, the City has been managing all parking meters citywide using demand-responsive pricing, with prices at the end of 2020 ranging from \$0.50/hour to \$2.00/hour depending on level of demand.

- **Shattuck Reconfiguration Project**

In 2020, the City of Berkeley reached some key milestones for this major intersection undergoing construction in the heart of Berkeley’s Downtown. A few of these construction milestones completed in 2020 include: installation of a raised concrete (tabletop) intersection at Center and

Shattuck East (renamed Kala Bagai Way), fresh repaving within the project limits, and new traffic signals and street lighting improving vehicular and pedestrian safety. Construction of the project began in January 2019 and was recently completed in January of 2021.

- **Adeline Street Project**

This project on Adeline Street from Ashby Avenue to Shattuck Avenue included improvements such as: roadway rehabilitation, application of high-visibility crosswalks, updated ADA compliance for curb-ramps and sidewalks, and the installation of parking-protected bikeways as well as bus boarding islands. The project construction was completed in 2020.

- **Hearst Avenue Project**

This project, located between Milvia Street and Shattuck Avenue, included roadway rehabilitation and upgrading the existing Class II bike lanes to parking-protected bikeways. The project construction was completed in 2020.

- **Electric Mobility Roadmap:** Berkeley's first Electric Mobility Roadmap (Roadmap) was adopted in July 2020. The Roadmap supports clean transportation, including walking, biking, public transportation, and a wide range of electric vehicles, with a focus on equitable and affordable access. The Roadmap identifies strategies and actions to achieve these four goals:

- Ensure Equity in Access to Electric Mobility  
*Maximize electric mobility benefits in underserved communities*
- Improve Alternatives to Driving  
*Shift trips to walking, cycling, and shared electric modes*
- Achieve Zero Net Carbon Emissions  
*Eliminate emissions from private vehicles*
- Demonstrate City Leadership  
*Lead by example and guide the electric mobility transition*

- **EV Fleet Assessment:** In 2020, City staff worked with EBCE to conduct a municipal fleet electrification assessment. This assessment presents an EV deployment and associated charging infrastructure plan through 2030 including distributed energy resource (solar and battery storage) charging options. If investments can be made to transition the light duty municipal fleet to EVs over the next 10 years, it will reduce the associated lifecycle (well-to-wheels) GHG emissions of these vehicles from 56.6 to 2.1 metric tons, a 96% reduction by 2030.

## HOUSING

### AMENDMENTS

The Berkeley Housing Element was last updated and certified by HCD on January 21, 2015, for the 2015-2023 planning period. The Housing Element was not amended during CY 2020.

### PROGRESS TOWARD MEETING THE GOALS AND GUIDING POLICIES OF THE HOUSING ELEMENT

Pursuant to Government Code Section 65400, the City Council is required to prepare an annual report on the status and progress in implementing the City's Housing Element using forms and definitions adopted by HCD. The completed forms for CY 2020 are attached as **Exhibit A** to this report.

As shown in Table 1, the City of Berkeley's RHNA for the current planning period is 2,959 residential units, broken down by income category. HCD regulations require that excess units in one income category cannot be used to reduce the unaccommodated need from the other categories.

**Table 1: Regional Housing Needs Allocation 2014- 2023**

| 2014-2023   | Income Category       |
|-------------|-----------------------|
| 532         | Very Low Income       |
| 442         | Low Income            |
| 584         | Moderate Income       |
| 1401        | Above Moderate Income |
| <b>2959</b> | <b>Total</b>          |

In 2020, the City issued building permits for 590 dwelling units, including 539 above moderate income units, 13 low-income deed restricted units, and 38 very low income deed-restricted units. There is currently an unmet remaining need of 1,563 units, as shown in Table 2 below.

**Table 2: Berkeley's Progress in Meeting Regional Housing Needs**

| Income Category       | Total RHNA (2014- 2023) | Net Units Created (2015- 2020) | Balance Remaining | Percent of RHNA Achieved |
|-----------------------|-------------------------|--------------------------------|-------------------|--------------------------|
| Very Low Income       | 532                     | 173                            | 359               | 32.5%                    |
| Low Income            | 442                     | 60                             | 382               | 13.6%                    |
| Moderate Income       | 584                     | 0                              | 584               | 0%                       |
| Above Moderate Income | 1,401                   | 2,476                          | 0                 | 176.7%                   |
| <b>Total</b>          | <b>2,959</b>            | <b>2,709</b>                   | <b>1,325</b>      | <b>55.2%</b>             |

As required by state law, the City must zone land to accommodate the RHNA and develop programs and policies that promote an environment where housing construction is encouraged at all income levels.

Additionally, in 2020, the City implemented the following notable goals and guiding principles from the Housing Element:

- **Rapid Rehousing Rental Assistance:** Provided assistance to 62 households.
- **Rental Rehabilitation Loan:** Issued 1 loan.
- **Eviction Prevention Rental Assistance:** Provided assistance to 440 households.
- **Shelter and Care Housing Vouchers:** Provided 55 vouchers.

For a list of Housing Element Implementation, please refer to Table D of the APR, which is attached as **Exhibit A** to this report.



**DISASTER PREPAREDNESS & SAFETY****AMENDMENTS**

The Disaster Preparedness + Safety Element was not amended during CY 2020.

**PROGRESS TOWARDS MEETING THE GOALS AND GUIDING POLICIES OF THE DISASTER PREPAREDNESS AND SAFETY ELEMENT**

- **COVID-19 Response**

Since the beginning of calendar year 2020, the City has been working to respond to the COVID-19 pandemic. These efforts ramped up significantly in March 2020, when the City issued its first Shelter-In-Place Order to address the community spread of COVID-19 and fully activated its Emergency Operations Center. Since the beginning of the pandemic, the City has mobilized over 550 employees from every department including the City Auditor's Office, the Library, and the Rent Board. Some employees were working in capacities that they were familiar with and accustomed to, however, many others were asked to perform new responsibilities and work under leadership and collaborate with individuals that they may have never met.

At the beginning of the Shelter-In-Place, the days were long and there was tremendous pressure placed on employees to be flexible and balance the needs of protecting the community with the challenges of protecting themselves and managing their families and households. This unprecedented mobilization of City staff united around a focused mission to mitigate the spread of COVID-19 and protect the health and safety of the community and employees. Collectively, employees mobilized and implemented a multi-faceted response that included:

- Disease containment;
  - Keeping the community well-informed;
  - Creating public health and safety protocols and practices that did not previously exist;
  - Providing ample testing that is accessible and available in an equitable manner;
  - Distributing vaccine in an equitable manner;
  - Providing outreach and support to the business community;
  - Supporting vulnerable populations, including the elderly and people who are unhoused; and
  - Implementing new laws and regulations.
- **Additional EOC Activations**
- In addition to the ongoing EOC Activation for COVID-19 response described above, the City activated additional Emergency Operations Center structures twice in 2020 to provide coordination and support for separate situations:
- October: Public Safety Power Shutoff and Extreme Fire Weather
  - November: 2020 Election (readiness for Civil Unrest)
- **Wildfire Readiness**
- Safe Passages Program

- Completed evaluation and recommendations for increased parking restrictions and vegetation removal for three pilot street segments.
  - Implemented parking restrictions on one of the three pilot street segments.
- Drills and Exercises
    - Wildfire Evacuation Drills: Over 500 Berkeley residents from within Fire Zone 2 participated in the August 2019 Wildfire Evacuation Drills, which included the testing of emergency notification systems, household evacuation, practice of evacuation routes, and gathering at evacuation sites.
    - Tabletop Exercise with surrounding jurisdictions (Kensington/El Cerrito, East Bay Regional Parks District, Moraga-Orinda Fire Protection District)
- Vegetation Management
    - Parks Division Vegetation Management (Parks Division FY 2019 budget includes \$406,891 for fire fuel management. The funded work includes regular maintenance of understory and ladder fuels plus tree maintenance)
    - Ongoing: 2020 Hazardous Fire Area Inspection Program
    - Ongoing: 2020 Fire Fuel Chipper Program
- Community Outreach
    - Fire Safety Town Hall Meeting May 2020 (topics included Wildfire Season, Wildfire Evacuation Plan, Zonehaven, Community Efforts)
    - Shifted wildfire readiness presentations to Zoom/online interface to continue outreach during COVID-19 Pandemic
    - Initiated FireWise Community process to Berkeley Neighborhood Group (will continue when Shelter-in-Place Orders are lifted)
- Coordinated Planning Efforts
    - Ongoing collaboration with Disaster and Fire Safety Commission on Outdoor Warning System project
    - Ongoing collaboration with PG&E on establishing sites for PG&E Alert wildfire Cameras in Alameda County
    - Ongoing participation in Alameda's Countywide Evacuation Task Force
      - Entered into contract with Zonehaven to provide Evacuation Mapping Software and Protocols for Alameda County
    - Ongoing participation in Hills Emergency Forum (monthly meetings which allows the City to work with neighboring jurisdictions on the regional goal of a healthy, fire resistive wildland urban interface across the East Bay. The collaborative work of Berkeley, UC Berkeley, East Bay Regional Parks, the City of Oakland, and other agencies is focused through this group)

**OPEN SPACE & RECREATION****AMENDMENTS**

The Parks and Open Space Element was not amended during CY 2020.

**PROGRESS TOWARDS MEETING THE GOALS AND GUIDING POLICIES OF THE OPEN SPACE & RECREATION ELEMENT**

- **Berkeley Marina Specific Plan**

The Berkeley Marina Area Specific Plan (BMASP) Project is a two plus year planning project to provide a path for achieving a financially self-sustainable, publicly owned marina that preserves and enhances infrastructure to support current and future community needs, while adapting to climate change and promoting environmental stewardship. The public process for this project will involve a series of small focus group meetings and large public community meetings to gather public feedback. To-date, four small focus group meetings were held in October 2020.

- **Funding**

Parks, Recreation and Waterfront (PRW) capital funding is made up of Recurring Capital<sup>1</sup> from the Parks Tax, General Fund, Marina Fund and the Camps Fund<sup>2</sup>. Below are descriptions of these some of these funding sources.

- Park Tax/ Measure F: The Parks Tax increase approved by Berkeley voters in 2014 has increased parks tax yearly capital by \$750,000, from \$250,000 to \$1,000,000, since FY2016. Additionally, Measure F provides a yearly \$450,000 for minor maintenance projects.
- Measure T1: In 2016 voters approved a \$100 million dollar bond measure to repair and improve existing city facilities and infrastructure. The city is currently implementing Phase I of the bond program which includes \$41 million in city wide improvements. Approximately half of which are going towards city parks.
- Measure WW: is a local grant program for the acquisition and development of countywide and regional parks and recreation facilities. It is funded by a bond measure approved by Alameda County and Contra Costa County voters in November 2008. The City of Berkeley's allocation was \$4.876 million and has funded projects through 2019.

- **Recently Completed Capital Improvements Park Projects (last 18 months)**

- Parks – Becky Temko – 2-5 Play Area Renovations and ADA upgrades (WW/Parks Tax)
- Parks – City Wide Irrigation Software Establishment and Controller Replacement (T1)
- Parks – Glendale – La Loma Basketball Court Reconstruction (Parks Tax)
- Parks – Harrison Park – Turf Renovation (Parks Tax)
- Parks – Conceptual Design of Gillman Fieldhouse/Restroom (T1)
- Parks – San Pablo Park – Restroom Building Renovation (Parks Tax)
- Parks – Strawberry Creek Park – Courts Replacement and ADA upgrades (WW/Parks Tax)
- Camps – Berkeley Tuolumne Camp (BTC) Administrative Draft Environmental Assessment and Initial Study / Mitigated Negative Declaration (Camps Fund)

- Camps – BTC - Removal of 2000 Hazardous Trees (Camps Fund)
  - Camps – BTC - Repairs to Remaining Facilities (Camps Fund)
  - Camps – BTC - Removal of Facilities from Archaeological Area (Camps Fund)
  - Camps – Echo Lake Camp - Reconstruction of 36 Snow Damaged Cabins (Camps Fund/General Fund)
  - Waterfront – Finger Dock Replacement Phase 1 (Marina Fund)
  - Waterfront – Rip Rap Replacement at Eastern Side of Cesar Chavez Park (Zero Waste Fund)
- **Berkeley Volunteer Programs**

In 2020 amount of volunteers participated in volunteering events organized by the City. The City of Berkeley has a combination of year-round, monthly or even daily opportunities to volunteer within our department. Below is a brief description of a handful of different opportunities available to Berkeley residents.

- BayIT – Nature Education Training – October 2019 thru March 2020  
The Bay Interpretive Training Program was developed to train volunteers in nature education techniques to assist Nature Center staff in teaching Bay ecology to local school groups. The BayIT program involves hands-on training sessions covering such topics as the history of the Bay, marine habitats, and bay shore flora and fauna, with special emphasis on how to teach and use artifacts and live animals.
- Compost Day - Last Saturday of the month February thru October (3rd Sat in July)  
@ 7:30am; we work to distribute compost to Berkeley residents at the Meadow Lot along Marina Blvd south of the Doubletree Hotel.
- Volunteer Sports Coaches for Youth Hoops League –November 13, 2019-Feb 2020  
Volunteers support our programs by creating a positive learning environment where youth can learn skills and character values. Come volunteer and strengthening the community through youth development, healthy living, and social responsibility.

## ENVIRONMENTAL MANAGEMENT

### AMENDMENTS

The Conservation Element was not amended during CY 2020.

### PROGRESS TOWARD MEETING THE GOALS AND GUIDING POLICIES OF THE ENVIRONMENTAL MANAGEMENT ELEMENT

- **Regional Networks**  
The City participates, often taking leadership roles, in several local and regional environmental management groups including:
  - Urban Sustainability Directors Network (USDN)
  - Resilient Cities Network (RCN)

- Green Cities California (GCC)
  - California Building Decarbonization Coalition
  - Local Government Sustainable Energy Coalition (LGSEC)
  - Bay Area Regional Energy Network (BayREN)
  - Bay Area Climate Adaptation Network (BayCAN)
  - StopWaste Technical Advisory Group (TAG) and Technical Advisory Committee (TAC)
  - Bay Area Electric Vehicle Coordinating Council and Steering Committee
  - Drive Clean Bay Area (DCBA)
  - The Berkeley Lab Community Advisory Group (CAG)
- **Grants/In-Kind Services**
    - eLab Accelerator on Strategic Electrification and Retirement of Gas Assets: In 2020, the City of [Berkeley participated in the Rocky Mountain Institute's eLab Accelerator Program](#) on strategic electrification and gas distribution system retirement. This project brought together staff from Pacific Gas and Electric (PG&E), the CA Public Utilities Commission (CPUC), the Natural Resources Defense Council (NRDC), and other experts. Work continues to develop a proposal for a pilot project for specific location(s) that helps existing buildings switch from natural gas to electric for heating/cooling needs, and to also decommission natural gas infrastructure distribution pipelines. The project seeks to identify regulatory and financial barriers and safe and equitable solutions, though no implementation funding has yet been identified.
    - Building Electrification Institute (BEI): The City is receiving free technical assistance from BEI, to pilot strategies to scale up the electrification of building heating and cooling systems. In 2020 BEI helped conduct a market segmentation analysis of Berkeley's existing building stock to inform the Existing Building Electrification Strategy, and supported Berkeley's eLab Accelerator project to pilot natural gas decommissioning on the neighborhood scale. BEI is supported by the Urban Sustainability Directors Network and the Carbon Neutral Cities Alliance.
    - Existing Building Electrification Strategy: The City received \$25,000 of in-kind services from the Rocky Mountain Institute to develop a strategy on how to equitably electrify all its existing buildings.
    - Urban Sustainability Directors Network (USDN):
      - The City received a grant from the USDN to partner with the [Ecology Center](#) and engage [Green the Church \(GTC\)](#), a sustainability initiative led by the Black-run [Church by the Side of the Road \(CBSOR\)](#) in Berkeley, to identify the priorities of frontline communities around the health, safety, resilience, and equitable electrification of buildings. Over the grant period, the Ecology Center built on outreach efforts and deepened relationships with GTC/CBSOR by engaging with church leadership and congregants. This grant allowed Berkeley and the Ecology Center to meet the challenges of COVID-19 by pivoting from traditional in-person outreach to a community-friendly virtual engagement

method, based on a train-the-trainer model that taps the importance of close social knit networks.

- The City was also selected to participate in a USDN Equitable Mobility Workshop series in Nov-Dec 2020 with a community partner, TransForm, to build capacity for our common interest in creating a safe, clean, affordable and accessible transportation system that prioritizes the mobility needs of BIPOC along with low income residents, people with disabilities, immigrants and refugees, and other oppressed communities. Our work focused on safe, reliable public transit both during and post-pandemic.
  - East Bay Energy Watch (EBEW) Partnership: EBEW granted the City \$20,000 to support a utility bill and data management software analysis to improve access to energy and water usage data and streamline the accounts payable process for utility bills for municipal properties.
  - East Bay Community Energy (EBCE): EBCE provided free technical assistance to mid-rise multifamily development projects in Berkeley to support all-electric construction. In addition, the City received a \$10,000 grant in Dec 2020 for bringing a reach code, a local amendment to the 2019 California Energy Code, to Berkeley City Council for consideration. Berkeley went beyond the grant threshold with adoption of the reach code, its filing with the California Building Commission, and its approval by the California Energy Commission on February 20, 2020.
  - California Resilience Challenge (CRC): Communities along the San Francisco Bay shoreline are preparing for rising sea levels along their respective waterfronts. However, rising sea levels also threaten to cause flooding from below by lifting groundwater tables. The City supported the proposal of, and is participating in the Project Management Team for, the CRC grant with Aquatic Science Center to support research that will help Bay Area communities better understand and plan for the effect of sea level rise on groundwater tables and critical infrastructure.
- **Green Business Program**

The City supports sustainable business practices and partners with the Alameda County Green Business Program to offer support to local businesses that want to improve their environmental practices. The program offers free assistance to businesses to help them reduce greenhouse gas emissions, improve energy efficiency, conserve water, and divert solid waste from the landfill.
- **Sustainability Outreach**
  - Berkeley Climate Action Coalition (BCAC): The City and local non-profit the Ecology Center co-convene the Berkeley Climate Action Coalition (BCAC), a network of local organizations and community members joining together to help implement the City of Berkeley's Climate Action Plan

- Outreach on clean energy and resilience: The City highlights renewable energy, energy efficiency and electrification strategies in outreach efforts. The City continually promotes access to clean energy by educating the community about East Bay Community Energy (EBCE), and the option to opt up to EBCE's Renewable 100 (100% solar and wind) electricity service. The City, in conjunction with StopWaste, promoted workshops about induction cooking, and the BayREN Home+ and BAMBE programs to help homeowners and multifamily property owners access resources and incentives for energy and water saving upgrades to increase savings and resilience, improve indoor air quality and comfort, and decarbonize buildings. The City has increased access to rooftop solar and back-up batteries by streamlining permitting and inspection (nationally recognized with a SolSmart Gold designation in 2018), and by participating in group purchasing bulk discount programs through the seasonal Bay Area SunShares and the new EBCE Resilient Home programs. Both SunShares and EBCE Resilient Home provides time-limited group discounts, vetted providers, community workshops, and a streamlined process to remove barriers to solar adoption.
  - Outreach on clean transportation: Staff conducts outreach on the climate, health and financial benefits of electric transportation, focusing on incentives and special programs for income-qualified drivers. During the pandemic, the City partnered with other non-profits and municipalities through the Drive Clean Bay Area collaborative to host multiple online electric vehicle 101 workshops and virtual electric car and bike showcases, as well as promote financial incentive workshops.
  - Conference/Workshop presentations: In addition to community-facing outreach, the staff from Berkeley's Office of Energy and Sustainable Development spoke at multiple virtual conferences/workshops to share our activities with State regulators and other local governments in 2020. These speaking engagements included a Forth webinar on Right of Way EV Charging, the Zero Carbon Retreat, an Air & Waste Management Association Panel on Building Decarbonization, a Statewide Energy Efficiency Collaborative (SEEC) webinar on local decarbonization, and a presentation to the California Public Utilities Commission, among others.
- **Vision 2050**  
Mayor Arreguin launched [Vision 2050](#), an initiative to encourage long-term planning to meet the serious challenges to our infrastructure, including climate change, inequality, population increases, and obsolescence. The Vision 2050 Task Force was formed in Spring 2018 and included over 40 Berkeley community members with technical expertise and in-depth knowledge. The Task Force released its final report in May 2020 and have convened a Steering Committee that includes City staff as well as community members to lead implementation.

- **Greenhouse Gas Inventory**  
In 2020, the City reported<sup>1</sup> to City Council that based on the best currently available data from 2018, the community has reduced overall GHG emissions by 26% since 2000, despite population increasing by 18% and an expanding economy.
- **“A List” City**  
The City of Berkeley was celebrated as an [“A List” City by the Carbon Disclosure Project \(CDP\)](#) in 2020 for environmental leadership and action.
- **Covenant of Mayors**  
The City of Berkeley in 2020 maintained compliance in the Global Covenant of Mayors.
- **Solar + Storage at Critical Municipal Facilities**  
The City is working with EBCE, which received a grant from the Bay Area Air Quality Management District to assess the potential for resilient solar + storage systems at critical municipal facilities throughout Alameda County. The City of Berkeley submitted a list of potential critical facilities to the EBCE project portfolio, which totals 300 buildings across Alameda County. EBCE and partners have conducted initial analysis of location and sizing potential for the sites and will launch a territory-wide procurement process that will reduce the cost and complexity of potential system deployment. EBCE plans to release a full Request for Proposals for vendors to bid on the various projects in Summer/Fall 2021. The City will have the opportunity to participate in the procurement and eventual implementation of solar + storage. This project will improve resilience by providing clean renewable back up power when the grid is down and will reduce reliance on polluting diesel generators.
- **Water Consumption**  
Water consumption in Berkeley declined by 26% between 2000-2018, as reported in 2020.
- **Water Efficient Landscape Ordinance (WELO)**  
The City of Berkeley continued to enforce the California Water Efficient Landscape Ordinance (WELO), regulating the water use of new (500 sq ft or more) or rehabilitated (2,500 sq ft or more) landscapes in projects applying for zoning or buildings permits. In 2020, 16 projects, with a total of 46,165 sq ft of landscaping, were subject to WELO.
- **Urban Greening**  
The City of Berkeley received a Prop 84 Urban Greening grant for the [“Trees Build Communities: A Berkeley Urban Forest Expansion Project”](#) in the amount of \$725,878 to focus on expanding the City’s urban forest into the Disadvantaged Communities (DAC) and Low-Income Communities (LIC) of West and South Berkeley. The project goal is to plant 500 trees.

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<sup>1</sup> Report can be found here: [https://www.cityofberkeley.info/Clerk/City\\_Council/2020/07\\_Jul/Documents/2020-07-21\\_Special\\_Item\\_05\\_Climate\\_Action\\_Plan\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2020/07_Jul/Documents/2020-07-21_Special_Item_05_Climate_Action_Plan_pdf.aspx) and presentation can be found here: [https://www.cityofberkeley.info/Clerk/City\\_Council/2020/07\\_Jul/Documents/2020-07-21\\_Presentations\\_Item\\_5\\_\(6pm\)\\_Pres\\_CMO\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2020/07_Jul/Documents/2020-07-21_Presentations_Item_5_(6pm)_Pres_CMO_pdf.aspx)



- **Farmer's Markets**  
The Ecology Center Farmers' Markets are open-air marketplaces where California farmers bring fresh, locally-grown produce and farm-processed foods to sell directly to consumers. Our markets feature fruits, vegetables, nuts, baked goods, jams and preserves, juices, olive oils, meat, cheese, prepared foods, nursery plants, and flowers. The markets are committed to supporting small-scale farmers who practice sustainable agriculture, and always accept WIC and EBT.
- **Produce Boxes Pilot:** Produce boxes are now available for preorder and curbside pickup weekly at the Downtown Berkeley Farmers' Market. Boxes will have a variety of local, seasonal fruit, vegetables and salad greens from our vendors. Purchases support local farmers as well as youth employment opportunities.
- **Energy Usage Reductions:** As reported in 2020, the Berkeley community's energy usage has declined between 2000 and 2018. The residential sector decreased electricity usage by 20% and natural gas usage by 26%, and the commercial and industrial sectors decreased electricity usage by 32% and natural gas usage by 2%.
- **Municipal Building Retrofits:** Several municipal buildings were undergoing energy efficiency and electrification retrofits in 2020 including:
  - Mental Health Clinic – All electric, zero net energy
  - North Berkeley Senior Center - Electric water heaters and space heating/cooling, induction cooking range, solar PV-ready
  - Live Oak Recreation Center – Solar PV installation, electric heat pump water heaters, energy storage battery-ready
  - Public Safety Building - LED lighting, automated demand response (ADR)
  - James Kenney Recreation Center - Automated demand response
- **Building Emissions Saving Ordinance:** The City of Berkeley initially adopted the Building Energy Savings Ordinance (BESO) in 2015 to accelerate energy savings in Berkeley's existing buildings. Since its 2015 adoption over 1,600 BESO assessments were completed, more than 1,400 residential units completed an energy upgrade program, and more than 100 large buildings have been regularly tracking and reporting their energy use. However, BESO has relied on voluntary uptake of the assessment recommendations and to achieve Berkeley's climate action goals.  
  
On December 15th, 2020, Berkeley City Council approved amendments to BESO. The name was changed to the Berkeley Emissions Saving Ordinance and several updates were made to align BESO with building electrification goals, leverage upcoming rebates and incentives, improve transparency in real estate sales process, and develop mandatory energy requirements which will be phased in following development, review, and Council approval.
- **East Bay Community Energy:** The City participates on the Joint Powers Agency Board of Directors for the community choice aggregation (CCA) program in Alameda County called the

East Bay Community Energy Authority (EBCE). EBCE began providing electrical account holders with electricity services beginning in June 2018 for commercial, industrial, and municipal customers and to residential customers in November 2018. In April 2018, the City opted up its municipal accounts to receive 100% carbon-free electricity, reducing municipal greenhouse gas emissions by more than 50%. Starting in March 2021, the City's electrical power for municipal buildings will be generated from 100% renewable sources. Authorized by California law in 2002, CCA enables cities and county governments to pool the electricity demand within their jurisdictions in order to procure or generate electrical power supplies on behalf of the residents and businesses in their communities.

- **Natural Gas Prohibition**

In July 2019, the City Council adopted the first ordinance in the nation to prohibit the use of natural gas in newly constructed buildings. The Natural Gas Prohibition became effective on January 1, 2020, and applies to new building applications for land use permits or zoning certificates. New buildings subject to the prohibition use highly efficient heat pumps, for water heating and for heat and air conditioning, and electrical appliances such as induction ranges. This policy supports State and City efforts to decarbonize buildings, removing not only the GHGs produced by the combustion of natural gas (methane) within buildings, but new methane pipeline connections as well, and the leakage associated with this potent, and persistent, GHG.

- **2019 Electric-Favored Energy Reach Code**

In December 2019, Berkeley City Council adopted local amendments to the California Energy Code. This electric-favored "reach code," approved by the California Energy Commission in February 2020, requires newly constructed buildings to include solar PV systems and feature either all-electric systems or mixed-fuel construction that exceeds the efficiency requirements of the Energy Code and includes electric-readiness. The reach code and prohibition work in tandem to support building electrification and its health, safety, and climate benefits.

## **ECONOMIC DEVELOPMENT & EMPLOYMENT**

The Economic Development and Employment Element was not amended during CY 2020.

### **PROGRESS TOWARDS MEETING THE GOALS AND GUIDING POLICIES OF THE ECONOMIC DEVELOPMENT AND EMPLOYMENT ELEMENT**

- **Kalag Bagai Way in Downtown Berkeley – Street Renaming**

The City initiated a project renaming two blocks of Shattuck Avenue, Shattuck Square and Berkeley Square in Downtown Berkeley to Kala Bagai Way. This project involved extensive community and business engagement, and satisfies the goals of improving wayfinding and signage in the Downtown Berkeley Streets & Open Space Improvement Plan (SOSIP).

- **Revolving Loan Fund (RLF)**

The City of Berkeley's Revolving Loan Fund (RLF) is federally funded by the Economic Development Administration (EDA) and provides access to capital for businesses that don't qualify for traditional commercial loans. All current RLF recipients (8 active loans) were offered a six month pause in monthly payments due to the pandemic.

- **COVID-19 Resiliency Loan Program**

Recognizing the enormous negative impact of COVID-19 on businesses' finances, OED applied for a federal CARES Act grant to provide additional funding to existing businesses. The City was awarded the grant and launched the COVID-19 Resiliency Loan Program (RLP) for Berkeley businesses that are at least two years old and have less than 50 employees. This program streamlines the approval of 0%-1% interest loans for businesses in need of working capital, to provide additional assistance and support for Berkeley's entrepreneurs.

- **Business and Arts Continuity Grant Program and Berkeley Relief Fund**

The Business and Arts Organization Continuity Grant Programs were funded through a \$2M allocation of the City's catastrophic reserve fund on March 17, 2020 to provide assistance to small businesses and arts organizations significantly impacted by the COVID-19 pandemic.. \$1 million was allocated to create the Business Continuity Grant Program and \$1 million was allocated to create the Arts Organization Continuity Grant Program, in addition, community leaders launched the Berkeley Relief Fund, a campaign to raise private donations to match the City's contribution. Within six weeks, \$2.6M in grants were awarded and disbursed to 763 recipients in Berkeley's business and arts community.

- **Business Outreach and Technical Assistance**

In calendar year 2020, the Office of Economic Development (OED) conducted the following outreach and technical assistance activities:

- Established an Emergency Business Outreach Team (April 2020) which conducted 5,000 business surveys and approximately 800 phone calls to assess preliminary COVID-19 impacts on Berkeley's business community.
- Fielded thousands of direct business inquiries by phone & email
- Hosted 40+ recovery listening sessions for key industry sectors and arts organizations
- Issued 24 OED newsletters (viewed 33,000+ times) with relevant information and opportunities for businesses
- Partnered with the Berkeley Chamber to organize 13 digital Berkeley Business Forums for the business community at large to gain information, ask questions and share resources
- Conducted field surveys in Berkeley's commercial districts to document business closures, pivots and vacancies
- Published COVID-19 resources for businesses & arts organizations on the City of Berkeley and partner (i.e. Berkeley Chamber, Visit Berkeley) websites
- Published a coordinated a webpage and guide to assist businesses with outdoor commerce installations and worked with local architects and designers to provide accessible design templates and pro-bono assistance.

- **Outdoor Commerce**

Berkeley’s City Council authorized an urgency ordinance in June 2020 to permit outdoor dining and commerce, which the Office of Economic Development was instrumental in coordinating. OED also provided technical assistance to outdoor commerce applicants, including field visits and consultation with permit staff. Over **40** installations of both public and private outdoor commerce were established in Berkeley in 2020.

- **#BerkeleyHolidays Gift Guide and Marketing Campaign – Local Shopping**

A partnership between OED, the Berkeley Chamber, Visit Berkeley and business districts citywide, the #BerkeleyHolidays Gift Guide and marketing campaign promoted safe local shopping during the holiday season. The Gift Guide featured **155** Berkeley businesses, including 86 Woman-owned and 36 Minority-owned businesses

- **Discovered in Berkeley – Local Marketing**

The City seeks to encourage shopping opportunities close to residential neighborhoods, which reduces the need to drive for short trips. Efforts are underway to support expansion of district-based niche marketing campaigns that recognize local strengths and “district identity.” This year, the City continued its marketing initiatives to highlight businesses in several districts. The ‘Discovered in Berkeley’ local marketing campaign featured a thoughtful roster of unique local-serving storefront businesses and the business districts in which they reside, by highlighting Berkeley businesses that fall into the categories of “Food Forward,” “The Upcycle,” and “Dare to Share.”

- **Business Improvement Districts**

The City facilitates five business improvement districts (BIDs) in the Downtown, Telegraph, Elmwood, North Shattuck, and Solano commercial districts that generate funds through a self-assessment to help promote and maintain their districts. There is also a city-wide Tourism BID which is funded by the self-assessment of Berkeley’s hotels and motels and directly supports Visit Berkeley, the City’s Convention and Visitor’s Bureau. Over the past year, the City has continued to provide technical assistance to each of the BIDs, with particular focus on bolstering the wider Berkeley Business District Network (BBDN) (an organization which all commercial districts participate in), increasing the frequency of meetings to allow for improved communication and sharing across district networks

## **URBAN DESIGN AND PRESERVATION**

### **AMENDMENTS**

The Urban Design and Preservation Element was not amended during CY 2020.

### **PROGRESS TOWARDS MEETING THE GOALS AND GUIDING POLICIES OF THE URBAN DESIGN & PRESERVATION ELEMENT**

The City continues to review projects on a case-by-case basis for conformance with the principles, policies and implementation measures of the Urban Design and Preservation Element to ensure that they are

designed to enhance the livability of Berkeley and encourage a high level of quality design while encouraging well designed sustainability measures.

## Preservation

- Four properties were designated as City Landmarks and added to the local register:
  - 2328 Channing Way
  - 1 Orchard Lane
  - 2136-54 San Pablo Avenue
  - 2043 Lincoln Street
- The City maintained its CLG status in 2020 and continues to maintain a formal partnership with SHPO. Other organizations, such as BAHA, communicated regularly with the City in 2020 through correspondence and presentations to LPC.
- In 2020, a seismic retrofit program continued to provide incentives for the owners of “soft-story” properties, including several historically significant properties, to complete seismic upgrades.
- The City received and reviewed two requests for Mills Act contracts in 2020; final approval and execute are pending in 2021.
- In 2020, at least one project involving the rehabilitation of a historically significant building at 2580 Bancroft Way requested and receive expedited building permit review.
- In 2020, the LPC received a presentation by UC staff on the preservation aspects of its pending Long Range Development Plan.
- In 2020, the City completed a Civic Center Rehabilitation Envisioning community outreach effort; a rehabilitation program will be planned in the coming years.
- New development is encouraged throughout the City where infill proves viable. These areas may contain historic resources, and the City’s ongoing practice encourages retention of resources and treatments consistent with the Secretary of the Interior’s Standards. An example in 2020 includes the pending application for new construction at 2328 Channing Way.
- In 2020, the City maintained its membership in the California Preservation Foundation, which gives and encourages public recognition of preservation work.

## Urban Design

- The Joint Subcommittee for Implementation of State Housing Laws (JSHIHL) made a favorable motion in July 2020 to refer Staff’s work to City Council with a request for further review and development by the Design Review Committee and Planning Commission.

There have been no new changes to the citizen input in the design review process or the membership requirements of the Design Review Committee (DRC) this year.

## **CITIZEN PARTICIPATION**

### **AMENDMENTS**

The Citizen Participation Element was not amended during CY 2020.

### **PROGRESS TOWARDS MEETING THE GOALS AND GUIDING POLICIES OF THE CITIZEN PARTICIPATION**

#### **Land Use Planning Commissions and Bodies**

Citizen participation takes place in the arena of policy-making and advisory citizen bodies, such as the Berkeley City Council, the Planning Commission, and the Zoning Adjustments Board. In accordance with the [Health Officer's Stay at Home Order](#) the majority of public meetings were held remotely through video hosting platforms in 2020.

Despite challenges presented by the pandemic, the following commissions held over 50 public meetings where projects and land use policies were discussed:

- Zoning Adjustments Board
- Planning Commission
- Landmarks Preservation Commission
- Design Review Committee
- Adeline Corridor Plan Subcommittee
- Zoning Ordinance Revision Project (ZORP)

Exhibit A

| ANNUAL ELEMENT PROGRESS REPORT                                                                                                                                                                 |                                                                                           |                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------|--------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Housing Element Implementation                                                                                                                                                                 |                                                                                           |                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| (CCR Title 25 §6202)                                                                                                                                                                           |                                                                                           |                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Jurisdiction                                                                                                                                                                                   | Berkeley                                                                                  |                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Reporting Year                                                                                                                                                                                 | 2020                                                                                      | (Jan. 1 - Dec. 31) |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Table D                                                                                                                                                                                        |                                                                                           |                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Program Implementation Status pursuant to GC Section 65583                                                                                                                                     |                                                                                           |                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Housing Programs Progress Report                                                                                                                                                               |                                                                                           |                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Describe progress of all programs including local efforts to remove governmental constraints to the maintenance, improvement, and development of housing as identified in the housing element. |                                                                                           |                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 1                                                                                                                                                                                              | 2                                                                                         | 3                  | 4                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Name of Program                                                                                                                                                                                | Objective                                                                                 | Timeframe in H.E   | Status of Program Implementation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| Berkeley Housing Authority                                                                                                                                                                     | Provided housing assistance for low-income residents                                      | ongoing            | The BHA provides housing assistance to residents. BHA provides rental assistance to a total of 1,939 units through the Section 8 and Moderate Rehabilitation Program.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Boards and Commissions                                                                                                                                                                         | Facilitate citizen input in City decisions                                                | ongoing            | The City held over 100 public meetings in 2020 on topics such as HTF, development projects, affordable housing and zoning ordinance amendments.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Condominium Conversion Ordinance                                                                                                                                                               | Control the rate of conversion and collect fees to fund affordable housing.               | ongoing            | In 2020, 8 units were approved for conversion.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Demolition Controls and Unit Replacement Requirement                                                                                                                                           | Maintain the number of housing units in Berkeley.                                         | ongoing            | Amendments to the Demolition Ordinance were actively considered by the 4x4 Committee (which includes members of City Council and the Rent Stabilization Board) in 2020 and continue to be worked on in 2021. Changes in State Law (SB 330) and State Case Law have added to the complexity of this project.                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Energy Conservation Opportunities and Programs                                                                                                                                                 | Promote energy efficiency in new and existing construction.                               | ongoing            | In 2020, 58 Berkeley homes received cash rebates totaling \$66,111 for 208 energy efficient measures through the BayREN Home+ Program. In addition, 165 dwelling units in Berkeley received energy and water upgrades, qualifying for \$123,750 in rebates and saving 43,710 kWh of electricity and 8,375 therms of natural gas, through the Bay Area Multifamily Building Enhancements Program. In 2020, 245 homes had energy assessments during property sales and 135 large buildings completed energy benchmarking to comply with Berkeley's Building Energy Savings Ordinance (BESO). Newly constructed buildings became subject to Berkeley's Natural Gas Prohibition (BMC Chapter 12.80) and reach code (BMC Chapter 19.36) on January 1, 2020. |
| Fair Housing Assistance, Outreach and Education and programs addressing impediments to Fair Housing                                                                                            | Provide fair housing services and education to mitigate impediments to fair housing.      | ongoing            | In 2020, 44 clients were served by ECHO. All received fair housing counseling, 25 issues were investigated, 25 issues were investigated, and 10 clients's rights were protected, restored or acquired. Additionally, 10 fair housing tests were conducted and no violations were found. Two educational workshops for landlords/property managers were conducted and community based organizations reaching 10 residents.                                                                                                                                                                                                                                                                                                                              |
| Addressing Impediments to Fair Housing                                                                                                                                                         | Maintain the diversity of Berkeley's population                                           | 2015-2020          | In 2020, the City funded programs serving people with disabilities at \$1,560,733 and programs for seniors at \$9,110.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Home Modifications for Accessibility and Safety (Rebuilding Together and CIL)                                                                                                                  | Provide home modification for accessibility.                                              | ongoing            | In 2020, COVID-19 had an impact on small construction sites which resulted in fewer rehabilitation and ADA improved accessibility repair projects being completed. Since these rehabilitation programs primarily serve high-risk populations (e.g. seniors/disabled), the agencies had to develop infection prevention protocols and adhere to the small construction site COVID-19 protocols which caused a delay in fully completing projects. In CY2020, Habitat for Humanity completed two home rehabilitation repairs, Rebuilding Together completed five home rehabilitation repairs, and CIL completed 12 ADA improved accessibility repairs projects. SDRLP completed four home rehabilitation projects.                                       |
| Homeless Housing Services and Programs (HHSP)                                                                                                                                                  |                                                                                           |                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| HHSP: EveryOne Home Plan                                                                                                                                                                       | Implement the EveryOne Home Plan                                                          | ongoing            | In 2019, the City continued to participate in the Everyone Home Leadership Board. In 2019, Berkeley became the first jurisdiction in Alameda County to adopt the 2018 Strategic Update to the EveryOne Home Plan.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| HHSP: Community Agency Contracting                                                                                                                                                             | Provide support services to homeless individuals and families.                            | ongoing            | Community agency contracting for HHSP related programs totaled \$15,889,119 in 2020.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| HHSP: Homeless Housing Locations                                                                                                                                                               | Provide emergency shelter, transitional housing and permanent supportive housing programs | ongoing            | In 2020, The City provided 226 (109)* year-round shelter beds, 28 (19)* seasonal shelter beds, 5 (3)* family transitional housing beds, 15 (9)* individual transitional housing beds, 506 permanent supportive housing units, including 277 permanent supportive housing units through HUD Shelter Plus Care grants, 15 additional Square One (City of Berkeley General Fund) units, 164 site-based units, and 60 HUD Mainstream vouchers for Non-Elderly and Disabled (NED) individuals.<br><br>*(Reduced number of beds in 2020 due to COVID-19 pandemic).                                                                                                                                                                                           |
| HHSP: Centralized bed reservation system                                                                                                                                                       | Reduce nightly vacancies in shelters with reservations.                                   | ongoing            | Berkeley continues to have a centralized reservation system to fill unfilled shelter beds resulting in a very low nightly vacancy rate.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| HHSP: City's Housing Retention Program and ARRA Funding for HPRP                                                                                                                               | Provide housing retention support to prevent homelessness.                                | 2012 through 2015  | The HRP issued 19 household grants totaling \$21,346 in 2015. In January 2016, the funds were shifted to provide rapid rehousing financial assistance for people who were literally homeless.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| HHSP: Priority Home Partnership (PHP) Program                                                                                                                                                  | Provide a county-wide prevention and rapid rehousing program.                             | ongoing            | The City continues to allocate PHP funds to its Coordinated Entry Homeless Services System.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| HHSP: Relocation Services                                                                                                                                                                      | Provide tenants and owner relocation counseling.                                          | ongoing            | In 2020, 41 tenants and 16 landlords received assistance                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| HHSP: Reverse Mortgagee Counseling                                                                                                                                                             | Assist low-income elderly homeowners access home equity                                   | Discontinued       | The City no longer contracts with ECHO to provide reverse mortgage counseling.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| HHSP: Shelter Plus Care                                                                                                                                                                        | Provide supportive housing for homeless households.                                       | ongoing            | In 2020, the City provided Shelter+Care vouchers to 55 new households to access permanent housing.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| Housing code compliance and the Rental Housing Safety Program (RHSP)                                                                                                                           | Maintain safe housing stock.                                                              | ongoing            | In 2020, Housing Code Enforcement/the Rental Housing Safety Program opened 184 new reactive (complaint driven) and 174 proactive cases, for a total of 358 new cases.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Housing Mitigation Fees for Non-residential development                                                                                                                                        | Compensate increased demand for housing from new development                              | ongoing            | The City continues to apply this fee to major commercial development projects, of which there are few. Fee is payable in installments over time, so revenue amounts are modest. Roughly \$400K is expected to come due in next 12-24 months.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |

## Exhibit A

|                                                                         |                                                                              |         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|-------------------------------------------------------------------------|------------------------------------------------------------------------------|---------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Housing Trust Fund                                                      | Develop and preserve long-term BMR housing.                                  | ongoing | In 2019, the City executed contracts for \$21.5M in development funds for four new construction affordable housing developments.                                                                                                                                                                                                                                                                                                                                                                            |
| Inclusionary Housing/State Density Bonus                                | Increase the supply of housing affordable to lower-income HHs                | ongoing | In 2020, the following project milestones were met for Density Bonus projects: 8 entitlements, 3 projects issued building permits, and 1 projects completed.                                                                                                                                                                                                                                                                                                                                                |
| Mitigating Governmental Constrains                                      | Reduce governmental constraints on production of new housing.                | ongoing | The planning department continued public outreach efforts, interdepartmental roundtable, and expedited project reviews in 2020. Possible constraints continue to be reviewed.                                                                                                                                                                                                                                                                                                                               |
| Preserving Units at Risk of Conversion to Market Rate                   | Preserve affordable housing units at risk of converting to market rate.      | ongoing | The 2015 Housing Element identified only one project at higher risk of conversion, Rosewood Manor. That development is still owned by a mission-oriented nonprofit organization and managed by an expert nonprofit property manager, with no indication of intent to convert.                                                                                                                                                                                                                               |
| Priority Development Area Program                                       | Encourage higher density new development near transit.                       | ongoing | In December of 2020, the City adopted a new Adeline Corridor Specific Area Plan. In 2020 the City requested the North Berkeley BART Station be classified as a new PDA and has been working with the community on new development standards that comply with AB 2023. The City applied for grant funding to begin work on the San Pablo Avenue PDA. The City continues to work on the Southside Zoning Modifications project that will allow for more density near campus for student housings.             |
| Problem Properties Task Force (Team)                                    | Address safety concerns at vacant/blighted properties.                       | ongoing | The City continues to activate the PPTF on an as-needed basis for properties with safety concerns.                                                                                                                                                                                                                                                                                                                                                                                                          |
| Project Review Outreach Efforts                                         | Actively solicit input from Berkeley residents on proposed projects.         | ongoing | Information about all major projects continued to be provided at projects sites.                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Reasonable Accommodation Ordinance                                      | Process reasonable accommodation requests efficiently.                       | ongoing | Reasonable accommodations continue to be available.                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Redevelopment Agency Tax increment Set-Aside Funds for Housing Activity | Fund affordable housing through tax increment set-asides funds.              | to 2020 | The 2011 Budget Act approved the dissolution of the state RAs. In January of 2012 the City elected to serve as the Successor Agency to the RA with an oversight board.                                                                                                                                                                                                                                                                                                                                      |
| Rent Stabilization and Tenant Protections                               | Rent stabilization and good cause for eviction for Berkeley tenants.         | ongoing | In 2020, the Rent Board continued educational counseling and support for landlords and tenants.                                                                                                                                                                                                                                                                                                                                                                                                             |
| Second Units                                                            | Increase the supply of housing through second dwelling units.                | ongoing | In 2019 the State amended ADU State law, making it easier to establish an ADU on a lot with an existing or proposed residential dwelling. In December of 2019 the City adopted an ADU Urgency Ordinance precluding the development of ADUs on lots that front a street with less than 26 feet in width in the Fire 2 and 3 zones and the ES-R zoning district. Since the urgency ordinance expired in December 2020, the City now administers State ADU law.                                                |
| Accessory Dwelling Units                                                | Increase the supply of housing through accessory dwelling units.             | ongoing | In 2019 the State amended ADU State law, making it easier to establish an ADU on a lot with an existing or proposed residential dwelling. In December of 2019 the City adopted an ADU Urgency Ordinance precluding the development of ADUs on lots that front a street with less than 26 feet in width in the Fire 2 and 3 zones and the ES-R zoning district. Since the urgency ordinance expired in December 2020, the City now administers State ADU law.                                                |
| Seismic Preparedness Programs                                           | Improve the safety of housing through seismic retrofits.                     | ongoing | In 2020, for the soft story program, 245 retrofits have been completed and 52 retrofits are still required by our Mandatory Retrofit Ordinance. Through the Retrofit Grants program, nearly \$2 million in grant funding has been provided to Berkeley property owners, including 45 design grants and 42 construction grants. Of 593 URM properties identified, 5 URM buildings remain to be retrofitted. 24 Berkeley homes completed seismic upgrades through the 2020 Earthquake Brace and Bolt program. |
| Senior and Disabled Home Improvement Loan Program                       | Assist senior and disabled HHs preserve their housing.                       | ongoing | In 2020, one loan was issued to rehabilitate and preserve housing via the the City's Senior and Disabled loan program.                                                                                                                                                                                                                                                                                                                                                                                      |
| Tool Lending Library                                                    | Assist Berkeley residents with the preservation of the City's housing stock. | ongoing | The new TTL branch opened in May 2013 with more space for an increased tool inventory.                                                                                                                                                                                                                                                                                                                                                                                                                      |



**Please Start Here**

| General Information     |                                                                              |
|-------------------------|------------------------------------------------------------------------------|
| Jurisdiction Name       | Berkeley                                                                     |
| Reporting Calendar Year | 2020                                                                         |
| Contact Information     |                                                                              |
| First Name              | Katrina                                                                      |
| Last Name               | Lapira                                                                       |
| Title                   | Assistant Planner                                                            |
| Email                   | <a href="mailto:klapira@cityofberkeley.info">klapira@cityofberkeley.info</a> |
| Phone                   | 5109817484                                                                   |
| Mailing Address         |                                                                              |
| Street Address          | 1947 Center Street                                                           |
| City                    | Berkeley                                                                     |
| Zipcode                 | 94704                                                                        |

**Optional:** Click here to import last year's data. This is best used when the workbook is new and empty. You will be prompted to pick an old workbook to import from. Project and program data will be copied exactly how it was entered in last year's form and must be updated.

v 3\_8\_21

|                |          |                    |
|----------------|----------|--------------------|
| Jurisdiction   | Berkeley |                    |
| Reporting Year | 2020     | (Jan. 1 - Dec. 31) |

### ANNUAL ELEMENT PROGRESS REPORT Housing Element Implementation

Note: "+" indicates an optional field

Cells in grey contain auto-calculation formulas

(CCR Title 25 §6202)

**Table A**  
**Housing Development Applications Submitted**

| Project Identifier                  |               |                 |               | Unit Types                      |                                          | Date Application Submitted | Proposed Units - Affordability by Household Incomes |                                 |                                     |                            |                                |                                 |                                     | Total Approved Units by Project | Total Disapproved Units by Project | Streamlining                    | Notes                              |                                                                           |        |
|-------------------------------------|---------------|-----------------|---------------|---------------------------------|------------------------------------------|----------------------------|-----------------------------------------------------|---------------------------------|-------------------------------------|----------------------------|--------------------------------|---------------------------------|-------------------------------------|---------------------------------|------------------------------------|---------------------------------|------------------------------------|---------------------------------------------------------------------------|--------|
| 1                                   |               |                 |               | 2                               | 3                                        | 4                          | 5                                                   |                                 |                                     |                            |                                |                                 |                                     | 6                               | 7                                  | 8                               | 9                                  | 10                                                                        |        |
| Prior APN*                          | Current APN   | Street Address  | Project Name* | Local Jurisdiction Tracking ID* | Unit Category (SFA,SFD,2 to 4,5+,ADU,MH) | Tenure R=Renter O=Owner    | Date Application Submitted (see instructions)       | Very Low-Income Deed Restricted | Very Low-Income Non Deed Restricted | Low-Income Deed Restricted | Low-Income Non Deed Restricted | Moderate-Income Deed Restricted | Moderate-Income Non Deed Restricted | Above Moderate-Income           | Total PROPOSED Units by Project    | Total APPROVED Units by project | Total DISAPPROVED Units by Project | Was APPLICATION SUBMITTED Pursuant to GC 65913.4(b)? (SB 35 Streamlining) | Notes* |
| Summary Row: Start Data Entry Below |               |                 |               |                                 |                                          |                            | 20                                                  | 0                               | 0                                   | 0                          | 0                              | 0                               | 0                                   | 328                             | 348                                | 178                             | 0                                  | 0                                                                         |        |
|                                     | 055 181701000 | 1931 CARLETON   |               |                                 | ADU                                      | R                          | 9/2/2020                                            |                                 |                                     |                            |                                |                                 |                                     | 1                               | 1                                  | 1                               |                                    | No                                                                        |        |
|                                     | 059 224801400 | 1445 EUCLID     |               |                                 | ADU                                      | R                          | 1/7/2020                                            |                                 |                                     |                            |                                |                                 |                                     | 1                               | 1                                  | 1                               |                                    | No                                                                        |        |
|                                     | 061 256200700 | 1132 AMADOR     |               |                                 | ADU                                      | R                          | 1/8/2020                                            |                                 |                                     |                            |                                |                                 |                                     | 1                               | 1                                  | 1                               |                                    | No                                                                        |        |
|                                     | 056 197102400 | 2117 EIGHTH     |               |                                 | ADU                                      | R                          | 1/13/2020                                           |                                 |                                     |                            |                                |                                 |                                     | 1                               | 1                                  | 1                               |                                    | No                                                                        |        |
|                                     | 060 241501700 | 1227 NEILSON    |               |                                 | ADU                                      | R                          | 1/23/2020                                           |                                 |                                     |                            |                                |                                 |                                     | 1                               | 1                                  | 1                               |                                    | No                                                                        |        |
|                                     | 052 151504800 | 1248 HASKELL    |               |                                 | ADU                                      | R                          | 2/5/2020                                            |                                 |                                     |                            |                                |                                 |                                     | 1                               | 1                                  | 1                               |                                    | No                                                                        |        |
|                                     | 054 173300700 | 2748 CALIFORNIA |               |                                 | ADU                                      | R                          | 2/6/2020                                            |                                 |                                     |                            |                                |                                 |                                     | 1                               | 1                                  | 1                               |                                    | No                                                                        |        |
|                                     | 053 169701400 | 2823 CHERRY     |               |                                 | ADU                                      | R                          | 2/11/2020                                           |                                 |                                     |                            |                                |                                 |                                     | 1                               | 1                                  | 1                               |                                    | No                                                                        |        |
|                                     | 055 190302300 | 2425 GRANT      |               |                                 | ADU                                      | R                          | 2/13/2020                                           |                                 |                                     |                            |                                |                                 |                                     | 1                               | 1                                  | 1                               |                                    | No                                                                        |        |
|                                     | 055 186300901 | 2335 WARRING    |               |                                 | ADU                                      | R                          | 2/18/2020                                           |                                 |                                     |                            |                                |                                 |                                     | 1                               | 1                                  | 1                               |                                    | No                                                                        |        |
|                                     | 061 261502300 | 1712 MARIN      |               |                                 | ADU                                      | R                          | 2/21/2020                                           |                                 |                                     |                            |                                |                                 |                                     | 1                               | 1                                  | 1                               |                                    | No                                                                        |        |
|                                     | 054 179702401 | 1536 DWIGHT     |               |                                 | ADU                                      | R                          | 2/27/2020                                           |                                 |                                     |                            |                                |                                 |                                     | 1                               | 1                                  | 1                               |                                    | No                                                                        |        |
|                                     | 060 239801300 | 1423 STANNAGE   |               |                                 | ADU                                      | R                          | 2/27/2020                                           |                                 |                                     |                            |                                |                                 |                                     | 1                               | 1                                  | 1                               |                                    | No                                                                        |        |
|                                     | 057 208100700 | 1284 HEARST     |               |                                 | ADU                                      | R                          | 3/4/2020                                            |                                 |                                     |                            |                                |                                 |                                     | 1                               | 1                                  | 1                               |                                    | No                                                                        |        |
|                                     | 056 199401400 | 2120 ACTON      |               |                                 | ADU                                      | R                          | 3/9/2020                                            |                                 |                                     |                            |                                |                                 |                                     | 1                               | 1                                  | 1                               |                                    | No                                                                        |        |
|                                     | 054 178701600 | 1204 CARLETON   |               |                                 | ADU                                      | R                          | 3/11/2020                                           |                                 |                                     |                            |                                |                                 |                                     | 1                               | 1                                  | 1                               |                                    | No                                                                        |        |
|                                     | 054 173901700 | 1307 WARD       |               |                                 | ADU                                      | R                          | 3/11/2020                                           |                                 |                                     |                            |                                |                                 |                                     | 1                               | 1                                  | 1                               |                                    | No                                                                        |        |
|                                     | 053 167402200 | 1612 STUART     |               |                                 | ADU                                      | R                          | 3/11/2020                                           |                                 |                                     |                            |                                |                                 |                                     | 1                               | 1                                  | 1                               |                                    | No                                                                        |        |
|                                     | 052 156902400 | 2911 HILLEGASS  |               |                                 | ADU                                      | R                          | 3/12/2020                                           |                                 |                                     |                            |                                |                                 |                                     | 1                               | 1                                  | 1                               |                                    | No                                                                        |        |
|                                     | 052 155901200 | 2417 WOOLSEY    |               |                                 | ADU                                      | R                          | 3/12/2020                                           |                                 |                                     |                            |                                |                                 |                                     | 1                               | 1                                  | 1                               |                                    | No                                                                        |        |
|                                     | 060 243300700 | 1336 MCGEE      |               |                                 | ADU                                      | R                          | 3/19/2020                                           |                                 |                                     |                            |                                |                                 |                                     | 1                               | 1                                  | 1                               |                                    | No                                                                        |        |
|                                     | 064 422900300 | 151 TUNNEL      |               |                                 | ADU                                      | R                          | 4/8/2020                                            |                                 |                                     |                            |                                |                                 |                                     | 1                               | 1                                  | 1                               |                                    | No                                                                        |        |
|                                     | 057 209500400 | 840 DELAWARE    |               |                                 | ADU                                      | R                          | 4/9/2020                                            |                                 |                                     |                            |                                |                                 |                                     | 1                               | 1                                  | 1                               |                                    | No                                                                        |        |
|                                     | 059 233202100 | 1427 TENTH      |               |                                 | ADU                                      | R                          | 4/9/2020                                            |                                 |                                     |                            |                                |                                 |                                     | 1                               | 1                                  | 1                               |                                    | No                                                                        |        |

Jurisdiction: Berkeley  
Reporting Year: 2020  
Date: 1 - Dec 31

ANNUAL ELEMENT PROGRESS REPORT  
Housing Element Implementation  
(CEQA Title 25, Section 25202)

Note: "\*" indicates an optional field  
Cells in grey contain auto-calculation formulas

Table A2: Annual Building Activity Report Summary - New Construction, Entitled, Permits and Completed Units. The table contains columns for Project Identifier, Unit Types, Affordability by Household Income - Completed Entitlement, Affordability by Household Income - Building Permits, Affordability by Household Income - Certificates of Occupancy, and various assistance programs. It lists numerous projects with their respective unit counts and affordability metrics.

Once LHA Accommodations that are reported within reporting facilities with the LHA.



|                |          |                    |
|----------------|----------|--------------------|
| Jurisdiction   | Berkeley |                    |
| Reporting Year | 2020     | (Jan. 1 - Dec. 31) |

**ANNUAL ELEMENT PROGRESS REPORT**  
**Housing Element Implementation**  
 (CCR Title 25 §6202)

This table is auto-populated once you enter your jurisdiction name and current year data. Past year information comes from previous APRs.  
 Please contact HCD if your data is different than the material supplied here

| Table B                                    |                     |                                 |      |      |      |      |      |      |      |      |      |                                 |                                      |
|--------------------------------------------|---------------------|---------------------------------|------|------|------|------|------|------|------|------|------|---------------------------------|--------------------------------------|
| Regional Housing Needs Allocation Progress |                     |                                 |      |      |      |      |      |      |      |      |      |                                 |                                      |
| Permitted Units Issued by Affordability    |                     |                                 |      |      |      |      |      |      |      |      |      |                                 |                                      |
|                                            |                     | 1                               | 2    |      |      |      |      |      |      |      |      | 3                               | 4                                    |
| Income Level                               |                     | RHNA Allocation by Income Level | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 | 2023 | Total Units to Date (all years) | Total Remaining RHNA by Income Level |
| Very Low                                   | Deed Restricted     | 532                             | 27   | 21   | 55   | 9    | 22   | 38   |      |      |      | 173                             | 359                                  |
|                                            | Non-Deed Restricted |                                 |      |      |      | 1    |      |      |      |      |      |                                 |                                      |
| Low                                        | Deed Restricted     | 442                             | 44   |      | 3    |      |      | 13   |      |      |      | 60                              | 382                                  |
|                                            | Non-Deed Restricted |                                 |      |      |      |      |      |      |      |      |      |                                 |                                      |
| Moderate                                   | Deed Restricted     | 584                             |      |      |      |      |      |      |      |      |      |                                 | 584                                  |
|                                            | Non-Deed Restricted |                                 |      |      |      |      |      |      |      |      |      |                                 |                                      |
| Above Moderate                             |                     | 1401                            | 300  | 273  | 531  | 326  | 507  | 539  |      |      |      | 2476                            |                                      |
| Total RHNA                                 |                     | 2959                            |      |      |      |      |      |      |      |      |      |                                 |                                      |
| Total Units                                |                     |                                 | 371  | 294  | 589  | 336  | 529  | 590  |      |      |      | 2709                            | 1325                                 |

Note: units serving extremely low-income households are included in the very low-income permitted units totals  
 Cells in grey contain auto-calculation formulas

# ANNUAL ELEMENT PROGRESS REPORT

## Housing Element Implementation

(CCR Title 25 §6202)

|                                                                                                                                                                                                |                                                                             |                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|-------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Jurisdiction</b>                                                                                                                                                                            | Berkeley                                                                    |                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>Reporting Year</b>                                                                                                                                                                          | 2020                                                                        | (Jan. 1 - Dec. 31)      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>Table D</b>                                                                                                                                                                                 |                                                                             |                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>Program Implementation Status pursuant to GC Section 65583</b>                                                                                                                              |                                                                             |                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>Housing Programs Progress Report</b>                                                                                                                                                        |                                                                             |                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Describe progress of all programs including local efforts to remove governmental constraints to the maintenance, improvement, and development of housing as identified in the housing element. |                                                                             |                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>1</b>                                                                                                                                                                                       | <b>2</b>                                                                    | <b>3</b>                | <b>4</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>Name of Program</b>                                                                                                                                                                         | <b>Objective</b>                                                            | <b>Timeframe in H.E</b> | <b>Status of Program Implementation</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Berkeley Housing Authority                                                                                                                                                                     | Provided housing assistance for low-income residents                        | ongoing                 | The BHA provides housing assistance to residents. BHA provides rental assistance to a total of 1,939 units through the Section 8 and Moderate Rehabilitation Program.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Boards and Commissions                                                                                                                                                                         | Facilitate citizen input in City decisions                                  | ongoing                 | The City held over 100 public meetings in 2020 on topics such as HTF, development projects, affordable housing and zoning ordinance amendments.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Condominium Conversion Ordinance                                                                                                                                                               | Control the rate of conversion and collect fees to fund affordable housing. | ongoing                 | In 2020, 8 units were approved for conversion.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Demolition Controls and Unit Replacement Requirement                                                                                                                                           | Maintain the number of housing units in Berkeley.                           | ongoing                 | Amendments to the Demolition Ordinance were actively considered by the 4x4 Committee (which includes members of City Council and the Rent Stabilization Board) in 2020 and continue to be worked on in 2021. Changes in State Law (SB 330) and State Case Law have added to the complexity of this project.                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Energy Conservation Opportunities and Programs                                                                                                                                                 | Promote energy efficiency in new and existing construction.                 | ongoing                 | In 2020, 58 Berkeley homes received cash rebates totaling \$66,111 for 208 energy efficient measures through the BayREN Home+ Program. In addition, 165 dwelling units in Berkeley received energy and water upgrades, qualifying for \$123,750 in rebates and saving 43,710 kWh of electricity and 8,375 therms of natural gas, through the Bay Area Multifamily Building Enhancements Program. In 2020, 245 homes had energy assessments during property sales and 135 large buildings completed energy benchmarking to comply with Berkeley's Building Energy Savings Ordinance (BESO). Newly constructed buildings became subject to Berkeley's Natural Gas Prohibition (BMC Chapter 12.80) and reach code (BMC Chapter 19.36) on January 1, 2020. |

|                                                                                                     |                                                                                           |                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|-----------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------|-------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Fair Housing Assistance, Outreach and Education and programs addressing impediments to Fair Housing | Provide fair housing services and education to mitigate impediments to fair housing.      | ongoing           | In 2020, 44 clients were served by ECHO. All received fair housing counseling, 25 issues were investigated, 25 issues were investigated, and 10 clients's rights were protected, restored or acquired. Additionally, 10 fair housing tests were conducted and no vilations were found. Two educational workshops for landlords/property managers were conducted and community based organizatoions reaching 10 residents.                                                                                                                                                                                                                                                                                        |
| Addressing Impediments to Fair Housing                                                              | Maintain the diversity of Berkeley's population                                           | 2015-2020         | In 2020, the City funded programs serving people with disabilities at \$1,560,733 and programs for seniors at \$9,110.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| Home Modifications for Accessibility and Safety (Rebuilding Together and CIL)                       | Provide home modification for accessibility.                                              | ongoing           | In 2020, COVID-19 had an impact on small construction sites which resulted in fewer rehabilitation and ADA improved accessibility repair projects being completed. Since these rehabilitation programs primarily serve high-risk populations (e.g. seniors/disabled), the agencies had to develop infection prevention protocols and adhere to the small construction site COVID-19 protocols which caused a delay in fully completing projects. In CY2020, Habitat for Humanity completed two home rehabilitation repairs, Rebuilding Together completed five home rehabilitation repairs, and CIL completed 12 ADA improved accessibility repairs projects. SDRLP completed four home rehabilitation projects. |
| HHSP: EveryOne Home Plan                                                                            | Implement the EveryOne Home Plan                                                          | ongoing           | In 2019, the City continued to participate in the Everyone Home Leadership Board. In 2019, Berkeley became the first jurisdiction in Alameda County to adopt the 2018 Strategic Update to the EveryOne Home Plan.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| HHSP: Community Agency Contracting                                                                  | Provide support services to homeless individuals and families.                            | ongoing           | Community agency contracting for HHSP related programs totaled \$15,889,119 in 2020.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| HHSP: Homeless Housing Locations                                                                    | Provide emergency shelter, transitional housing and permanent supportive housing programs | ongoing           | In 2020, The City provided 226 (109)* year-round shelter beds, 28 (19)* seasonal shelter beds, 5 (3)* family transitional housing beds, 15 (9)* individual transitional housing beds, 506 permanent supportive housing units, including 277 permanent supportive housing units through HUD Shelter Plus Care grants, 15 additional Square One (City of Berkeley General Fund) units, 164 site-based units, and 60 HUD Mainstream vouchers for Non-Elderly and Disabled (NED) individuals.<br><br>*(Reduced number of beds in 2020 due to COVID-19 pandemic).                                                                                                                                                     |
| HHSP: Centralized bed reservation system                                                            | Reduce nightly vacancies in shelters with reservations.                                   | ongoing           | Berkeley continues to have a centralized reservation system to fill unfilled shelter beds resulting in a very low nightly vacancy rate.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| HHSP: City's Housing Retention Program and ARRA Funding for HPRP                                    | Provide housing retention support to prevent homelessness.                                | 2012 through 2015 | The HRP issued 19 household grants totaling \$21,346 in 2015. In January 2016, the funds were shifted to provide rapid rehousing financial assistance for people who were literally homeless.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

|                                                                      |                                                                         |              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|----------------------------------------------------------------------|-------------------------------------------------------------------------|--------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| HHSP: Priority Home Partnership (PHP) Program                        | Provide a county-wide prevention and rapid rehousing program.           | ongoing      | The City continues to allocate PHP funds to its Coordinated Entry Homeless Services System.                                                                                                                                                                                                                                                                                                                                                                                                     |
| HHSP: Relocation Services                                            | Provide tenants and owner relocation counseling.                        | ongoing      | In 2020, 41 tenants and 16 landlords received assistance                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| HHSP: Reverse Mortgagee Counseling                                   | Assist low-income elderly homeowners access home equity                 | Discontinued | The City no longer contracts with ECHO to provide reverse mortgage counseling.                                                                                                                                                                                                                                                                                                                                                                                                                  |
| HHSP: Shelter Plus Care                                              | Provide supportive housing for homeless households.                     | ongoing      | In 2020, the City provided Shelter+Care vouchers to 55 new households to access permanent housing.                                                                                                                                                                                                                                                                                                                                                                                              |
| Housing code compliance and the Rental Housing Safety Program (RHSP) | Maintain safe housing stock.                                            | ongoing      | In 2020, Housing Code Enforcement/the Rental Housing Safety Program opened 184 new reactive (complaint driven) and 174 proactive cases, for a total of 358 new cases.                                                                                                                                                                                                                                                                                                                           |
| Housing Mitigation Fees for Non-residential development              | Compensate increased demand for housing from new development            | ongoing      | The City continues to apply this fee to major commercial development projects, of which there are few. Fee is payable in installments over time, so revenue amounts are modest. Roughly \$400K is expected to come due in next 12-24 months.                                                                                                                                                                                                                                                    |
| Housing Trust Fund                                                   | Develop and preserve long-term BMR housing.                             | ongoing      | In 2019, the City executed contracts for \$21.5M in development funds for four new construction affordable housing developments.                                                                                                                                                                                                                                                                                                                                                                |
| Inclusionary Housing/State Density Bonus                             | Increase the supply of housing affordable to lower-income HHs           | ongoing      | In 2020, the following project milestones were met for Density Bonus projects: 8 entitlements, 3 projects issued building permits, and 1 projects completed.                                                                                                                                                                                                                                                                                                                                    |
| Mitigating Governmental Constrains                                   | Reduce governmental constraints on production of new housing.           | ongoing      | The planning department continued public outreach efforts, interdepartmental roundtable, and expedited project reviews in 2020. Possible constraints continue to be reviewed.                                                                                                                                                                                                                                                                                                                   |
| Preserving Units at Risk of Conversion to Market Rate                | Preserve affordable housing units at risk of converting to market rate. | ongoing      | The 2015 Housing Element identified only one project at higher risk of conversion, Rosewood Manor. That development is still owned by a mission-oriented nonprofit organization and managed by an expert nonprofit property manager, with no indication of intent to convert.                                                                                                                                                                                                                   |
| Priority Development Area Program                                    | Encourage higher density new development near transit.                  | ongoing      | In December of 2020, the City adopted a new Adeline Corridor Specific Area Plan. In 2020 the City requested the North Berkeley BART Station be classified as a new PDA and has been working with the community on new development standards that comply with AB 2023. The City applied for grant funding to begin work on the San Pablo Avenue PDA. The City continues to work on the Southside Zoning Modifications project that will allow for more density near campus for student housings. |
| Problem Properties Task Force (Team)                                 | Address safety concerns at vacant/blighted properties.                  | ongoing      | The City continues to activate the PPTF on an as-needed basis for properties with safety concerns.                                                                                                                                                                                                                                                                                                                                                                                              |



|                                                                                |                                                                                     |                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|--------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|----------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Project Review Outreach Efforts</b>                                         | <b>Actively solicit input from Berkeley residents on proposed projects.</b>         | <b>ongoing</b> | <b>Information about all major projects continued to be provided at projects sites.</b>                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>Reasonable Accommodation Ordinance</b>                                      | <b>Process reasonable accommodation requests efficiently.</b>                       | <b>ongoing</b> | <b>Reasonable accommodations continue to be available.</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>Redevelopment Agency Tax increment Set-Aside Funds for Housing Activity</b> | <b>Fund affordable housing through tax increment set-asides funds.</b>              | <b>to 2020</b> | <b>The 2011 Budget Act approved the dissolution of the state RAs. In January of 2012 the City elected to serve as the Successor Agency to the RA with an oversight board.</b>                                                                                                                                                                                                                                                                                                                                      |
| <b>Rent Stabilization and Tenant Protections</b>                               | <b>Rent stabilization and good cause for eviction for Berkeley tenants.</b>         | <b>ongoing</b> | <b>In 2020, the Rent Board continued educational counseling and support for landlords and tenants.</b>                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>Second Units</b>                                                            | <b>Increase the supply of housing through second dwelling units.</b>                | <b>ongoing</b> | <b>In 2019 the State amended ADU State law, making it easier to establish an ADU on a lot with an existing or proposed residential dwelling. In December of 2019 the City adopted an ADU Urgency Ordinance precluding the development of ADUs on lots that front a street with less than 26 feet in width in the Fire 2 and 3 zones and the ES-R zoning district. Since the urgency ordinance expired in December 2020, the City now administers State ADU law.</b>                                                |
| <b>Accessory Dwelling Units</b>                                                | <b>Increase the supply of housing through accessory dwelling units.</b>             | <b>ongoing</b> | <b>In 2019 the State amended ADU State law, making it easier to establish an ADU on a lot with an existing or proposed residential dwelling. In December of 2019 the City adopted an ADU Urgency Ordinance precluding the development of ADUs on lots that front a street with less than 26 feet in width in the Fire 2 and 3 zones and the ES-R zoning district. Since the urgency ordinance expired in December 2020, the City now administers State ADU law. .</b>                                              |
| <b>Seismic Preparedness Programs</b>                                           | <b>Improve the safety of housing through seismic retrofits.</b>                     | <b>ongoing</b> | <b>In 2020, for the soft story program, 245 retrofits have been completed and 52 retrofits are still required by our Mandatory Retrofit Ordinance. Through the Retrofit Grants program, nearly \$2 million in grant funding has been provided to Berkeley property owners, including 45 design grants and 42 construction grants. Of 593 URM properties identified, 5 URM buildings remain to be retrofitted. 24 Berkeley homes completed seismic upgrades through the 2020 Earthquake Brace and Bolt program.</b> |
| <b>Senior and Disabled Home Improvement Loan Program</b>                       | <b>Assist senior and disabled HHs preserve their housing.</b>                       | <b>ongoing</b> | <b>In 2020, one loan was issued to rehabilitate and preserve housing via the the City's Senior and Disabled loan program.</b>                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>Tool Lending Library</b>                                                    | <b>Assist Berkeley residents with the preservation of the City's housing stock.</b> | <b>ongoing</b> | <b>The new TTL branch opened in May 2013 with more space for an increased tool inventory.</b>                                                                                                                                                                                                                                                                                                                                                                                                                      |
|                                                                                |                                                                                     |                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|                                                                                |                                                                                     |                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

|                       |          |                    |
|-----------------------|----------|--------------------|
| <b>Jurisdiction</b>   | Berkeley |                    |
| <b>Reporting Year</b> | 2020     | (Jan. 1 - Dec. 31) |

| <b>Building Permits Issued by Affordability Summary</b> |                     |                     |
|---------------------------------------------------------|---------------------|---------------------|
| <b>Income Level</b>                                     |                     | <b>Current Year</b> |
| Very Low                                                | Deed Restricted     | 38                  |
|                                                         | Non-Deed Restricted | 0                   |
| Low                                                     | Deed Restricted     | 13                  |
|                                                         | Non-Deed Restricted | 0                   |
| Moderate                                                | Deed Restricted     | 0                   |
|                                                         | Non-Deed Restricted | 0                   |
| Above Moderate                                          |                     | 540                 |
| <b>Total Units</b>                                      |                     | <b>591</b>          |

Note: Units serving extremely low-income households are included in the very low-income permitted units totals

| <b>Housing Applications Summary</b>                    |     |
|--------------------------------------------------------|-----|
| Total Housing Applications Submitted:                  | 70  |
| Number of Proposed Units in All Applications Received: | 348 |
| Total Housing Units Approved:                          | 175 |
| Total Housing Units Disapproved:                       | 0   |

| <b>Use of SB 35 Streamlining Provisions</b>   |   |
|-----------------------------------------------|---|
| Number of Applications for Streamlining       | 0 |
| Number of Streamlining Applications Approved  | 0 |
| Total Developments Approved with Streamlining | 0 |
| Total Units Constructed with Streamlining     | 0 |

| <b>Units Constructed - SB 35 Streamlining Permits</b> |               |                  |              |
|-------------------------------------------------------|---------------|------------------|--------------|
| <b>Income</b>                                         | <b>Rental</b> | <b>Ownership</b> | <b>Total</b> |
| Very Low                                              | 21            | 0                | 21           |
| Low                                                   | 13            | 0                | 13           |
| Moderate                                              | 0             | 0                | 0            |
| Above Moderate                                        | 3             | 0                | 3            |
| <b>Total</b>                                          | <b>37</b>     | <b>0</b>         | <b>37</b>    |

Cells in grey contain auto-calculation formulas

|                |                         |
|----------------|-------------------------|
| Jurisdiction   | Berkeley                |
| Reporting Year | 2020 (Jan. 1 - Dec. 31) |

| ANNUAL ELEMENT PROGRESS REPORT                                                                                                                                                                                                                                                                 |                   |                                       |                                                                                     |                    |       |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|---------------------------------------|-------------------------------------------------------------------------------------|--------------------|-------|
| Local Early Action Planning (LEAP) Reporting                                                                                                                                                                                                                                                   |                   |                                       |                                                                                     |                    |       |
| (CCR Title 25 §6202)                                                                                                                                                                                                                                                                           |                   |                                       |                                                                                     |                    |       |
| <i>Please update the status of the proposed uses listed in the entity's application for funding and the corresponding impact on housing within the region or jurisdiction, as applicable, categorized based on the eligible uses specified in Section 50515.02 or 50515.03, as applicable.</i> |                   |                                       |                                                                                     |                    |       |
| <b>Total Award Amount</b>                                                                                                                                                                                                                                                                      | \$                | 500,000.00                            | <i>Total award amount is auto-populated based on amounts entered in rows 15-26.</i> |                    |       |
| Task                                                                                                                                                                                                                                                                                           | \$ Amount Awarded | \$ Cumulative Reimbursement Requested | Task Status                                                                         | Other Funding      | Notes |
| BART Zoning Standards                                                                                                                                                                                                                                                                          | \$125,000.00      | \$0.00                                | In progress                                                                         | Other              | SB-2  |
| Housing Element Update (including CEQA review)                                                                                                                                                                                                                                                 | \$325,000.00      | \$0.00                                | In progress                                                                         | Local General Fund |       |
| Feasibility Analysis of Affordable Housing Requirements                                                                                                                                                                                                                                        | \$50,000.00       | \$0.00                                | In Progress                                                                         | Local General Fund |       |
|                                                                                                                                                                                                                                                                                                |                   |                                       |                                                                                     |                    |       |
|                                                                                                                                                                                                                                                                                                |                   |                                       |                                                                                     |                    |       |
|                                                                                                                                                                                                                                                                                                |                   |                                       |                                                                                     |                    |       |
|                                                                                                                                                                                                                                                                                                |                   |                                       |                                                                                     |                    |       |
|                                                                                                                                                                                                                                                                                                |                   |                                       |                                                                                     |                    |       |
|                                                                                                                                                                                                                                                                                                |                   |                                       |                                                                                     |                    |       |
|                                                                                                                                                                                                                                                                                                |                   |                                       |                                                                                     |                    |       |

Summary of entitlements, building permits, and certificates of occupancy (auto-populated from Table A2)

| Completed Entitlement Issued by Affordability Summary |                     |              |
|-------------------------------------------------------|---------------------|--------------|
| Income Level                                          |                     | Current Year |
| Very Low                                              | Deed Restricted     | 42           |
|                                                       | Non-Deed Restricted | 0            |
| Low                                                   | Deed Restricted     | 0            |
|                                                       | Non-Deed Restricted | 0            |
| Moderate                                              | Deed Restricted     | 0            |
|                                                       | Non-Deed Restricted | 0            |
| Above Moderate                                        |                     | 926          |
| Total Units                                           |                     | 968          |

| Building Permits Issued by Affordability Summary |                     |              |
|--------------------------------------------------|---------------------|--------------|
| Income Level                                     |                     | Current Year |
| Very Low                                         | Deed Restricted     | 38           |
|                                                  | Non-Deed Restricted | 0            |
| Low                                              | Deed Restricted     | 13           |
|                                                  | Non-Deed Restricted | 0            |
| Moderate                                         | Deed Restricted     | 0            |
|                                                  | Non-Deed Restricted | 0            |
| Above Moderate                                   |                     | 540          |
| Total Units                                      |                     | 591          |

| Certificate of Occupancy Issued by Affordability Summary |                     |              |
|----------------------------------------------------------|---------------------|--------------|
| Income Level                                             |                     | Current Year |
| Very Low                                                 | Deed Restricted     | 22           |
|                                                          | Non-Deed Restricted | 0            |
| Low                                                      | Deed Restricted     | 0            |
|                                                          | Non-Deed Restricted | 0            |
| Moderate                                                 | Deed Restricted     | 0            |
|                                                          | Non-Deed Restricted | 0            |
| Above Moderate                                           |                     | 377          |
| Total Units                                              |                     | 399          |



ACTION CALENDAR

July 13, 2021

To: Honorable Mayor and Members of the City Council

From: Councilmember Terry Taplin

Subject: Amending BMC Section 14.56.070 for 3-Ton Commercial Truck Weight Limit on Tenth Street, Ninth Street, Eighth Street, and Seventh Street

RECOMMENDATION

Adopt first reading of an Ordinance amending Berkeley Municipal Code (BMC) Section 14.56.070 to add 3-ton commercial truck weight limits on Tenth Street between University Avenue and Dwight Way, Ninth Street between University Avenue and Dwight Way, Eighth Street between University Avenue and Dwight Way, and Seventh Street between University Avenue and Dwight Way.

CURRENT SITUATION AND ITS EFFECTS

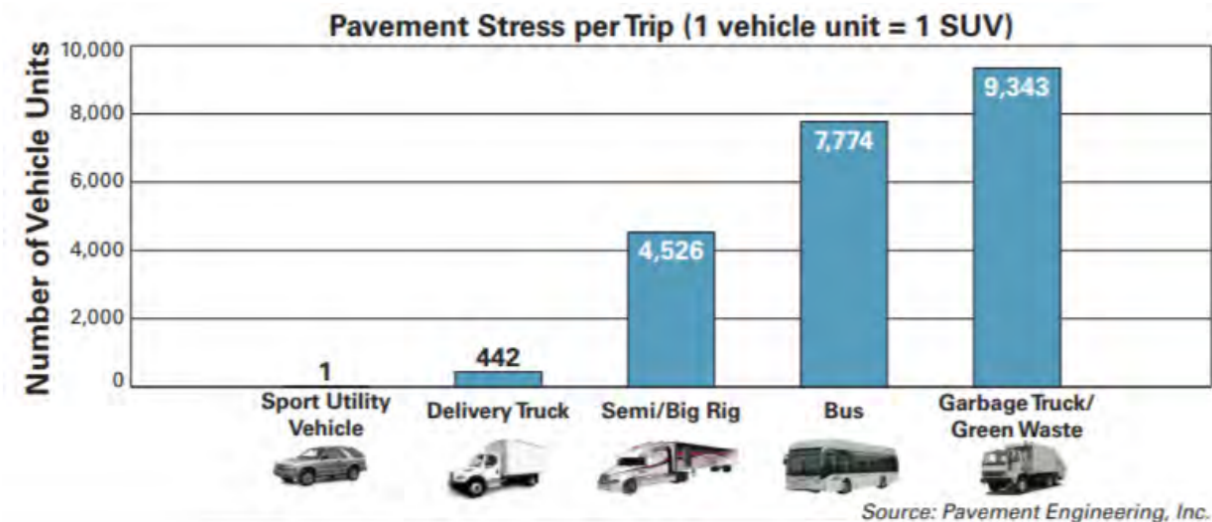
In November 2020, the Berkeley City Auditor released its report, "Rocky Road: Berkeley Streets at Risk and Significantly Underfunded", detailing the derelict condition of Berkeley's street pavement. This report painted a damaging portrait of Berkeley's Pavement Condition Index (PCI), noting that it scored 59 out of 100 in 2018 and was the 15th lowest PCI out of 101 cities in the nine county jurisdiction covered by Metropolitan Transportation Commission in 2017.<sup>1</sup> Following this report, the Berkeley City Council approved an update to its 5-Year Street Rehabilitation Plan for City staff to move forward with rehabilitating Berkeley's streets. The 5-Year Street Rehabilitation Plan is required of the City by way of the Street Rehabilitation and Repair Policy, which was passed in 2009 "to maintain a safe surface conveyance system in the public right-of-way for vehicles, bicycles, transit and pedestrians."<sup>2</sup>

The 2009 Street Rehabilitation and Repair Policy and the 5-Year Street Rehabilitation Plan updated this year are critical City policies for maintaining and repairing the poor conditions of our roads as described in the City Auditor's report. These policies, however, do not address the root causes of the ongoing degradation of our streets. Our roads, no matter what forms of traffic occupy them, will naturally deteriorate over time, but certain types of traffic do more damage over a shorter period of time than others. As

<sup>1</sup> <https://www.berkeleyside.org/wp-content/uploads/2020/11/Berkeley-Streets-Audit-Nov.-2020.pdf>

<sup>2</sup> [https://www.cityofberkeley.info/Public\\_Works/Sidewalks-Streets-Utility/Street\\_Rehabilitation\\_and\\_Repair\\_Policy\\_updated\\_March\\_2009.aspx](https://www.cityofberkeley.info/Public_Works/Sidewalks-Streets-Utility/Street_Rehabilitation_and_Repair_Policy_updated_March_2009.aspx)

the following chart lays out, the stresses on street pavement increases with the size and weight of the vehicles travelling on it.



Minimizing the amount of unnecessary large vehicle traffic on our residential streets is an important supplement to the Street Rehabilitation and Repair Policy and the 5-Year Street Rehabilitation Plan that will work to address the underlying causes of pavement degradation. In 2004, the Berkeley City Council began addressing large vehicle traffic on residential streets with the passage of Ordinance No. 6,799-N.S., which modified BMC Section 14.56.070 to prohibit commercial trucks of over 3 tons from certain sections of residential roads throughout Berkeley. Having been updated on multiple occasions since 2004, BMC Section 14.56.070 now covers 55 sections of road in residential areas.

Beyond the benefits for our streets and pavement, restricting large truck traffic in residential areas is of critical importance for the City’s Vision Zero goals. Due to its proximity to the heavily trafficked commercial streets of University Avenue and San Pablo Avenue, the neighborhood encompassed by the streets within this proposal are regularly trafficked by large trucks cutting through the area. Truck traffic in this neighborhood, which is home to George Florence Park, the West Berkeley YMCA/Head Start facility, and Rosa Parks Elementary School, presents an ongoing danger to the pedestrians, cyclists, and especially children who use these streets on a daily basis. This neighborhood also includes University Avenue and Addison Street, which are identified by the Vision Zero Action Plan as “High-Injury Streets” where the most traffic injuries and fatalities have occurred in the past.<sup>3</sup> Residents and community members share a particular concern for the regular flow of large truck traffic in this area and are not unreasonable in their belief that it is an accident waiting to happen should the City not intervene. Restricting large truck traffic in this neighborhood will mark an important

<sup>3</sup>[https://www.cityofberkeley.info/uploadedFiles/Public\\_Works/Level\\_3\\_-\\_Transportation/Berkeley\\_Vision\\_Zero\\_Action\\_Plan\\_Approved\\_03102020.pdf](https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Transportation/Berkeley_Vision_Zero_Action_Plan_Approved_03102020.pdf)

step towards improving both physical infrastructure and the health and safety of our pedestrians and cyclists.

#### FISCAL IMPACTS

The anticipated cost for sign installation, including materials and labor, is \$10,000.

#### ENVIRONMENTAL IMPACTS

The City estimates that transportation-related emissions accounts for approximately 60% of our community's total annual greenhouse gas emissions.<sup>4</sup> Restricting large truck traffic will make this residential area safer for pedestrian and cyclist transportation, thus encouraging zero-emission forms of transportation and standing to lower the emissions from our community's dominant source of carbon emissions.

#### CONTACT

Terry Taplin, Councilmember, District 2, (510) 981-7120

#### ATTACHMENTS

1. Ordinance

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<sup>4</sup>[https://www.cityofberkeley.info/Clerk/City\\_Council/2018/12\\_Dec/Documents/2018-12-06\\_WS\\_Item\\_01\\_Climate\\_Action\\_Plan\\_Update\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2018/12_Dec/Documents/2018-12-06_WS_Item_01_Climate_Action_Plan_Update_pdf.aspx)

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

AMENDING BERKELEY MUNICIPAL CODE SECTION 14.56.070 TO ADD NEW SECTIONS OF ROAD IN THE LIST OF LOCATIONS PROHIBITING THE USE OF CERTAIN STREETS BY COMMERCIAL VEHICLES EXCEEDING 3 TONS GROSS VEHICLE WEIGHT

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

Section 1. That Section 14.56.070 of the Berkeley Municipal Code is amended to read as follows:

**14.56.070 Prohibiting the use of certain streets by commercial trucks exceeding three tons gross vehicle weight.**

- A. It is unlawful for any person to operate any commercial vehicle exceeding three tons gross vehicle weight on the following portions of streets, hereafter referred to as "restricted streets":
1. Hearst Avenue between 6th Street and San Pablo Avenue;
  2. Hearst Avenue between San Pablo Avenue and Sacramento Street;
  3. 7th Street between University Avenue and Cedar Street;
  4. 8th Street between University Avenue and Cedar Street;
  5. 9th Street between University Avenue and Cedar Street;
  6. 10th Street between University Avenue and Cedar Street;
  7. Delaware Street between San Pablo Avenue and 6th Street;
  8. Delaware Street between San Pablo Avenue and Sacramento Street;
  9. Virginia Street between San Pablo Avenue and 6th Street;
  10. Virginia Street between San Pablo Avenue and Sacramento Street;
  11. Francisco Street between San Pablo Avenue and Sacramento Street;
  12. Hopkins Street west of Gilman Street;
  13. Blake Street between Shattuck Avenue and Telegraph Avenue;
  14. Blake Street between San Pablo Avenue and Sacramento Street;
  15. Parker Street between Shattuck Avenue and Telegraph Avenue;
  16. Carleton Street between Shattuck Avenue and Telegraph Avenue;
  17. Carleton Street between San Pablo Avenue and Sacramento Street;
  18. Channing Way between San Pablo Avenue and Sacramento Street;
  19. Derby Street between Shattuck Avenue and Telegraph Avenue;
  20. Ward Street between Shattuck Avenue and Telegraph Avenue;
  21. Stuart Street between Shattuck Avenue and Telegraph Avenue;
  22. Oregon Street between Shattuck Avenue and Telegraph Avenue;
  23. Parker Street between San Pablo Avenue and Sacramento Street;
  24. Russell Street between Shattuck Avenue and Telegraph Avenue;
  25. Howe Street between Ellsworth Street and Telegraph Avenue;
  26. Fulton Street between Ashby Avenue and Dwight Way;
  27. Ellsworth Street between Ashby Avenue and Dwight Way;
  28. Dana Street between Ward Street and Dwight Way;



29. Spaulding Avenue between Dwight Way and Addison Street;
30. California Street between Dwight Way and University Avenue;
31. Jefferson Avenue between Dwight Way and University Avenue;
32. McGee Avenue between Dwight Way and University Avenue;
33. Roosevelt Avenue between Dwight Way and Addison Street;
34. McKinley Avenue between Dwight Way and Addison Street;
35. Addison Street between Sacramento Street and Martin Luther King Jr. Way;
36. Allston Way between Sacramento Street and Martin Luther King Jr. Way;
37. Bancroft Way between Sacramento Street and Martin Luther King Jr. Way;
38. Channing Way between Sacramento Street and Martin Luther King Jr. Way;
39. Grant Street between Dwight Way and University Avenue;
40. Cedar Street east of 6th Street;
41. Dwight Way between San Pablo Avenue and Martin Luther King Jr. Way;
42. Claremont Avenue between Ashby Avenue and Belrose Avenue;
43. Belrose Avenue between Claremont Avenue and Derby Street;
44. Derby Street between Belrose Avenue and Warring Street;
45. Warring Street between Derby Street and Dwight Way;
46. Piedmont Avenue between Dwight Way and Bancroft Way;
47. Milvia Street between Dwight Way and Hopkins Street;
48. The Uplands between Claremont Avenue and Tunnel Road;
49. Panoramic Way between Canyon Road and Berkeley/Oakland city limits.;
50. Kains Avenue between Virginia Street and Harrison Street;
51. Virginia Street between Shattuck Avenue and Martin Luther King Jr. Way,
52. Francisco Street between Shattuck Avenue and Martin Luther King Jr. Way,
53. Delaware Street between Shattuck Avenue and Martin Luther King Jr. Way,
54. Hearst Avenue between Shattuck Avenue and Martin Luther King Jr. Way,
55. Berkeley Way between Shattuck Avenue and Martin Luther King Jr. Way;
56. Tenth Street between University Avenue and Dwight Way;
57. Ninth Street between University Avenue and Dwight Way;
58. Eighth Street between University Avenue and Dwight Way;
- 55-59. Seventh Street between University Avenue and Dwight Way

B. All inter-city buses and tourist buses will be prohibited on these streets. School buses, emergency vehicles, and buses converted for use by disabled people will be allowed to use three-ton commercial truck weight limit routes.

C. The provisions of this section shall not apply to subsections 14.56.050 B and C.

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.





Office of the City Manager

ACTION CALENDAR

July 13, 2021

(Continued from June 29, 2021)

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Mark Numainville, City Clerk  
 Subject: Police Accountability Board – Appointment of Members

RECOMMENDATION

Adopt a Resolution appointing nine members to the Police Accountability Board nominated by the Mayor and City Councilmembers, and appointing one alternate member.

FISCAL IMPACTS OF RECOMMENDATION

All commissioners are eligible to receive a stipend of \$100 per meeting.

CURRENT SITUATION AND ITS EFFECTS

The City Charter provides for the appointment of members to the newly created Police Accountability Board. Article XVIII, Section 125, Part 6 states, “The Mayor and each City Councilmember shall nominate one candidate from an applicant pool at a meeting of the City Council and that each individual nominee must be approved by a majority vote of the City Council.”

Members of the Police Accountability Board must:

- Be a resident of the City;
- Be at least 18 years of age
- Not be an employee, officer, or contractor with the City, a current sworn police officer from any agency, or a current employee, official, or representative of an employee association representing sworn police officers; and
- Be fair minded and objective with a demonstrated commitment to community service.

The City Charter indicates that desirable qualities of a Board member are familiarity with human resources, law, police procedures, police oversight, or involvement in civil rights or community organizations and that the City Council shall endeavor to establish a Board that is broadly inclusive and reflective of race, ethnicity, age, gender identity, sexual orientation, economic status, neighborhoods, and various communities of interest in the City.

The Mayor and Members of the City Council were provided with a pool of eligible applicants that submitted applications by the March 29, 2021 deadline. From this pool of applicants, the following nominations were submitted to the City Clerk to present to the City Council for approval.

| Nominee         | Nominated By            |
|-----------------|-------------------------|
| Ismail Ramsey   | Mayor Arreguin          |
| Cheryl Owens    | Councilmember Kesarwani |
| Regina Harris   | Councilmember Taplin    |
| John Moore      | Councilmember Bartlett  |
| Kitty Calavita  | Councilmember Harrison  |
| Michael Chang   | Councilmember Hahn      |
| Juliet Leftwich | Councilmember Wengraf   |
| Nathan Mizell   | Councilmember Robinson  |
| Deborah Levine  | Councilmember Droste    |

The appointments to the Board represent a diverse group from the Berkeley Community. Demographic data obtained from the applications is as follows.

|                            |                              |
|----------------------------|------------------------------|
| <u>Gender</u>              | <u>Age Range</u>             |
| Female – 5                 | 18-25 – 1                    |
| Male – 4                   | 36-55 – 1                    |
|                            | 46-55 – 2                    |
| <u>Race/Ethnicity</u>      | 56-65 – 3                    |
| Black – 5                  | 66+ – 2                      |
| White – 3                  |                              |
| Asian/Pacific Islander – 1 | <u>Sexual Orientation</u>    |
|                            | Gay or Lesbian – 1           |
|                            | Heterosexual or Straight – 8 |

Pursuant to the recently adopted amendment to Section 3.02.035 of the Berkeley Municipal Code, at the time that City Council appoints the initial nine (9) commissioners to the Board, the City Council will also approve an alternate commissioner. This alternate will be required to undergo the same 40-hour training requirement as the regular Board members.

**BACKGROUND**

Measure II was adopted on November 3, 2020 by the voters of Berkeley to establish an Office of the Director of Police Accountability and create a new Police Accountability Board (hereafter “Board”), both of which are independent of the City Manager. The members of the Board are approved by vote of the full Council.

The City received a total of 37 applications for the Mayor and City Council to consider. These applications were reviewed and the eligibility of the applicants was verified by city staff against the requirements of the Charter.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable effects on sustainability or the environment associated with the recommendation in this report.

RATIONALE FOR RECOMMENDATION

The appointments are directed by the City Charter and pursuant to the nominations submitted by the Mayor and Councilmembers.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Mark Numainville, City Clerk, (510) 981-6900  
Dave White, Deputy City Manager, (510) 981-7000

Attachments:

1: Resolution

RESOLUTION NO. -N.S.

APPOINTMENT OF NINE MEMBERS TO THE POLICE ACCOUNTABILITY BOARD AND ONE ALTERNATE MEMBER

WHEREAS, Measure II was adopted on November 3, 2020 by the voters of Berkeley to create a new Police Accountability Board; and

WHEREAS, Article XVIII, Section 125, Part 6 provides for the Council’s appointment of board members; and

WHEREAS, the Mayor and Councilmembers have submitted nominees for appointment by the full council; and

WHEREAS, the Municipal Code provides for the appointment of an alternate board member.

NOW THEREFORE BE IT RESOLVED by the Council of the City of Berkeley that the following applicants are hereby appointed to the Police Accountability Board:

| Nominee         | Nominated By            |
|-----------------|-------------------------|
| Ismail Ramsey   | Mayor Arreguin          |
| Cheryl Owens    | Councilmember Kesarwani |
| Regina Harris   | Councilmember Taplin    |
| John Moore      | Councilmember Bartlett  |
| Kitty Calavita  | Councilmember Harrison  |
| Michael Chang   | Councilmember Hahn      |
| Juliet Leftwich | Councilmember Wengraf   |
| Nathan Mizell   | Councilmember Robinson  |
| Deborah Levine  | Councilmember Droste    |

BE IT FURTHER RESOLVED that <<<First Last>>> is hereby appointed as the alternate board member to the Police Accountability Board.



Office of the City Manager

## INFORMATION CALENDAR

July 13, 2021

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Amelia Funghi, Manager, Animal Services  
 Subject: Animal Care Commission 2021/2022 Work Plan

### INTRODUCTION

In a general meeting held on April 21<sup>st</sup>, 2021 the Animal Care Commission adopted a work plan for fiscal year 2022 which is presented below. The work plan was submitted to Council for approval on June 15<sup>th</sup> and was missing several sentences. The corrected work plan is included here.

### CURRENT SITUATION AND ITS EFFECTS

The top priorities of the Animal Care Commission (ACC) for fiscal year 2022 are as follows:

- A. Help keep people with their pets. Continue to support Animal Services and City efforts to ensure that wanted and well cared for pets are not separated by adverse circumstances from their humans. Assist in making available pet food and other pet supplies to enable all (responsible) Berkeley residents to keep and care for their pets particularly during times of stress. Prioritize low income, elderly and unhoused individuals.
- B. Help promote pet-friendly housing. Make available informational resources on finding and keeping housing for people with pets. Also make available informational resources to landlords on the advantages of renting to responsible pet-owners. Posting such informational resources on the Animal Services webpage and possibly the City office of housing services and/or other appropriate City divisions; including links to other organizations that have successful/robust pet-friendly policies or programs (an example being SFSPCA).
- C. Increase Berkeley residents' awareness of urban wildlife and promote knowledge of means of coexistence. Assist Animal Services in making urban wildlife awareness and means of coexistence available to the general public in Berkeley. This can be done by continuing and expanding on the information posted on the Animal Services webpage and on-going partnering with other urban wildlife awareness/co-existence organizations. Cross posting information and/or links on the City webpages of Vector Control and Public Health could also reach a wider

group of Berkeley residents seeking information on or assistance in living with our resident urban wildlife.

- D. Actively support and promote increased and on-going adequate City funding of Animal Services and its vital programs supporting the Berkeley community, many of which are unrecognized by both the general public and by the City administration and elected officials.

Animal Services provides extensive community services to Berkeley including maintaining the municipal animal shelter and the animals housed there, reuniting lost pets with their people, providing animal related infrastructural support services, follow-up training for dogs adopted out, animal related advice and information to the public, assistance to low income residents with pets and pet and animal related community outreach.

Additionally, approximately 25-35% of BACS field service calls are assistance to other City departments; public safety/mental health/public health/vector control/etc field service calls and City code enforcement field service calls. This interdepartmental infrastructural assistance by Animal Services is NOT reimbursed by the other City departments/divisions resulting in an on-going funding short-fall in the Animal Services budget.

The ACC will work with other commissions, including Parks & Waterfront Commission, the Public Works Commission, and non-profit organizations involved in these issues in Berkeley.

#### BACKGROUND

The Animal Care Commission meets six (6) times per year with the mission of overseeing the treatment of animals in all shelters established within Berkeley. The ACC advises the council on the care, treatment and control of animals.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

#### POSSIBLE FUTURE ACTION

The ACC and the Animal Services Manager will research options and associated costs to establish an area suitable for training and exercising shelter dogs. The ACC will research ways to assist homeless pet owners to secure housing. The ACC will also research and implement practical means to increase pet-friendly housing in Berkeley.



FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

The ACC will research information regarding the cost of establishing an area suitable for training and exercising shelter dogs as well as possible sources of funding.

CONTACT PERSON

Amelia Funghi, Manager, Animal Services, 510-981-6603





Commission on Disability

## INFORMATION CALENDAR

July 13, 2021

To: Honorable Mayor and Members of the City Council  
 From: Commission on Disability  
 Submitted by: Shira Leeder Chairperson, Commission on Disability  
 Subject: Commission on Disability Fiscal Year 2021-2022 Work Plan

### INTRODUCTION

Below is the workplan for fiscal year 2021-2022 for the Commission on Disability.

### CURRENT SITUATION AND ITS EFFECTS

#### Commission on Disability - Fiscal Year 2021 Annual Workplan

#### **1. COVID Management and Recovery**

Track developments and impacts from the Covid-19 pandemic, including but not limited to: disproportionate health impacts for people disabilities; consequences for health care providers; disruptions in disability supports (e.g. reduction in small businesses providing necessary products and services); increase in Berkeley residents with long-term disabilities due to post-Covid complications; and reduction in city budgets for services and infrastructure improvements (e.g. sidewalk repair efforts). Engage relevant city departments, request presentations and gather community feedback. Ensure equitable and accessible opportunities to participate in city efforts, programs, meetings and initiatives.

#### **2. Improved Transportation and Mobility**

Continue efforts related to the “navigable cities” framework for safe, accessible pedestrian pathways and other transportation infrastructure, including appropriate street layouts in redesigned transportation corridors. Also ensure universal accessibility of relevant applications, kiosks, ride-sharing services, Transportation Network Companies (TNCs), bikes and scooters (including shared mobility), and “emerging technology” such as automated vehicles (ATVs). Address public transportation concerns and safety, including budgets and onboard safety related to the Covid-19 pandemic. Ensure equitable and accessible opportunities to participate in city efforts, programs, meetings and initiatives.

#### **3. Public Input and Public Outreach for COD**

Implement communication channels with other city Commissions; pursue “cross-membership” with other commissions, where COD members request to be appointed to other commissions with vacancies; prioritize commissions whose coverage affects

people with disabilities (e.g. peace & justice, zero waste, planning, homelessness, etc.). Raise awareness of COD within the disability community and relevant stakeholders (e.g. neighborhood and business associations) and invite community members and stakeholders to attend COD meetings. Outreach should include opportunities for community members to request accessibility modifications, including for remote meetings (e.g. captioning on Zoom). Develop a consistent process and timeframe for community engagement. Ensure equitable and accessible opportunities to participate in city efforts, programs, meetings and initiatives.

#### **4. Engagement and Advisory Role for City Processes**

Increase outreach and requests for timely presentations and information from City of Berkeley staff and other relevant officials (e.g. at the county or regional levels). Utilize the Commission on Disability as a public forum and oversight body, especially in the face of unprecedented challenges during the continuing Covid-19 pandemic and recovery therefrom. Utilize COD as an advisory & monitoring body to increase accessibility & accountability in city efforts and other areas of influence. Partner with other commissions; advocate for new sub-committees and cross-membership for relevant goals. Commissioners commit to actively and regularly engage with appointing Council members. Ensure that COD review city policies to avoid direct decisions by Council, City Manager, and other city entities without disability input. Ensure equitable and accessible opportunities to participate in city efforts, programs, meetings and initiatives.

#### **5. Accessible and Affordable Housing**

Explore the expansion and improved availability of accessible housing for people with disabilities, including going beyond baseline ADA access requirements in new construction (e.g. adding automatic door openers, units with roll-in showers and other universal access features, etc.). Recognize a likely slowdown in new construction and increase efforts at encouraging accessibility retrofits of existing buildings, whether single-family homes or multi-unit apartments/condominiums. Address affordability as a key factor for housing, especially given the disconnect between affordability and accessibility (given newer buildings are more accessible but also tend to have higher rents). Partner with senior community and advocates for mutual areas of interest. Ensure equitable and accessible opportunities to participate in city efforts, programs, meetings and initiatives.

#### **6. Homeless people with Disabilities**

Support Berkeley's population of homeless residents with disabilities. Collaborate with local service providers to address disability-related needs, such as access to healthcare or repairs of medical equipment (wheelchairs, scooters, walkers, etc.). Address timely issues, such as pandemic safety, extreme heat events and air quality (including wildfire smoke). Access to electricity and energy resources. Advocate for permanent accessible housing, including creative solutions (e.g. tiny homes). Ensure equitable and accessible opportunities to participate in city efforts, programs, meetings and initiatives.

**7. Emergency/Disaster Preparedness**

Receive information and ongoing updates, participate and make recommendations as appropriate about Berkeley's BEACON and CERT programs. Address increasing frequency of Red Flag Warning events, wildfire danger, Public Safety Power Shutoffs, poor air quality days, and extreme heat vents. Maintain oversight and efforts around earthquake safety. Increase training opportunities for disability awareness & management, including FAST trainings. Advertise disaster resources for PWDs (e.g. information, backup supplies, organizations and designated accessible shelters), including lists of trained staff and volunteers. Ensure equitable and accessible opportunities to participate in city efforts, programs, meetings and initiatives.

**8. Student Life and Disability Awareness**

Improve communication and collaboration with Berkeley's many students with disabilities, providing community engagement and leadership opportunities and supports for independent living. Address all populations including students with disabilities in elementary through high school, Berkeley City College, UC Berkeley, and private entities. Advocate for city-supported services and resources for youth, young adults and other students w/ disabilities. Increase affordability of and access to education, training, recreation and life resources (e.g. housing and transportation) for students. Ensure equitable and accessible opportunities to participate in city efforts, programs, meetings and initiatives.

**9. Accessibility in City Events, Meetings, Communications & Information Technology**

Work with city staff, commissions, and other relevant partners to guarantee inclusion and accessibility of events, meetings and communications. Guarantee access to multiple media, taking into account a diversity of disabilities and the overall digital divide (i.e. disproportionate access to Information Technology and related services); this can include printed (paper) communications and information items, as well as those items in accessible (e.g. Braille or large-print) format. Ensure that all meetings and events are accessible through the Internet for those who cannot attend; this is especially important considering health and wellness in light of the Covid-19 pandemic and its ongoing effects. Emphasize plain language and multiple media in city resources and initiatives to reach the widest audience possible. Utilize free media (i.e. city websites, newspapers, PSAs, Berkeley TV, social media, etc.) and partnerships (e.g. with nonprofits, community organizations, and faith-based organizations) to engage as many people as possible. Ensure equitable and accessible opportunities to participate in city efforts, programs, meetings and initiatives.

The Commission on Disability Fiscal Year 2021-2022 Work Plan supports the Strategic Plan goal to champion and demonstrate social and racial equity.

BACKGROUND

The Work Plan was approved by the Commission on February 25, 2021 Motion: Leeder, Second: Freeman Ghenis: Aye, Singer: Absent, Walsh: Aye.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

POSSIBLE FUTURE ACTION

Unknown.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Unknown.

CONTACT PERSON

Dominika Bednarska, Disability Services Specialist, 510 981 6418



Sugar-Sweetened Beverage  
Product Panel of Experts Commission

INFORMATION CALENDAR  
July 13, 2021

To: Honorable Mayor and Members of the City Council  
From: Sugar-Sweetened Beverage Product Panel of Experts Commission  
Submitted by: Holly Scheider, Chairperson, SSBPPE Commission  
Subject: FY2022 SSBPPE Commission Work Plan

INTRODUCTION

The SSBPPE Commission discussed the updated Work Plan in early 2021. The following vote was taken at the January 21, 2021 meeting to finalize the Work Plan:

**Adopt a Work Plan for FY2022 (July 1 2021 – June 30, 2022)**

Action: M/S/C (Scheider/Namkung) 1. Moved to approve the proposed SSBPPE FY22 Work Plan with edits including deleting #2 and #3 in the Policy Subcommittee's draft work plan.

Vote: Ayes: Browne, Crawford, Gallegos-Castillo, Moore, Morales, Rose, and Scheider  
Noes: None. Abstain: None. Absent: None.

CURRENT SITUATION AND ITS EFFECTS

The SSBPPE Commission received Work Plan suggestions from the Policy Subcommittee. Attachment 1 (attached) - Work Plan for July 1, 2021 through June 30, 2022 - was approved at the January 21, 2021 meeting.

BACKGROUND

This year's work plan reflects the Commission's engagement with policy recommendations regarding SSB procurements and accessibility, collaboration to promote water, and ongoing responsibilities of the Commission.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no direct environmental effects associated with the content of this report.

POSSIBLE FUTURE ACTION

The SSBPPE Commission will continue to work on this Work Plan in order to refine potential outputs, outcomes, activities, and required resources. The SSBPPE Commission will complete its Work Plan for FY22 by June 30, 2022.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Adoption of the Work Plan in itself does not create fiscal impacts.

CONTACT PERSON

Dechen Tsering, Commission Secretary, Public Health, HHCS (510) 981-5394

Attachment:

1: Approved SSBPPE Commission Work Plan July 1, 2021 through June 30, 2022



**INFORMATION REPORT TO CITY OF BERKELEY COUNCIL  
Sugar-Sweetened Beverage Product Panel of Experts (SSBPPE) Commission  
FY22 (July 1, 2021 through June 30, 2022 WORK PLAN & TIMELINE**

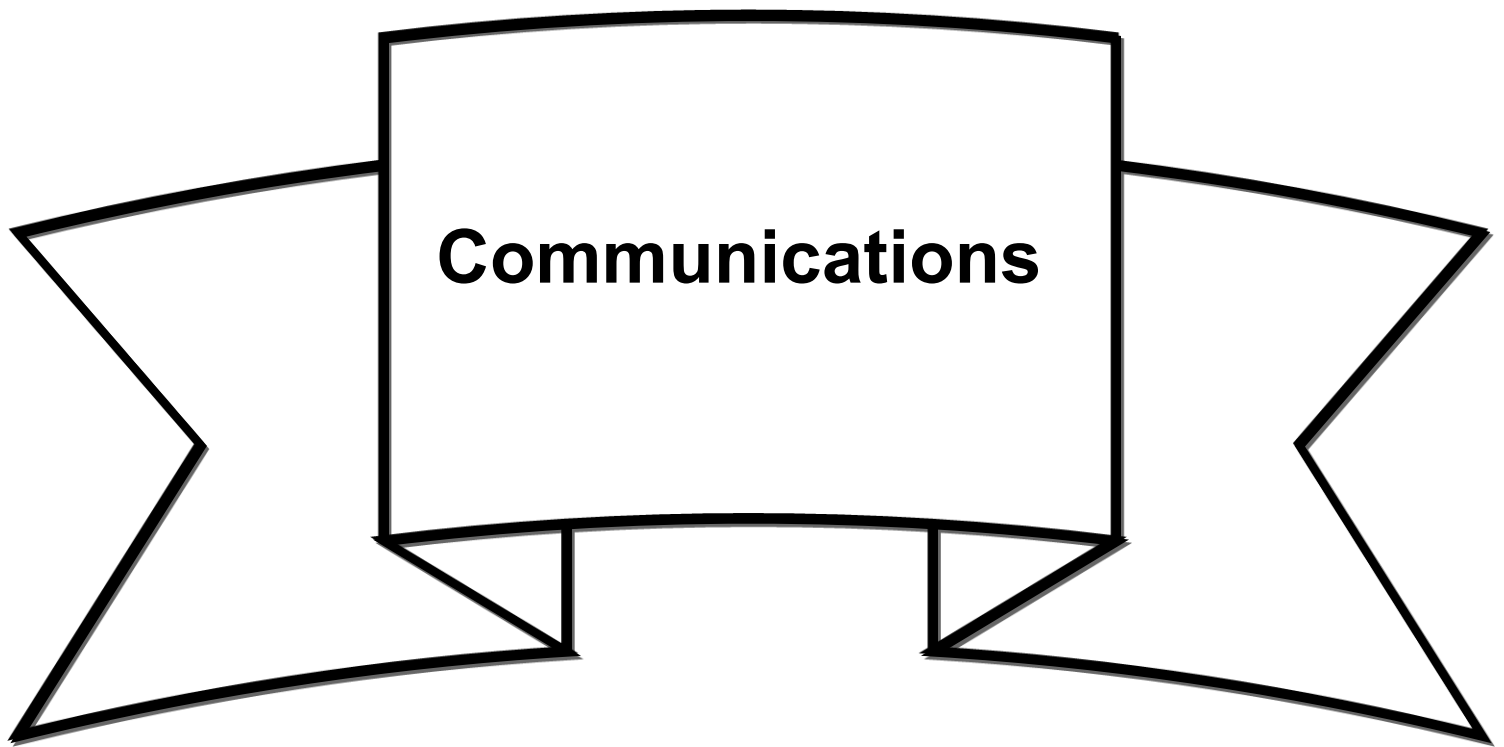
*Approved by SSBPPE Commission on 1/21/21*

| Activity                                                                                                                                                                                                          | Responsible Contact          | July 2021 | Aug NO | Sept 2021 | Oct. 2021 | Nov 2021 | Dec NO Mtg. | Jan 2022 | Feb 2022 | Mar 2022 | Apr 2022 | May 2022 | Jun 2022 |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|-----------|--------|-----------|-----------|----------|-------------|----------|----------|----------|----------|----------|----------|
|                                                                                                                                                                                                                   |                              |           |        |           |           |          |             |          |          |          |          |          |          |
| 1. Meet monthly per approved schedule                                                                                                                                                                             | Full SSBPPE                  |           |        | X         | X         | X        |             | X        | X        | X        | X        | X        | X        |
| 2. Liaise with Community Health Commission regarding SSB Policy                                                                                                                                                   | Policy Sub-Com - Full SSBPPE | X         | X      | X         | X         | X        |             | X        | X        | X        | X        | X        | X        |
| 3. Track and support City of Berkeley Procurement policy until it is adopted; support implementation.                                                                                                             | Policy Sub-Com - Full SSBPPE | X         |        | X         | X         | X        |             | X        | X        | X        | X        | X        | X        |
| 4. Support implementation of Healthy Checkout Policy                                                                                                                                                              | Policy Sub-Com - Full SSBPPE | X         |        | X         | X         | X        |             | X        | X        | X        | X        | X        | X        |
| 5. Present policy evaluations and research relevant to the work of the SSBPPE                                                                                                                                     | Policy Sub-Com - Full SSBPPE |           |        |           |           |          |             |          | X        | X        | X        |          |          |
| 6. Research legal strategies to remedy and mitigate harm caused by SSB marketing and consumption including expanding the City of Berkeley Default Beverage ordinance to apply to all meal packages and promotions | Policy Sub-Com - Full SSBPPE |           |        |           |           | X        |             | X        | X        | X        | X        |          |          |
| 7. Explore strategies with UC to coordinate efforts to reduce SSB consumption such as Pepsi contract and serving sizes.                                                                                           | Policy Sub-Com - Full SSBPPE |           |        |           |           |          |             | X        | X        | X        |          |          |          |
|                                                                                                                                                                                                                   |                              |           |        |           |           |          |             |          |          |          |          |          |          |

**INFORMATION REPORT TO CITY OF BERKELEY COUNCIL  
Sugar-Sweetened Beverage Product Panel of Experts (SSBPPE) Commission  
FY22 (July 1, 2021 through June 30, 2022 WORK PLAN & TIMELINE**

*Approved by SSBPPE Commission on 1/21/21*

| Activity                                                                                                                                                                          | Responsible Contact                                            | July 2021 | Aug NO Mtg. | Sept 2021 | Oct. 2021 | Nov 2021 | Dec NO Mtg. | Jan 2022 | Feb 2022 | Mar 2022 | Apr 2022 | May 2022 | Jun 2022 |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------|-----------|-------------|-----------|-----------|----------|-------------|----------|----------|----------|----------|----------|----------|
| 8. Planning for PSE and Community Organizing interactive workshop                                                                                                                 | Policy Sub-Com - Full SSBPPE                                   |           |             |           |           |          |             |          | X        | X        | X        | X        | X        |
| 9. Periodic meetings as needed.                                                                                                                                                   | Prevention, Strategies & Outcomes - PS&O Sub-Com - Full SSBPPE | X         | X           |           |           |          |             |          |          |          |          |          |          |
| 10. Submit Work Plan to Commission Secretary for FY 23                                                                                                                            | PS&O Sub-Com - Full SSBPPE                                     |           |             |           | X         | X        |             |          |          |          |          |          |          |
| 11. Plan for experts to speak at an SSBPPE Commission meeting to share updates on research and potential strategies for investment.                                               | PS&O Sub-Com - Full SSBPPE                                     |           |             |           |           |          |             | X        |          |          |          |          | X        |
| 12. Plan for grantees to present at a SSBPPE on successes and challenges to date.                                                                                                 | PS&O Sub-Com - Full SSBPPE                                     |           |             |           | X         | X        |             | X        | X        | X        | X        |          |          |
| 13. Request report from the COB Public Health Staff regarding activities supported by additional funding for FY 2020 and 2021, including the media and hydration station projects | PS&O Sub-Com - Full SSBPPE                                     |           |             |           |           |          |             |          |          |          |          | X        |          |
| 15. Request report from City of Berkeley staff about the epidemiology research and community and BUSD evaluations, including the YRBS                                             | PS&O Sub Committee- Full Committee                             |           |             |           |           | X        |             |          |          |          |          | X        |          |



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